

LEASE AGREEMENT

THIS Lease Agreement, made and entered into this 7th day of May, 2020, by and between, County of Dane (“County”), whose address is 1919 Alliant Energy Center Way, Madison, WI 53713 and the Board of Health for Madison and Dane County (a city-county board of health with the powers and duties set forth in Wis. Stat. § 251.04) on behalf of Public Health Madison & Dane County, a city-county health department established under Wis. Stat. § 251.02(1m) (“PHMDC”).

WHEREAS, on March 12, 2020 Governor Evers declared a public health emergency (“Executive Order #72”) in response to the COVID-19 pandemic;

WHEREAS, on March 16, 2020, the Dane County Executive declared a local state of emergency; and

WHEREAS, because of the public health emergency, the State of Wisconsin has determined a need for a community specimen collection site; and

WHEREAS, County is the owner of a facility known as the Alliant Energy Center New Holland Pavilion #1 (“Pavilion”), which is suitable for use as a community specimen collection site, and County has agreed to lease the Pavilion to PHMDC for such purpose; and

WHEREAS, PHMDC has submitted a Request for Assistance to the State of Wisconsin seeking drive thru testing capability support from the Wisconsin Department of Military Affairs at the Pavilion commencing on April 30, 2020

NOW, THEREFORE, the parties hereto for the considerations hereinafter mentioned covenant and agree as follows:

1. **PREMISES.** County hereby agrees to lease the following space to PHMDC (the “Premises”):

Approximately 100,000 square feet with the New Holland Pavilion #1 building located at 1919 Alliant Energy Center Way in Madison, WI, together with all appurtenances and access to common areas (the "Building"),

2. **TERMS & CONDITIONS.** This lease shall be subject to the terms and conditions set forth in Exhibit A and incorporated herein.
3. **USE OF PREMISES.** Except as otherwise authorized in writing by County, PHMDC shall use the Premises as a COVID-19 community specimen collection site staffed by the Department of Military Affairs and PHMDC employees.
4. **TERM.** The Lease term hereunder shall begin on May 11, 2020 and shall continue until June 10, 2020. Hours of use shall be 8:00 a.m. to 7:00 p.m. The lease may be renewed upon the written agreement of the parties.
5. **RENT.** PHMDC shall pay County rent for use of the premises at the rate of \$10,000 per day, subject to section 7 herein.
6. **REIMBURSEMENT OF EXPENSES.** PHMDC shall reimburse County for all reasonable expenses that exceed normal operating expenses incurred by County and for any services provided to PHMDC throughout the term of this lease, subject to Schedule I.
7. **FUNDING.** Any PHMDC payment obligations under this Lease are subject to the availability of any federal or state funds that may lawfully be used for such payment. As a result, the Lease does not constitute the contracting of public debt under Article VIII, Section 4 of the Wisconsin Constitution. The continuation of this Lease beyond the limits of the funds already available is contingent upon the future availability of funds to support PHMDC's payment obligations under this Lease. In the event such funding is not made available PHMDC may terminate this Lease.
8. **LIABILITY.** Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations including joint liability, each party shall

be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes.

IN WITNESS WHEREOF, the parties have subscribed their names as of the date of the last signature below.

COUNTY:

By: _____

Dated: _____

By: _____

Dated: _____

PHMDC:

By: Janet Heirich _____

Dated: 5/15/20 _____

EXHIBIT A

MANDATORY TERMS AND CONDITIONS

1. **ASSIGNMENTS, DELEGATION, SUBLETTING.** PHMDC shall not otherwise assign this Lease or sublet the Premises without prior written approval of County, which shall not be unreasonably withheld.
2. **COVENANTS OF COUNTY.** County, hereby covenants and agrees with PHMDC as follows:
 - a) County warrants that PHMDC shall have quiet use and enjoyment of the Premises; that County has complete interest, right in and title to the Premises so as to enable County to enter into this LEASE; and that the Premises is not encumbered in any way so as to hinder or obstruct PHMDC's proposed use thereof, including no encumbrance or obstruction due to existing easements, zoning ordinances or building restrictions.
 - b) County shall duly carry out the various obligations and duties imposed upon it at the time and in the manner called for by this LEASE.
 - c) County shall furnish during the term of this LEASE the goods, services and other items listed on **Schedule I**, attached hereto and incorporated by reference.
 - d) In connection with any performance of work under this LEASE, County agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), sexual orientation, or national origin. This provision shall include, but not be limited to, the following; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. Except with respect to sexual orientation, County further agrees to take affirmative action to ensure equal employment opportunities. County agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by PHMDC, setting forth the provisions of this non-discrimination clause.

- e) Pursuant to 2019 Wisconsin Executive Order 1, County agrees it will hire only on the basis of merit and will not discriminate against any persons performing under a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.
- f) County is required to comply with its affirmative action and equal opportunity plans and ordinances.
- g) County as part of this LEASE certifies that to the best of its knowledge both the Premises and the building of which the Premises are a part do not contain any asbestos bearing material which is unsafe, or which is not encapsulated.
- h) County attests that space covered by this LEASE is not owned by a state public official or state employee as defined in section 19.45, Wisconsin Statutes and Chapter ER-MRS 24 of the Wisconsin Administration Code, nor is County a business in which a state public official or state employee has any ownership, monetary or fiduciary interest.
- i) For the purposes of this LEASE, Hazardous Materials, Substances, or Air Pollutants (“HMSAPs”) shall include, but not be limited to any, and all substances, materials, waste, or air pollutants determined currently or in the future as hazardous or capable of posing a risk of injury to health, safety, or property by any Federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree. County attests that the Premises is free of any HMSAPs and the County will now and forever after the termination of this LEASE, hold PHMDC harmless and indemnify PHMDC from and against any and all claims, liability, damages or costs arising from or due to the presence of HMSAPs except liability resulting from PHMDC’s use and occupancy of the Premises.
- j) The default by County of any covenant or agreement contained in any paragraph or provision of this LEASE shall constitute a material default of the LEASE and shall entitle PHMDC to terminate this LEASE.

k) County shall be responsible for paying to taxing authority the real estate taxes and any assessments on the Premises.

3. **COVENANTS OF PHMDC.** PHMDC hereby covenants and agrees with County as follows:

a) PHMDC does hereby covenant, promise, and agree to duly comply with all other provisions of this LEASE at the time and in the manner herein provided.

b) At the expiration or termination of this LEASE or any renewal thereof, PHMDC will return the Premises to County in as good condition as it was at the time PHMDC went into possession, ordinary wear, damage by the elements and fire excepted. It is mutually agreed that PHMDC shall not be responsible for damage to the Premises by fire.

c) PHMDC will not make or permit anyone to make any alterations, improvements or additions in or to the Premises, without the prior written consent of County.

d) If PHMDC shall be late in the performance or observance of any covenant or obligation in the LEASE or if PHMDC fails to cure said late performance or observance within thirty (30) days after receipt of notice from County (unless PHMDC commences to cure said late performance or observance within (30) days after receipt of notice thereof and expedite the curing of the same to completion with due diligence), then County may terminate this Lease by providing PHMDC with five (5) days written notice.

e) PHMDC agrees that any improvements to the Premises made by County for the benefit of PHMDC shall be the property of County. Such improvements exclude PHMDC's personal property.

4. **NOTICES.** Notice in writing referred to herein shall not be construed to mean personal notice, but such notice shall be given in writing, by mail, by depositing the same in the post office or letter-box, in a postpaid envelope, and such notice shall be deemed to be given at the time when the same shall be thus mailed. Such notices provided hereunder shall be addressed as follows:

If to County: County of Dane (dba Alliant Energy Center of Dane County)
1919 CountyEnergy Center Way
Madison, WI 53713
Attn: Sharon Corrigan
Email: corrigan@countyofdane.com

If to PHMDC: Janel Heinrich, Director of Public Health
Public Health Madison & Dane County
210 Martin Luther King Jr. Blvd. Room 507
Madison, WI 53703

5. **HOLDING OVER.** If PHMDC holds over after the term hereof, with or without the express written consent of Alliant, such tenancy shall be from day to day only, with no renewal hereof or an extension for any further term, and consideration shall be equivalent to the daily rate during the lease term. Such day-to-day tenancy shall be subject to every other term, covenant and agreement contained herein.
6. **PHMDC COSTS.** It is not anticipated that PHMDC will incur phone and data costs for the Premises; however, in the event there is such use, PHMDC shall be responsible for the monthly phone and data costs for the Premises. PHMDC shall be responsible and reimburse County for any additional costs as described in Paragraph 5 of this Lease.
7. **COMPLIANCE WITH THE DAVIS-BACON ACT.** Any construction work required under this agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. County shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. To the extent that the Davis-Bacon Act applies to this Lease, County shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. County shall pay such wages not less than once a week.
8. **COMPLIANCE WITH THE COPELAND "ANTI-KICKBACK" ACT.** County shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable,

which are incorporated by reference into this Lease. To the extent that County contracts with third parties to perform its obligations under this Lease, County shall insert in any such contracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. County shall be responsible for the compliance by any contractor or lower-tier subcontractor with all of these contract clauses. In addition to the default remedies set forth in paragraph 9(h), a breach of the clauses in this paragraph may be grounds for termination of the Lease, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

9. **WORK HOURS AND SAFETY STANDARDS.** County shall comply with the requirements of 40 U.S.C. ss. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) (collectively, the “Federal Work Hours and Safety Standards”) as applicable. As applicable County shall comply with the following as set forth in the Federal Work Hours and Safety Standards:

- a) **Overtime requirements.** Neither County nor any contractor or subcontractor contracting for any part of the Lease work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of subparagraph 15(a), County or any contractor or subcontractor responsible therefor shall be liable for the unpaid wages. In addition, County and such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual

laborer or mechanic, including watchmen and guards, employed in violation of this paragraph, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by subparagraph 15(a).

- c) **Withholding for unpaid wages and liquidated damages.** PHMDC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by County or contractor or subcontractor under any such contract or any other Federal contract with Lessor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by County, such sums as may be determined to be necessary to satisfy any liabilities of County or contractor or subcontractor for unpaid wages and liquidated damages as provided in subparagraph 15(b).
- d) County or any contractor or subcontractor shall insert in any contracts or subcontracts the clauses set forth in subparagraphs 15(a)-(d) and also a clause requiring the contractors and subcontractors to include these clauses in any lower tier subcontracts. County shall be responsible for compliance by any contractor or subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs 15(a)-(d).

10. CLEAN AIR ACT COMPLIANCE.

- a) County agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b) County agrees to report each violation to PHMDC and understands and agrees that the PHMDC will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.

- c) County agrees to include these requirements in each contract or subcontract exceeding \$150,000 that may be financed in whole or in part with federal assistance provided by FEMA.

11. FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE.

- a) County agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b) County agrees to report each violation to PHMDC and understands and agrees that PHMDC will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c) PHMDC agrees to include these requirements in each contract or subcontract exceeding \$150,000 that may be financed in whole or in part with federal assistance provided by FEMA.

12. SUSPENSION AND DEBARMENT.

- a) This Lease is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, County is required to verify that none of the Lessor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b) County must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c) This certification is a material representation of fact relied upon by PHMDC. If it is later determined that County did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt.

3000, subpart C, in addition to remedies available to PHMDC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- d) County agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of this Lease. County further agrees to include a provision requiring such compliance in its lower-tier covered transactions.

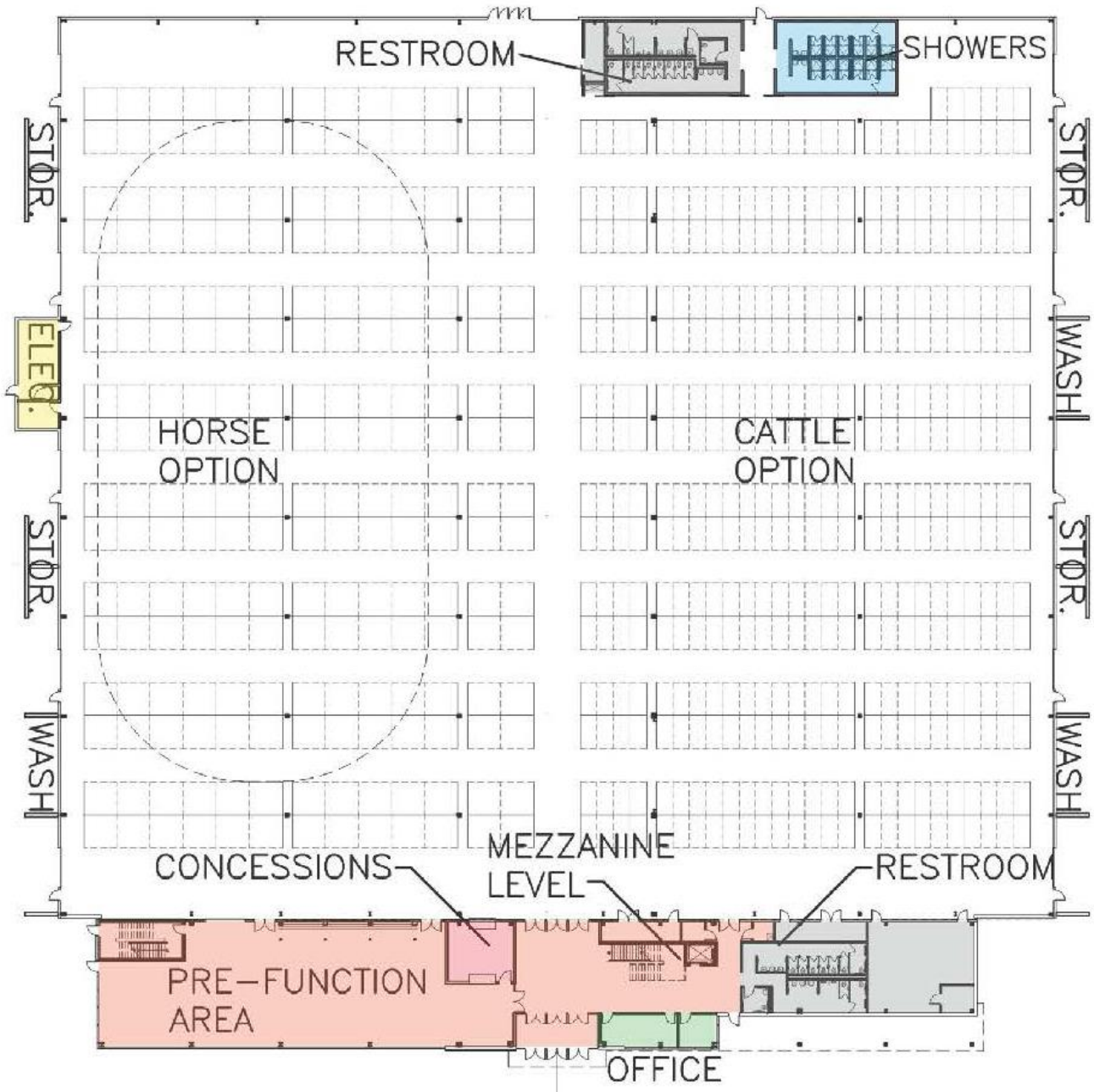
13. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED) COMPLIANCE. County shall file the certification attached hereto as Exhibit A. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to PHMDC who in turn will forward the certification(s) to FEMA.

14. PROCUREMENT OF RECOVERED MATERIALS. In the performance of this contract, County shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a timeframe providing for compliance with the Lease term, while meeting Lease performance requirements, or at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. County also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

15. CAPTIONS. The item captions contained herein are for convenience only and do not define, limit, or construe the contents of such items, paragraphs, or sections.

- 16. WAIVER.** The rights and remedies of either party under this LEASE, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. A waiver by either party of any breach or breaches, default or defaults, of the other party hereunder shall not be deemed or construed to be a continuing waiver of such breach or default nor as a waiver of or permission, expressed or implied, for any subsequent breach or default.
- 17. CHOICE OF LAW.** This LEASE shall be governed by and construed and interpreted in accordance with the laws of the State of Wisconsin.
- 18. EXECUTED LEASE.** This LEASE when fully executed shall be binding upon the respective heirs, executors, administrators, successors, and assigns of the parties hereto.
- 19. ENTIRE AGREEMENT.** This LEASE constitutes the entire agreement between the parties with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral.

EXHIBIT B – FLOOR PLAN



Schedule I

County, at County's cost, which may be reimbursable by PHMDC in the manner set forth in Section 7 of the Lease, shall furnish to PHMDC during the term of this LEASE, as part of the consideration, the following:

1. Provide, maintain and service, plumbing and ventilating equipment as per manufacturers and/or installers recommendations.
2. Install and maintain fire extinguishers according to any governmental building code and Underwriters Laboratories (UL) recommendations.
3. Provide safe drinking water with hot and cold running water for restrooms, counter sinks and janitorial facilities. Such drinking water shall meet minimum State of Wisconsin Drinking Water Quality Standards.
4. Provide two access keys and/or cards to Building and if applicable, to the entrance gates of the campus, if applicable.
5. Provide Water and Sewer.
6. Provide electricity for lights and other electrical equipment necessary for operation of the Premises.
7. Furnish, install and replace during the term of this LEASE and any extension thereof, light bulbs, fluorescent tubes, starters, ballasts or transformers.
8. Furnish building occupancy or use permit(s) if required.
9. Furnish all necessary janitorial and maintenance equipment and supplies for restrooms including soap, towels and toilet tissue.
10. County is to provide all services, supplies and equipment required to clean and keep clean all areas of the building, sidewalks, parking areas, and grounds. This includes, but is not limited to, the plowing and removal of snow, ice removal and salting, removal of trash, and pest control.
11. Provide sufficient onsite parking.