

Exhibit F to the Purchase and Sale Agreement

DEVELOPMENT FINANCING AGREEMENT

THIS DEVELOPMENT FINANCING AGREEMENT ("Agreement"), is made and entered into as of the ____ day of June 2019, by and between the Community Development Authority of the City of West Allis, a separate body politic created by ordinance of the City of West Allis, pursuant to Section 66.1335 of the Wisconsin Statutes (the "Authority"), the City of West Allis, Wisconsin ("City"); Milwaukee Behavioral Health, LLC, its successors and/or assigns ("Developer"); and UHS of Delaware, Inc. ("Guarantor"). The Authority, City, Developer, and Guarantor are each referred to herein as a party or together as the "Parties." The Authority and City collectively are referred to as "West Allis."

WHEREAS, the Developer and the Authority have entered into a purchase and sale agreement (the "Purchase and Sale Agreement") for the purchase and the sale of certain property owned by the Authority and described in the Purchase and Sale Agreement as consisting of approximately 7.519 acres of land which is more particularly described and depicted as tax key parcel 453-0776-003 located at 1706 S. 68th St. (the "Property"), see **Exhibit A – Legal Description of Property** of the Purchase and Sale Agreement which is incorporated herein; and,

WHEREAS, as of the date hereof, the Authority closed on the sale of the Property to Developer pursuant to the Purchase and Sale Agreement (the "Closing"), which sale was contingent upon, among other matters, the Developer's commitment to construct the Project (as hereinafter defined) on the Property as more particularly set forth in that certain Development Agreement of even date herewith by and between the Authority and Developer (the "Development Agreement") and the Parties entering into this Agreement; and,

WHEREAS, the Developer intends to construct an estimated 120 bed behavioral health care facility with anticipated construction value of \$25 million and an estimated 200 employees. The project will include ____ surface parking spaces. The project is depicted in the **Exhibit B-Project Elevation and Site Plan** of the Purchase and Sale Agreement. The development described above is hereinafter referred to as the "Project" and is located within 68th and Mitchell Redevelopment Area, in the City of West Allis, Wisconsin (the "District"). The Redevelopment District was declared to be a blighted area district pursuant to the Project Plan for the creation of Tax Incremental District No. 14 (the "TID") approved on November 3, 2014 (deemed to be and referred to herein as the "Project Master Plan"). The Project will be developed pursuant to the terms of this Agreement and the Development Agreement; and,

WHEREAS, pursuant to the Purchase and Sale Agreement, the Authority and City agreed to provide certain financial incentives and assistance to allow the Developer to develop the Project and the Developer would not undertake the development and construction of the Project without such financial incentives and assistance; and,

WHEREAS, the Parties desire to set forth in writing the terms of such financial incentives and assistance and the terms and conditions under which West Allis will provide such financial incentives and assistance.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein and in the Development Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. **Developer Investment, Equity and Financing**. On or prior to Closing, Developer will demonstrate to the City that the Developer has access to sufficient resources (inclusive of the

City's economic assistance referenced in paragraph 2, herein) to carry out the development of the Project to completion.

2. **City Economic Assistance:** In consideration of a development with an estimated taxable value of \$25 million and a Project that has a workforce with 200 employees, West Allis will provide economic assistance to the Project through an allocation of \$14.5 million of New Market Tax Credits ("NMTC") from the City's community development entity called First-Ring Industrial Redevelopment Enterprise, Inc. ("FIRE"). The Parties acknowledge such allocation will provide \$2,997,050 toward the costs of the Project including of an initial payment of \$750,000 as purchase price of the Property and an additional \$1,890,000 of economic assistance to address site conditions. Such economic assistance is intended to cover at least the following Project costs:

- (a) The purchase price of the Property (\$750,000), to be delivered at Closing.
- (b) A direct capital contribution to the Project in the amount of \$1 million, to be delivered at Closing.
- (c) Stormwater control assistance in the amount of \$650,000 to pay the incremental cost difference between an above ground storm water control system and a below ground storm water detention system.
- (d) Structural upgrade assistance in the amount of \$180,000 that includes \$150,000 for enhanced foundations to optimally develop the Property and accommodate future growth and \$30,000 for additional sound proofing of windows.
- (e) A contribution toward the Developer's brokerage commission for the Property of \$60,000.

3. **Funding of Developer Equity and Expenditure of Development Costs.** Developer shall advance not less than \$ _____ for Project costs before the expenditure of

any NMTC funds, except as provided in Section 2 herein. Developer additionally commits that: (a) not less than \$14.5 million will be expended on the Project on or before the expiration of five hundred forty (540) days following the NMTC closing; (b) the balance of the Project costs will be expended on or before the expiration of three (3) years following the NMTC closing; and (c) the Project will be completed and generating revenue on or before the expiration of three (3) years following the NMTC closing.

4. **Developer Performance Guaranty.** Developer shall provide the City with a Guaranty for the Project from the Guarantor which shall guaranty Developer's performance under this Agreement, the Purchase Agreement, and the Development Agreement and incorporate the commitments set forth in Section 3, above, through Completion. "Completion" shall be defined as the issuance of a certificate(s) of occupancy for the buildings in the Project. Upon timely Completion, the Guaranty shall be released in its entirety.

5. **Conditions to the Parties' Obligations.** The parties' obligations to complete their respective obligations are conditioned on the following being satisfied:

a. **Zoning & Design Review.** All relevant governmental entities having approved any and all licenses, permits and approvals required for the construction of the Project.

b. **Evidence of Resources.** The Developer shall have provided evidence to the City that the Developer has access to sufficient resources to fund all of the costs of the Project.

c. **Legal Agreements.** The Purchase and Sale Agreement, this Agreement, the Development Agreement and the Guaranty (the "Legal Agreements") shall have been

executed and delivered by the applicable parties thereto and the Developer shall have closed on the purchase of the Property.

d. **City, Authority and FIRE Financing Approvals.** The City, the Authority and FIRE shall have approved and taken all actions necessary to properly authorize the above-contemplated actions, including execution of the Legal Agreements.

6. **PILOT.** The Property is located within the boundaries of the TID and it is important to the City that the Property remain subject to real estate taxation throughout the existence of the TID. Accordingly, ownership of the Property, or any part thereof, by any person, partnership, corporation, or entity, which in any manner renders any part of the Property exempt from property taxation during the existence of the TID shall result in a payment in lieu of taxes from the owner of that portion of the Property that is so exempt to the City each year in an amount equal to the amount of taxes that would be due and owing on that portion of the Property if that portion was not tax exempt. Such payment shall be due, payable and collected in the same manner as property taxes, to the extent permitted by law. The Developer, its successors, and assigns as the owners or occupants of the Property waive the right to contest the validity of this provision. This Section shall automatically terminate upon the termination of the TID.

7. **Confidentiality.** Developer represents, and West Allis acknowledges, that certain portions of the materials to be exchanged pursuant to this Agreement (e.g., financial statements, project models) may contain sensitive and proprietary information relating to the Developer, the Property, and the Project and that disclosure could cause irreparable harm if such materials were to be made available to the general public. Additionally, certain of the materials to be exchanged may be trade secrets or copyrighted. The Parties further acknowledge that West Allis is subject to the requirements of the Wisconsin Public Records Law, Wis. Stats. §§19.21 et seq. Under these

statutes, all documents and records are subject to public disclosure, unless there is a statutory, common law, or public policy reason for nondisclosure. The Parties acknowledge that this Agreement is subject to the provisions of the Public Records Law of the State of Wisconsin (Wis. Stat. Section 19.21 et seq.) This Agreement, the Purchase and Sale Agreement, the Development Agreement, all documents used in determining the amount of public financing for this Agreement, and other attachments to this Agreement are deemed to be public records. All documents or portions of a document that Developer believes to contain protected information should be labeled "Confidential" and should contain an explanation as to why Developer thinks that such information is confidential. Nevertheless, despite labeling a document "confidential," the Developer acknowledges that this information may be considered a public record pursuant to Wisconsin law. Should West Allis receive a records request for any document that the Developer labels as confidential, West Allis shall notify the Developer of the request and afford the Developer a reasonable period of time (not to exceed ten (10) business days) to respond to West Allis. If the Developer objects to release of the requested record(s) or part thereof, West Allis shall perform the common law balancing test. If West Allis determines that the balance falls in favor of non-disclosure, it shall so inform the Developer and the requestor. If West Allis determines that the balance falls in favor of disclosure, it shall so notify the Developer and the requestor and afford the Developer a reasonable time (not to exceed ten (10) business days) to commence an action seeking to prevent disclosure of the record(s). If and to the extent that the exhibits attached to this Agreement are insufficient to indicate the rationale used by the Authority or the City to size the public assistance provided to the Project, then the Authority and the City may disclose such other information as the Authority and the City deem reasonably necessary to justify the level of public

assistance so long as all excel files, models and spread sheets are kept confidential as set forth herein.

8. **Assignment.** This Agreement and all rights and obligations therein, including but not limited to any indemnification provisions hereunder, may be assigned in whole or in part by the Developer to an affiliated entity upon notice to the Authority. For purposes of this Section 8, the term "affiliated entity" shall mean an entity controlling or controlled by or under common control with the Developer. This Agreement may also be collaterally assigned in whole or in part by the Developer to any lender or lenders holding a mortgage on all or any part of the Property. No such lender shall have any liability hereunder unless said lender elects to effectuate such assignment and exercise the Developer's rights hereunder. Upon any such assignment, references to Developer contained in this Agreement shall refer to the assignee, unless the assignment expressly provides otherwise.

9. **No Partnership or Venture.** The Developer and its contractors or subcontractors shall be solely responsible for the completion of the Project. Nothing contained in this Agreement shall create or effect any partnership, venture or relationship between West Allis and the Developer or any contractor or subcontractor employed by the Developer in the construction of the Project. No elected official, member, officer, or employee of West Allis during his/her tenure or for one year thereafter, will have or shall have had any interest, direct or indirect, in this Agreement or any proceeds thereof.

10. **Notices.** All notices permitted or required by this Agreement shall be given in writing and shall be considered given upon receipt if hand delivered to the party or person intended, or one calendar day after deposit with a nationally recognized overnight commercial courier service, or two (2) business days after deposit in the United States mail, postage prepaid, by

certified mail, return receipt requested, addressed by name and address to the party or person intended as follows:

To the Authority: Community Development Authority of the City of West Allis
Office of the Executive Director
7525 West Greenfield Avenue
West Allis, WI 53214
Attn: Executive Director

To the City: City of West Allis
Office of the City Attorney
7525 West Greenfield Avenue
West Allis, WI 53214
Attn: City Attorney

To Developer: Milwaukee Behavioral Health, LLC
Attn: Office of General Counsel
367 South Gulph Road
King of Prussia, PA 19406

To Guarantor: UHS of Delaware, Inc
Attn: Office of General Counsel
367 South Gulph Road
King of Prussia, PA 19406

With a copy to: Davis & Kuelthau, S.C.
Attn: Brian Randall, Esq.
111 East Kilbourn Avenue
Milwaukee, WI 53202

11. **Further Assurances.** Following the Closing, each of the Parties will take such further actions and execute and deliver such additional documents and instruments as may be reasonably requested by any other Party in order to perfect and complete the financing of the Project as described herein as well as any other transactions specifically contemplated herein.

12. **Waiver of Terms.** Except as otherwise provided herein, any of the terms or conditions of this Agreement may be waived at any time by the Party or Parties entitled to benefit thereof, but only by a written notice signed by the Party or Parties waiving such terms or

conditions. The waiver of any term or condition shall not be construed as a waiver of any other term or condition of this Agreement.

13. **Amendment of Agreement.** This Agreement may be amended, supplemented, or modified at any time, but only by a written instrument duly executed by the Parties.

14. **Governing Law and Venue.** This Agreement shall, in all respects whether as to validity, construction, capacity, performance, or otherwise, be governed by the laws of the State of Wisconsin. Any suit or proceeding arising out of or related to this Agreement shall be commenced and maintained only in a court of competent jurisdiction in the state or federal courts located in Milwaukee County, Wisconsin. Each Party irrevocably consents to submit to the exclusive jurisdiction of such courts.

15. **Execution in Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original Agreement, but all of which together shall constitute one and the same instrument.

16. **Titles and Headings.** Titles and headings to sections or subsections are for purposes of references only and shall in no way limit, define, or otherwise affect the provisions herein.

17. **Interpretation.** Unless the context requires otherwise, all words used in this Agreement in the singular number shall extend to and include the plural, all words in the plural number shall extend to and include the singular, and all words in any gender shall extend to and include all genders.

18. **Construction.** West Allis and the Developer acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the

effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

19. **Severability**. If any term or provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect.

20. **Survive the Closing**. The agreements, covenants, warranties and representations contained herein shall survive the Closing of the transaction contemplated herein. Following completion of the Project, the Authority agrees to provide upon request a written certificate of completion in a form attached to the Development Agreement as Exhibit 4 that confirms completion of the Project and termination of those provisions of this Agreement that, by their nature, terminate upon Project completion.

21. **Binding Effect**. The terms and conditions of this Agreement shall be binding upon and benefit the Parties and their respective successors and assigns.

22. **Good Faith**. The Parties covenant and agree to act in good faith in the performance and enforcement of the provisions of this Agreement.

[Signature Page Follows]

AGREED TO BY AND BETWEEN the Developer, the Authority, and the City on the date first set forth above.

**COMMUNITY DEVELOPMENT AUTHORITY
OF THE CITY OF WEST ALLIS**

By: _____
John F. Stibal, Executive Director

Dated: _____

CITY OF WEST ALLIS

By: _____
Dan Devine, Mayor

Dated: _____

By: _____
Steven A. Braatz, Jr., City Clerk

Dated: _____

DEVELOPER:

MILWAUKEE BEHAVIORAL HEALTH, LLC
By: UHS of Delaware, Inc., its Member

By: _____
Steve Felton, Executive Vice President &
Chief Financial Officer

Dated: _____

GUARANTOR:

UHS OF DELAWARE, INC.

By: _____
Steve Felton, Executive Vice President & Chief
Financial Officer

Dated: _____

Approved as to form this _____ day
of _____.

Sheryl Kuhary, Interim City Attorney

Exhibits Table