



# Administrative Manual of Operating Procedures

Procedure #: <b>10.02</b>	Procedure Title: <b>Leasing Procedures</b>		Revision #: <b>1</b>
Original Issue Date: <b>12/3/2020</b>	Revised Issue Date: <b>N/A</b>	Next Review Date: <b>12/3/2022</b>	Responsible Department: <b>DAS-Economic Development</b>
Statutory References: <b>Wis. Stat. § 51.41(10)</b> <b>Wis. Stat. § 59.17(2)(b)3</b> <b>Wis. Stat. § 59.52(6)</b>		Ordinance References: <b>MCO § 32.96(1)</b> <b>MCO § 56.10</b>	
Appendices: <a href="#">Appendix B - 10.02 LMS Training PowerPoint</a> <a href="#">Appendix C - 10.02 Flowchart</a>		Forms: <a href="#">14.01.01(a) - CFP Work Initiation Request Form</a> <a href="#">10.02(b) - Third-Party Lease Preliminary Questionnaire</a> <a href="#">10.02(c) - Preliminary Lease Term Sheet</a> <a href="#">10.02(d) - Turnover Checklist</a> <a href="#">10.02(e) - Sample Lease Form</a> <a href="#">10.02.01(a) - Sample Lease Repair and Maintenance Responsibility Matrix</a>	

## 1. OBJECTIVE

To provide comprehensive guidelines for the leasing of property and space, either as landlord or tenant, by Milwaukee County Departments. These procedures are intended to create a transparent, uniform, and predictable process for such transactions. The County’s return on its investment will always be considered when County property is leased or when the County is leasing property. Moreover, the benefits to the community are also taken into consideration when property is leased or when the County is leasing property.

## 2. DEFINITIONS

- A. Accounts Receivable Reporting. A quarterly report from the Responsible Division that includes at least the following: (1) Building Name, (2) Facility Code, (3) Tenant Name, (4) Lease Start Date, (5) Lease End Date, (6) year-to-date (YTD) amount owed, and (7) year-to-date (YTD) amount collected.
- B. Airport Real Estate. Real Estate that is located at Milwaukee Mitchell International Airport or Timmerman Airport.
- C. Behavioral Health Division (BHD). A division of Milwaukee County’s Department of Health and Human Services which provides connections that support recovery for Milwaukee County citizens, through crisis intervention, children’s services, alcohol or other drug abuse intervention, and nursing career assistance. The Behavioral Health Division is governed by the Milwaukee County Mental Health Board (MHB).
- D. Central Business Office (CBO). A division of Milwaukee County’s Department of Administrative Service (DAS). The CBO provides DAS and operating departments with a full suite of accounting, budgeting, and analytical services. The CBO focuses on ensuring accounting activities are performed in accordance with all applicable statutes, ordinances, rules, policies and generally accepted accounting principles, which allows Milwaukee County departments to focus on their core mission and business responsibilities.
- E. County Facilities Planning (CFP). The Milwaukee County process of total lifecycle planning for all Milwaukee County-owned land, infrastructure, and facility assets. The process is led by the CFP Steering Committee which acts as the “Portfolio Manager.”
- F. County Facilities Planning Steering Committee (CFPSC). An advisory committee which leads the total lifecycle planning for all Milwaukee County real property as the Portfolio Manager.

- G. County Facility (Facility). Any improvement on County lands (including without limitation, county buildings, airports, highways, dam sites in parks, parkways and playgrounds) that the County owns or occupies.
- H. County Landlord. DAS acting on behalf of the County for County Facilities and DAS Real Estate.
- I. County Lease Manager (Lease Manager). The individual designated by the owner to administer, and monitor compliance with, the terms of the lease. The Lease Manager is the point of contact between tenant and landlord. For Parks, Zoo and Airport Real Estate, this role shall be determined by the respective division. Except for Parks, Zoo and Airport Real Estate, this role is the ED Division Lease Manager.
- J. County Real Estate. Real Estate that is owned by the County.
- K. Crosscharges. Cost allocation for services provided by County departments to other County departments, a crosscharge is issued to properly allocate the expense. There are two (2) types of crosscharges – Centralized and Direct Service.
- L. Cultural Leases. Leases on property owned by the County and leased to the Charles Allis Museum, Marcus Center for the Performing Arts, Milwaukee Art Museum, Milwaukee County Historical Society, Milwaukee Public Museum, Villa Terrace Decorative Arts Museum and War Memorial Center.
- M. DAS Real Estate. County-owned Real Estate that is occupied by County staff or functions (other than Airport Real Estate, Zoo Real Estate or Parks Real Estate), or Real Estate that is leased by the County for Administrative purposes.
- N. Department of Administrative Services (DAS). DAS supports County departments by achieving high-quality, cost-effective, reliable, customer-oriented solutions in the areas of contracting, facilities, equipment, materials, fiscal management, risk management, and business development.
- O. Department of Health and Human Services (DHHS). DHHS is responsible for the total range of services to people, including mental illness treatment, disabilities services, income maintenance, youth probation, alcohol and drug abuse services, and more.
- P. DHHS-BHD Real Estate. Real Estate that is occupied by BHD, or its vendors, including without limitation, the Mental Health Complex.
- Q. DocuSign. An electronic signature and digital transaction management service, to collect signatures on all county contracts. County staff and other partner organizations can use the digital tool in lieu of wet signatures.
- R. ED Division. The Economic Development Division of the Department of Administrative Services.
- S. Government Services Contract. A written contract with third parties that provide governmental services on a contractual basis with a County department or division.
- T. Landlord. Any entity that owns real property and has the authority to grant a lease. Specific to Milwaukee County, DAS acting on behalf of the County for County Facilities and DAS Real Estate.
- U. Lease. Any written contract, instrument or other document permitting the possession, occupancy or use of County Real Estate or of any real estate required for use by the County. A lease must be for a period of time (term) and for a specific consideration (rent). A Lease does not include: (a) a contract for the use of land solely for agricultural purposes, (b) a permit to use a county facility for less than 24 hours, such as a park pavilion rental or athletic field rental, (c) a memorandum of understanding/agreement or license agreement, (d) a concessionaire license, or a (e) professional services contract.
- V. Market Rent. The rental income that a property would likely command in the open market, as indicated by the current rents that are either paid or asked for comparable space.
- W. Outside Real Estate. Real Estate that is not owned by the County and is occupied by a Sponsoring Division.

- X. Parks Real Estate. Real Estate that is owned by Milwaukee County and zoned as parkland by the local zoning authority.
- Y. Property. Real property, including without limitation, County buildings, airports, parks, highways, dam sites in parks, parkways, playgrounds, and any other real property or improvements thereon used or owned by Milwaukee County. Real property includes land, land rights, and facilities together with buildings, fixtures, affixed improvements, and structures (including linear structures). Real property does not include personal property.
- Z. Real Estate. Land and anything fixed, immovable, or permanently attached to it such as buildings, walls, fixtures, improvements, roads, trees, shrubs, fences, roads, sewers, structures, and utility systems.
- AA. Responsible Divisions. The County departments and divisions responsible for the negotiation of real estate leases based on real estate classifications of DAS Real Estate, Parks Real Estate, Airport Real Estate, Zoo Real Estate and DHHS-BHD Real Estate.
- BB. Signers. Signatures for the County are Department or Division Head, CBDP, Risk Management, Comptroller's Office, Corporation Counsel, County Clerk and County Executive.
- CC. Sponsoring Department. A County department that either (a) requests to occupy space in Outside Real Estate, or (b) requests that a third party occupy Real Estate.
- DD. Tenant. Any entity that accepts a leasehold interest from a Landlord.
- EE. Preliminary Term Sheet. This term sheet outlines the proposed lease of Real Estate to a third party and includes at least the following information: (1) property description, (2) lease rate, (3) term length, (4) property use, and (5) any other pertinent terms and conditions. The term sheet also outlines maintenance obligations as negotiated between Landlord and Tenant, including janitorial and cleaning services, preventive maintenance services, and minor and major repairs.
- FF. Zoo Real Estate. Real Estate that is owned at the Milwaukee County Zoo complex, including the Zoofari land and maintenance yard in the southwest quadrant of the I-894/I-94 interchange.

### 3. PROCEDURE

- A. Lease Management of Milwaukee County Real Estate Overview by Responsible Divisions
  - i. DAS Real Estate leases will be negotiated by the ED Division, with oversight by CFPSC.
  - ii. Parks Real Estate leases will be negotiated by the Parks Department, in collaboration with the ED Division, and with oversight by the CFPSC, and approval by the County Board.
  - iii. Airport Real Estate leases will be negotiated by the Milwaukee County Department of Transportation – Airport Division, in accordance with applicable grant assurances and other regulatory conditions and airport best management practices. Except when specifically referenced, Airport Division shall not be subject to this AMOP.
  - iv. DHHS-BHD leases will be negotiated by the ED Division, in collaboration with the Milwaukee County DHHS, and with oversight by the CFPSC, and recommended approval by the Milwaukee County Mental Health Board.
  - v. Cultural Leases will be negotiated by the ED Division and with oversight by the CFPSC, and approval by the County Board when required by the lease, associated agreements or zoning.
  - vi. Zoo Real Estate leases will be negotiated by the Milwaukee County Zoo with oversight by the CFPSC.
  - vii. The Responsible Division shall designate the Lease Manager for every new or renewed lease and shall communicate this to the Tenant.
- B. Leases of County Real Estate – County as Landlord
  - i. Responsible Division:

- a. As set forth in Section 3A above, Responsible Division shall conduct lease negotiations on behalf of Sponsoring Departments for the lease and/or use of any County Real Estate by a third party in accordance with the provisions of this procedure.
- ii. Crosscharges:
  - a. Responsible Division shall not be entitled to payment of crosscharges in connection with either negotiating leases or managing leases of Real Estate. However, expenses related to specialized negotiations or other work performed under this procedure shall be paid by the Sponsoring Department.
- iii. Accounts Receivable:
  - a. For DAS Real Estate, the Central Business Office (CBO) is authorized and directed to collect all money due under the leases of DAS Real Estate. All funds received by the CBO in payment of rents from DAS Real Estate shall be deposited in the proper accounts to the Sponsoring Division.
  - b. For Parks Real Estate, the Parks Department will collect all money due under the leases of Parks Real Estate. If any funds are received by the ED Division in payment of rents from Parks Real Estate, then such money shall be deposited in the proper accounts of the Parks Department.
  - c. For Zoo Real Estate, the Milwaukee County Zoo will collect all money due under the leases of Zoo Real Estate. If any funds are received by the ED Division in payment of rents from Zoo Real Estate, then such money shall be deposited in the proper accounts of the Milwaukee County Zoo.
- iv. Approval:
  - a. Prior to executing any lease, the Responsible Division shall submit a Preliminary Lease Term Sheet or draft lease to the CFPSC for review and recommendation.
  - b. For DAS Real Estate and Zoo Real Estate, if approved:
    - i. ED Division will, in partnership with Corporation Counsel, prepare the final lease and submit it to Signers via DocuSign.
    - ii. Milwaukee County Zoo will also coordinate with the Comptroller's Office as it relates to any bond restrictions for use.
  - c. For Parks Real Estate, if approved:
    - i. The Parks Department shall prepare an Action Report, Fiscal Note and Resolution to the County Board for approval. In cooperation with Corporation Counsel, the Parks Department will prepare the final lease and submit to Signers via DocuSign.
    - ii. The Parks Department will present the file and fully negotiated Lease to the County Board at the appropriate committee meeting.
  - d. For DHHS-BHD Real Estate, if approved:
    - i. BHD shall prepare a package for review and recommended approval by the Milwaukee County Mental Health Board at the appropriate board meeting.
    - ii. In cooperation with Corporation Counsel, DHHS and BHD, ED Division will prepare the final lease and submit to Signers via DocuSign.
  - e. A copy of the final executed lease shall be retained by the Responsible Division and ED Division.
- v. Leases for Real Estate with a Government Services:
  - a. County departments may lease County Real Estate to third parties that provide governmental services on a contractual basis with that department. It is important to note the following:

- i. Leases and contracts for services shall be considered separate documents that are approved in separate but coordinated processes.
      - ii. Any lease with a service provider must refer to the contract for services.
      - iii. Any contract for services must refer to the lease.
      - iv. The term of a lease may be shorter than the length of contract for services. Whenever reasonably feasible, the lease term shall be for no more than five (5) years.
    - vi. Request for Lease to Third Party:
      - a. The Responsible Division will assist any interested tenant in completing the Third-Party Lease Preliminary Questionnaire.
    - vii. Accounts Receivable Reporting:
      - a. For DAS Real Estate, on a quarterly basis, the CBO will prepare an Accounts Receivable Report and submit to the Responsible Division for DAS Real Estate.
    - viii. Facility Maintenance:
      - a. The Lease Repair and Maintenance Responsibility Matrix lists obligations of landlord and tenant in a County facility as they relate to repair and maintenance of that County facility, as defined in the lease or separate maintenance agreement.
      - b. County and Tenant shall comply with applicable County Ordinances, building codes, state statutes and federal regulations in the completion of the maintenance and repairs for which each is responsible. This includes, without limitation, the public works bidding requirements applicable to each entity, if any. Typical County and Tenant financial, operational and maintenance responsibilities are delineated in the lease agreement, and may include:
        - i. Janitorial and cleaning services of the interior and exterior of the County facility to provide continuous, good, clean, and sanitary conditions.
        - ii. Services and utilities such as water, gas, oil, heat, electricity, power, telephone service, and sewer charges charged or attributable to the County facility.
        - iii. Operation and preventive maintenance services of the County facility using best building management practices.
        - iv. Minor and major repairs for those elements of the County facility defined in the lease agreement.
        - v. Access to the County facility for inspection of the conditions of structures, fixtures, or equipment serving the County facility.
- C. Leases for Outside Real Estate – County as Tenant
- i. Move Request Form:
    - a. If a Sponsoring Department would like to lease Outside Real Estate, the Sponsoring Department will submit a County Facilities Plan (CFP) Work Initiation Request Form to the CFP Coordinator. Whenever feasible, the work initiation request form should be submitted as part of the budget request process. The CFP Coordinator will submit the work initiation request form to the CFPSC for further action.
  - ii. DAS Assistance:
    - a. After review and recommendation of the work initiation request by the CFPSC and approval by the DAS Director, DAS shall assist the Sponsoring Division. Specifically, the ED Division will assist the Sponsoring Division in:
      - i. Negotiating the terms of the lease with the owner of the Outside Real Estate.

- ii. Preparing a Preliminary Lease Term Sheet or lease draft for submittal to the CFPSC.
    - iii. Working with Corporation Counsel to develop a final lease to execute. The ED Division may retain a third-party real estate broker to assist with site selection and negotiation.
  - iii. Expectations:
    - a. When leasing Outside Real Estate, the Sponsoring Division should expect that all the costs of building out, operating, and maintaining the leased space are handled by the requesting Department, unless the owner of the Outside Real Estate agrees to costs. Consequently, the Sponsoring Department must:
      - i. Separately budget for any moving expenses, technology infrastructure, janitorial services, utilities, lease payments, and other costs related to moving into the Outside Real Estate and operating in the Outside Real Estate; and
      - ii. Provide staff of the Sponsoring Department that will (a) coordinate with DAS-Facilities Management Division (FMD) space planning and design staff on the buildout of the leased space and move management, (b) coordinate with the Information Management Service Division for technology infrastructure, (c) coordinate with the Office of Persons with Disabilities to ensure compliance with the Americans with Disabilities Act (ADA) and (d) be the primary contact with the landlord of the Outside Real Estate during the duration of the Lease.
  - iv. Accounts Payable:
    - a. The CBO will pay all money due under the leases of Outside Real Estate.
  - v. Approval:
    - a. Prior to executing any lease, the ED Division shall submit a Preliminary Lease Term Sheet to the CFPSC for review and recommendation.
    - b. For DAS Real Estate, if approved: ED Division will, in partnership with Corporation Counsel, prepare the final lease and submit it to Signers via DocuSign.
    - c. Pursuant to Wisconsin Statutes, leases for DHHS-BHD Real Estate will need recommended approval by the Milwaukee County Mental Health Board.
    - d. A copy of the final executed lease shall be retained by the Sponsoring Department, ED Division.
- D. Additional Duties
  - i. The ED Division shall maintain an inventory of all leases, and copies of each lease, for Outside Real Estate, DAS Real Estate, Parks Real Estate, Zoo Real Estate and DHHS-BHD Real Estate. The inventory list shall contain at least the department name, address of leased Real Estate, name of lessor, annual lease rate, lease rate per square foot, the length of the lease term, commencement date, termination date, and renewal options if any. In addition, ED Division shall outline maintenance obligations as negotiated between Landlord and Tenant, including janitorial and cleaning services, preventive maintenance services, and minor and major repairs.
- E. CFP Review
  - i. Upon receipt of a CFP Work Initiation Request Form for an Outside Real Estate lease, draft lease or term sheet for Outside Real Estate, the CFPSC will:
    - a. Schedule the discussion of each Preliminary Lease Term Sheet or draft lease on its next meeting's agenda with reasonable expedience.

- b. Provide written feedback and advice and attach this feedback to the document that is submitted to the CFP Coordinator. Factors to be considered include fair market value, adherence to the recommendations of the CFP, and analysis of any special lease terms and conditions requested of the lessor specific to the County's provision of services within the leased space.
  - c. Coordinate with all pertinent departments on the request to ensure adherence to other sections of the Leasing Procedures AMOP.
- F. Re-Lease Real Estate to Existing Tenant on a Negotiated Basis
- i. Notwithstanding any other provision in this procedure, where the County acquires real estate, which at the time of acquisition is under a lease to a tenant from the previous owner, the ED Division may, prior to expiration of such lease, negotiate at a fair Market Rent a new lease for such real estate with the same tenant on a term designated by the department head, or until such time as required for the purposes of the department in charge of such real estate.
- G. Lease Turnover
- i. After any lease, which is not Parks, Zoo or Airport, is signed, the ED Division will hold a meeting with DAS-FMD, CBO, the Sponsoring Division and any other County project stakeholders. The purpose of the turnover is to review the provisions of the lease as set forth on the Turnover Checklist and address any questions. This checklist should include, but not be limited to, location, size of space, rent, and maintenance responsibilities.
- H. Effective Date and Application
- i. This procedure shall become effective the date it is published, and is intended to have prospective effect only, and shall not be interpreted to impair the obligations of any pre-existing lease to which the County is a party, unless such pre-existing lease has been substantially amended after the effective date of this procedure.

**4. REVISION HISTORY:**

Rev. #	Summary of Changes	Date of Change	Author
1	<ul style="list-style-type: none"> <li>• New procedure</li> </ul>	12/3/2020	Adam Stehly