

Recovery Agreement between
Dane County Housing Authority
And
the United States Department of Housing and Urban Development
And
Dane County

This Recovery Agreement is entered into between Dane County Housing Authority , the UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (“HUD”) and Dane County as of this ___ day of _____, 2020.

RECITALS

WHEREAS, under the United States Housing Act of 1937, as amended, (“Act”), 42 U.S.C. § 1437 *et seq.*, the United States Department of Housing and Urban Development (“HUD”) is responsible for administering low income housing programs, and pursuant to the Act, HUD has entered into an Annual Contributions Contract (“ACC”) with Dane County Housing Authority to develop and operate public housing projects of Dane County Housing Authority ; and

WHEREAS, pursuant to the Act, HUD must evaluate public housing performance and has instituted the Public Housing Assessment System (“PHAS”); and

WHEREAS, on the basis of an annual PHAS score, Dane County Housing Authority has been designated Troubled for financial, physical and/or management indicators, or other such deficiencies as HUD has identified; and

WHEREAS, the Act requires HUD to enter into agreements that establish performance targets, set out strategies for meeting targets, provide for incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of at least a Standard Performer; and

WHEREAS, the recovery of performance is intended to lead to a sustainable sound fiscal management and good governance; and

WHEREAS, the parties desire to correct all HUD-identified deficiencies through the implementation of this Recovery Agreement, (“Agreement”);

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, HUD, Dane County Housing Authority and Dane County agree as follows:

- I. Dane County Housing Authority agrees to achieve the outcomes outlined in the Action Plan and incorporated into this Agreement as Exhibit A.
- II. Dane County Housing Authority and Dane County agree to work together to develop and implement a Sustainability Plan if necessary to achieve recovery.

- III. The Action Plan describes the results following HUD's review and assessments of PHA performance, the measures that need to be implemented to improve the performance and the desired outcomes to be achieved and establishes a timetable to achieve those outcomes. The Action Plan also identifies the available remedies to resolve HUD's determination of non-performance.
- IV. Upon execution of the Agreement, Dane County Housing Authority will commence with the required actions listed in the Plan within the timeframes set forth therein.
- V. Dane County Housing Authority will cure identified deficiencies within the timeframes established in the Action Plan.
- VI. Subject to section XII, regardless of possible changes in Dane County Housing Authority's Board composition, or the decision-making individuals for HUD or Dane County, the term of this Agreement is effective as of the execution date of this document and will continue until completion of the Action Plan in accordance with 6(j) (2) and (3) of the Act, and any agreed upon extensions. This Agreement will remain in effect until Dane County Housing Authority has completed all items listed in the Plan, even if HUD removes Dane County Housing Authority's troubled/substandard designation.
- VII. HUD, in its discretion, may provide technical assistance, including training or contract support, to Dane County Housing Authority to facilitate accomplishment of the items in the Action Plan. Dane County Housing Authority's compliance with the Action Plan, however, shall not be contingent on HUD's provision of any technical assistance or other discretionary assistance.
- VIII. Dane County Housing Authority shall provide HUD with written progress reports as identified in the Action Plan. The report shall detail Dane County Housing Authority's progress towards the completion of the items required by the Action Plan. The reports shall identify those items that have been completed and provide any necessary documentation to support this determination.
- IX. HUD will review the Action Plan progress reports submitted by Dane County Housing Authority and supporting documentation. HUD will confirm in writing to Dane County Housing Authority the items that HUD determines to have been successfully completed, those that require additional documentation and those that are past due.
- X. If Dane County Housing Authority disagrees with HUD's determination concerning the completion of any item, Dane County Housing Authority may request a reconsideration of the determination and submit additional information to support its position. HUD will provide Dane County Housing Authority with a written notice of its decision.
- XI. The failure of Dane County Housing Authority, its employees, officers, agents, or contractors to comply with this Agreement, including the failure to achieve the agreed upon outcomes or to take the actions or comply with the time frame set forth in the Action Plan,

may result in HUD seeking any available remedies, including any of the following actions sequentially or simultaneously:

- a. Consolidation;
 - b. Consortia/Joint Venture;
 - c. Contraction of Operational Activities;
 - d. Cooperative Endeavor Agreement;
 - e. Debarment;
 - f. Deliver possession and control of project(s) to HUD;
 - g. Limited Denial of Participation;
 - h. Receivership; and/or
 - i. Suspension.
- XII. The parties by mutual written agreement may agree to extend the timeframes set forth in the Action Plan from time to time. In the event said timeframes are extended, HUD agrees that it will not take any of the actions against Dane County Housing Authority as set forth in this section of the Agreement for noncompliance with original timeframes.
- XIII. Communication related to the Recovery Agreement and Action Plan shall be provided to the Public Housing Director and the HUD Recovery Team leader, if applicable.
- XIV. HUD, Dane County Housing Authority and their employees, subcontractors, partners or assigns, and Dane County shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement to which their activities are subject.
- XV. Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, riots, civil commotion, force majeure, acts of God, or for any other cause of same character which is unavoidable through the exercise of due care and beyond the control of the parties, provided that said failure or delay in the performance of this Agreement attributed to any of the events described herein is acknowledged in writing by HUD. Upon the issuance of HUD's written acknowledgement, the failure to perform shall be deemed excused during the continuance of such circumstances as determined by HUD, but this Agreement shall otherwise remain in effect.
- XVI. In the event of any conflict between terms in this Agreement, including all exhibits, attachments and all other documents specifically incorporated by reference, and HUD's applicable Public Housing requirements including, but not limited to, the Act, HUD regulations there under (and, to the extent applicable, any HUD-approved waivers of regulatory

requirements), the ACC, HUD notices, the HUD-approved Declaration of Trust or Declaration of Restrictive Covenants in favor of HUD, and all applicable Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time to time, the applicable Public Housing requirements shall prevail. HUD reserves the right to resolve any conflict.

- XVII. Any modification or amendment of any condition or provision in this Agreement by either party will not imply or constitute a further modification or amendment of the same or any other condition or provision, nor shall it relieve the parties from performing any subsequent obligations strictly in accordance with the term of this Agreement. No modification or amendment shall be effective unless in writing and signed by the party against whom enforcement is sought. Such modification or amendment shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a modification or amendment of any other provision. No modification or amendment of this Agreement shall constitute a HUD-approved waiver of regulatory requirements.
- XVIII. Should any term or provision of this Agreement be held, to any extent invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- XIX. To the extent authorized by the Act and HUD regulations, HUD can unilaterally amend this Agreement. Otherwise, this agreement may be amended by mutual agreement of the parties.
- XX. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. However, this Agreement does not supersede, modify or amend the ACC as further described in Paragraph XXII. The parties recognize that any representations, statements or negotiations made by the staff of either party does not suffice to legally bind either party in a contractual relationship unless they have been reduced to writing and signed by their authorized representative(s). This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.
- XXI. This Agreement may be executed and delivered in separate counterparts, which, when so executed and delivered, shall be deemed an original.
- XXII. This Agreement does not supersede, modify or amend the ACC between HUD and Dane County Housing Authority, or in any way excuse Dane County Housing Authority from complying fully with its obligations under the ACC. HUD does not waive its statutory, regulatory or contractual rights. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD's right to take any remedial action allowed by the ACC or any provision of the Act or related regulations. Nothing contained in this Agreement shall

serve to limit, modify or preclude HUD or Dane County Housing Authority's right to take any remedial action allowed by the Agreement.

XXIII. The parties agree that any cost associated with the implementation of this Agreement, the Action Plan and the Sustainability Plan shall be their individual responsibility unless specifically agreed in writing between the parties.

XXIV. Dane County, through its Appointing Authority, acknowledges the importance of effective governance as part of the recovery and sustainability of Dane County Housing Authority. As a signatory of this Agreement, Dane County commits to oversee and monitor its duly appointed agents, the appointees to Dane County Housing Authority Governing Board, in the discharge of their duties. Upon the discovery of any failure of Dane County Housing Authority Board to discharge its duties under this Agreement, Dane County will take all necessary steps to correct the Board's actions or omissions and ensure compliance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: _____
Shirley Wong
Public Housing Director
Milwaukee Field Office

Dane County Housing Authority
ATTEST: BY ITS BOARD OF
COMMISSIONERS

By: _____
Dan O'Callaghan
Board Chair
Dane County Housing Authority

By: _____
Karyn Knaak
Executive Director
Dane County Housing Authority

By: _____
Joe Parisi
County Executive
Dane County