

# Dane County Contract Cover Sheet

Revised 06/2021

Res 137  
Significant

BAF # 21129  
Acct: DRS  
Mgr: Wuthrich  
Budget Y/N: N

<b>Dept./Division</b>	Human Services /Housing Access and Affordability		
<b>Vendor Name</b>	Dane County Housing Authority	<b>MUNIS #</b>	1827
<b>Brief Contract Title/Description</b>	Agreement related to affordable housing project at 649 Sand Pearl Lane, Madison.		
<b>Contract Term</b>	30 years		
<b>Contract Amount</b>	\$ 1,000,000.00		

<b>Contract #</b> Admin will assign	14443
<b>Type of Contract</b>	
<input type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Grant
<input checked="" type="checkbox"/>	Other

Department Contact Information		Vendor Contact Information	
<b>Name</b>	Spring Larson, Contract Coordination Assistant	<b>Name</b>	Karyn Knaack (DCHA) Jacob Klein (JT Klein)
<b>Phone #</b>	608-242-6391	<b>Phone #</b>	(608)224-3636 ext 023 (Karyn)
<b>Email</b>	dcdhscontracts@countyofdane.com	<b>Email</b>	kknaak@dcha.net, Jacob@JTKlein.com
<b>Purchasing Officer</b>			

<b>Purchasing Authority</b>	<input type="checkbox"/> \$11,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$11,000 – \$37,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$37,000 (\$25,000 Public Works) (Formal RFB/RFP required)	<b>RFB/RFP #</b>
	<input type="checkbox"/> Bid Waiver – \$37,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$37,000 (N/A to Public Works)	
	<input checked="" type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

<b>MUNIS Req.</b>	<b>Req #</b> 2237	<b>Org:</b> CPADMIN	<b>Obj:</b> 58720	<b>Proj:</b>	
	<b>Year</b> 2021	<b>Org:</b>	<b>Obj:</b>	<b>Proj:</b>	
		<b>Org:</b>	<b>Obj:</b>	<b>Proj:</b>	

Budget Amendment	
<input type="checkbox"/>	A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

<b>Resolution Required if contract exceeds \$100,000 (\$40,000 PW)</b>	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	<b>Res #</b>	137
	<input checked="" type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.		<b>Year</b>
	<input type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.		

CONTRACT MODIFICATIONS – Standard Terms and Conditions		
<input checked="" type="checkbox"/> No modifications.	<input type="checkbox"/> Modifications and reviewed by:	<input type="checkbox"/> Non-standard Contract

APPROVAL
<b>Dept. Head / Authorized Designee</b>
<i>Shawn Tessman</i>

APPROVAL – Contracts Exceeding \$100,000	
<b>Director of Administration</b>	<b>Corporation Counsel</b>
<i>Greg Brockmeyer</i>	<i>Susan Rauti</i>

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
<b>DOA:</b>	<b>Date In:</b> 8/31/21	<b>Date Out:</b>	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

## Goldade, Michelle

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**From:** Goldade, Michelle  
**Sent:** Tuesday, August 31, 2021 1:39 PM  
**To:** Hicklin, Charles; Rauti, Susan; Rogan, Megan; Lowndes, Daniel  
**Cc:** Stavn, Stephanie; Oby, Joe  
**Subject:** Contract #14443  
**Attachments:** 14443.pdf

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>	<b>Response</b>
	Hicklin, Charles	Read: 8/31/2021 2:44 PM	
	Rauti, Susan	Read: 8/31/2021 1:43 PM	
	Rogan, Megan	Read: 8/31/2021 1:40 PM	
	Lowndes, Daniel	Read: 9/1/2021 10:50 AM	Approve: 9/1/2021 10:50 AM
	Stavn, Stephanie	Read: 8/31/2021 2:56 PM	
	Oby, Joe		

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14443

Department: Human Services

Vendor: Dane County Housing Authority

Contract Description: Agreement related to Affordable Housing Project at 649 Sand Pearl Lane, Madison (Res 137)

Contract Term: 9/1/21 – 12/31/51

Contract Amount: \$1,000,000.00

*Michelle Goldade*

Administrative Manager

Dane County Department of Administration

Room 425, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

## Goldade, Michelle

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**From:** Rauti, Susan  
**Sent:** Tuesday, August 31, 2021 4:22 PM  
**To:** Goldade, Michelle  
**Subject:** Approve: Contract #14443

## Goldade, Michelle

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**From:** Hicklin, Charles  
**Sent:** Tuesday, August 31, 2021 2:44 PM  
**To:** Goldade, Michelle  
**Subject:** Approve: Contract #14443

## Goldade, Michelle

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**From:** Rogan, Megan  
**Sent:** Tuesday, August 31, 2021 1:47 PM  
**To:** Goldade, Michelle  
**Subject:** Approve: Contract #14443

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**2021 RES-137**

**APPROVING AGREEMENTS FOR AN AFFORDABLE HOUSING PROJECT AT  
649 SAND PEARL LANE IN THE CITY OF MADISON  
DCDHS – HAA DIVISION**

The 2021 Dane County Capital Budget awarded funding of \$1,000,000 to JT Klein, also known as its affiliate University Park Commons LLC., for University Park Commons, an affordable housing project to be constructed at 649 Sand Pearl Lane in the City of Madison.

The project will consist of 68 units. All units will be affordable. Fourteen units will be income restricted to those earning less than 30% area median income (AMI), twenty-seven units will be restricted to those earning less than 50% AMI, and the remaining twenty-seven units will be restricted to those earning less than 80% AMI. Fourteen units will be targeted to homeless individuals/families on the community by-name list who are receiving case management services.

The county's support includes a grant from the county to the Dane County Housing Authority. The housing authority will then make a loan to the project developers. The terms of the loan include interest only payments of 2% for a 30 year term. The principal of the loan will be due to the housing authority at the end of the loan.

NOW, THEREFORE, BE IT RESOLVED that the County Executive, County Clerk and County Real Estate staff are authorized to execute the grant agreement and related documents to support the affordable housing project at 649 Sand Pearl Lane, Madison, and that the Dane County Controller's Office is authorized to make payments related to the execution of the grant agreement.

AFFORDABLE HOUSING DEVELOPMENT FUND  
GRANT AGREEMENT

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and among the COUNTY of Dane, Wisconsin (“County”), a quasi-municipal corporation created pursuant to chapter 59 of the Wisconsin Statutes, the Housing Authority of Dane County, Wisconsin (“DCHA”), a quasi-municipal corporation created pursuant to section 59.53(22) of the Wisconsin Statutes, and University Park Commons LLC (“RECIPIENT”), a Wisconsin limited liability company (collectively the “Parties.”)

WHEREAS, in Fiscal Year 2020, the Dane County Capital Budget includes funding for the Affordable Housing Development Fund (“AHDF”). Pursuant to Wisconsin law, the COUNTY may make grants to the DCHA, who can then make loans directly to developers of affordable housing projects.

WHEREAS, the COUNTY and the DCHA have previously signed a Memorandum of Understanding dated August 23, 2021 to partner with the COUNTY to disburse AHDF monies to AHDF grant recipients.

WHEREAS, through the budget process, RECIPIENT has been awarded AHDF monies for the acquisition and development of a multifamily residential building located at 649 Sand Pearl Lane (“Property”) that has a legal description as described in Exhibit A.

WHEREAS, the proceeds of the grant will be loaned by DCHA to the RECIPIENT pursuant to the terms of a Subaward Note (the “Subaward Note”).

WHEREAS, as a condition of the COUNTY’S AHDF Award to RECIPIENT, pursuant to the structure set forth in these Recitals, the COUNTY requires and RECIPIENT agrees to restrict the use of the Property as hereinafter described (“Restrictions”). Such Restrictions are contained in this Agreement, as well by the associated Land Use Restriction Agreements (“LURAs”) and are herein incorporated by reference.

NOW THEREFORE, in consideration of this agreement between the COUNTY, the DCHA, and RECIPIENT, the Parties agree as follows:

1. PURCHASE. The COUNTY agrees to grant to DCHA AHDF monies specifically for the DCHA to lend to RECIPIENT for the acquisition and development of the Property in the sum of \$1,000,000 (the “Grant”). Upon receipt of the Grant, DCHA agrees and warrants to immediately and without delay loan the Grant to RECIPIENT (the “Loan”), pursuant to that certain Subaward Note dated as of the date hereof by RECIPIENT in favor of DCHA. RECIPIENT agrees and warrants that it will within 36 months of the last signature on this Agreement, acquire and develop the Property using Loan proceeds, which DCHA funded via the Grant proceeds.
2. USE OF PREMISES. In consideration of DCHA accepting the Subaward Note, RECIPIENT agrees and warrants that it shall use the Property as affordable rental housing,

and in consideration thereof agrees and warrants to the recording of a Land Use Restriction Agreement in favor of Wisconsin Housing and Economic Development Authority (“WHEDA LURA”) and Dane County (“COUNTY LURA”), guaranteeing a period of affordability as set forth therein. RECIPIENT agrees and warrants that all units will be leased to tenants with a household income as defined by the U.S. Department of Housing and Urban Development (“HUD”) at or below that certain Area Median Income (“AMI”), as calculated by HUD, more fully set forth in the WHEDA LURA. The units shall be rent restricted as further set forth in the WHEDA LURA and COUNTY LURA.

The WHEDA LURA and COUNTY LURA shall be recorded against the Property before any other documents creating an encumbrance thereon, except for the Mortgage and documents evidencing the first mortgage or construction loan. RECIPIENT shall pay recording fees. The WHEDA LURA and COUNTY LURA are attached as Exhibits B and C; provided, however, the COUNTY shall enter into a subordination agreement in a form required by RECIPIENT’s permanent lender.

3. PERIOD OF AFFORDABILITY. The Project must meet the affordability requirements for not less than thirty (30) years beginning on the day after project completion (“Affordability Period”). The Project is considered completed when all necessary title transfer requirements are met and a certification of occupancy is issued. RECIPIENT shall repay loan funds if Project does not meet the affordability requirements for the specified period of affordability.
4. UNIT DESCRIPTION. The units in the Project to meet the affordability requirements are described in Exhibit D, and the affordability restrictions shall be specifically set forth in the COUNTY LURA.
5. TERM. The term of the warranties and covenants entered herein as a part of this Agreement shall be enforceable for a period of thirty years, commencing on the day after project completion and terminating on the thirtieth year anniversary thereof. The Loan and interest payments shall be due and payable on the dates defined in the Subaward Note. The Subaward Note is incorporated by reference and attached as Exhibit E.
6. REPORTING REQUIREMENTS. RECIPIENT shall provide to the COUNTY and DCHA, upon written request by COUNTY or DCHA, an annual written report which shall, at a minimum, include the following information: number of tenants, how many units are rented to tenants with household incomes at 80%, 70%, 60%, 50% and 30% of AMI, the number of eviction actions filed, the reason for eviction, the number of eviction notices issued to the tenants in the twelve months preceding the eviction filing, the number of eviction judgments granted, writs executed, and/or other case resolution (e.g. vacated prior to execution of writ or allowed to stay with conditions) and any other information that may affect the status of the Premises. This report shall be due to the COUNTY no later than February 15 and shall reflect the period from January 1 to December 31 of the previous calendar year. Notwithstanding the generality of the foregoing, the COUNTY agrees and acknowledges that the Project is an “income averaging” project, which does not have



specific set aside requirements for 60%, 50%, and/or 30% AMI units for compliance with the WHEDA LURA.

7. FINANCIAL DOCUMENTS. Upon written request by DCHA or COUNTY, RECIPIENT shall provide financial statements, in form reasonably acceptable to the DCHA or COUNTY, establishing cash flow in a given year. The adequacy of such documentation shall be determined in the reasonable discretion of the DCHA or COUNTY. The COUNTY and DCHA understand that some information contained in the RECIPIENT's financial statements is confidential. DCHA and the COUNTY covenant to protect such information from disclosure. Notwithstanding the foregoing, DCHA AND COUNTY may disclose such confidential information following a formal and valid Wisconsin Open Records' request, or a formal demand by a court, regulatory or other legal authority.
8. RECORDS. RECIPIENT shall provide, upon reasonable request by DCHA or COUNTY, reports and other documentation related to tenancy, leasing and rental records for units assisted under this Agreement. RECIPIENT shall take reasonable steps COUNTY or DCHA directs to assist COUNTY or DCHA in monitoring units assisted or available for assistance under this AGREEMENT.
9. RECIPIENT shall, upon written request by DCHA and/or the COUNTY, no more often than annually, certify to COUNTY that each building and all units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements.
10. LEASES. RECIPIENT shall enter into leases with tenants that are consistent with the purpose of this Agreement.
11. TENANCY ADDENDUM. RECIPIENT shall comply with the specific provisions relating to security deposits, late fees, termination of tenancy, parking & guest policies outlined in the Tenancy Addendum ("Addendum"). Certain provisions of the Addendum are attached as Exhibit F. The provision relating to security deposits, late fees, termination of tenancy, parking & guest policies outlined in the Tenancy Addendum shall be attached to all of RECIPIENT'S leases for residential units.  
  
If there are conflicts between the Addendum provisions and the lease, the Addendum requirements shall take precedence.
12. HOUSING FIRST. RECIPIENT will target 14 units (20.59% of total units) to individuals/families on the Community-wide Priority List for Housing. RECIPIENT, or its designee, agrees to meet regularly with COUNTY, RECIPIENT's supportive services partner(s) and RECIPIENT's property management partner(s) to determine how referrals for available units will be identified for the project prior to lease up and when subsequent vacancies occur.

13. FAIR TENANT SELECTION CRITERIA. RECIPIENT shall comply with the Fair Tenant Selection Criteria (FTSC) as outlined in Exhibit G. The FTSC shall be attached to all of RECIPIENT'S applications for residential units. Each incident of violation of the FTSC, as determined by COUNTY, shall result in a penalty of Five hundred dollars (\$500) payable to COUNTY by RECIPIENT. RECIPIENT shall include written justification for denials of residential rental applications. Upon request by COUNTY, RECIPIENT shall provide COUNTY supporting documentation for decisions related to FTSC. Supporting documentation must be kept by RECIPIENT for two (2) years following the denial decision.
14. COUNTY AND RECIPIENT acknowledge the pages attached hereto as Exhibits F and G were included in RECIPIENT'S response to the COUNTY request for proposals referred to in the Recitals of this Agreement. RECIPIENT shall continue to comply with the terms and conditions outlined in Exhibits F and G throughout the term of the Agreement, unless the County agrees to modify this agreement in writing. COUNTY's consent to modify the terms and conditions on Exhibit F and G shall not be required to the extent a change in law mandates a modification of the terms and conditions set forth in Exhibit F and G. Upon any such update, the RECIPIENT shall provide written notice of the changes to DCHA and the COUNTY. To the extent RECIPIENT wishes to modify Exhibit F or Exhibit G, RECIPIENT shall request COUNTY'S written consent, which shall not be unreasonably withheld, conditioned, or delayed. For example, in the event RECIPIENT changes management companies, RECIPIENT's Tenancy Addendum may be slightly modified as to form, which the COUNTY shall timely consider and, if acceptable, approve.
15. SECURITY. The Mortgage shall be in a form reasonably satisfactory to COUNTY and shall provide, among other things and subject to any applicable subordination agreement, that in the event of default by RECIPIENT, in any agreement, covenant or condition contained in this AGREEMENT, or in the Note, DCHA may, at its option, in addition to all other remedies available to it, take possession of the property given as security. DCHA however, shall be under no obligation to exercise this right and its action in this respect shall be wholly at its option. The Mortgage and repayment of the Note will be subject and subordinate to the terms of a Subordination Agreement by and among Borrower, the DCHA and First Business Bank, in relation to that certain first mortgage construction loan in the approximate amount of \$12,475,000.
16. COMPLIANCE WITH LAWS. RECIPIENT shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City of Madison, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Premises. RECIPIENT may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. RECIPIENT agrees that any such contest shall be prosecuted to a final conclusion as soon

as possible and that it will hold the COUNTY harmless with respect to any actions taken by any lawful governmental authority with respect thereto.

17. TAXES. RECIPIENT covenants and agrees that it shall pay, before delinquency, all municipal, county and state or federal taxes assessed against the Property or any fixtures, furnishings, equipment, merchandise, improvements, alterations, stock-in-trade or other personal property of any kind owned, installed or upon the Property. RECIPIENT covenants and agrees that it shall pay, before delinquency, all special assessments or special charges assessed against the Property.

18. INSURANCE AND INDEMNIFICATION.

- a. RECIPIENT shall indemnify, hold harmless and defend DCHA, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which the DCHA, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of any act, omission or negligence of RECIPIENT or its tenants, officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors in or about, or in relation to the Property, or resulting from this Agreement, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from any act, omission or negligence of the DCHA, its agencies, boards, commissions, officers, employees or representatives. The obligations of the DCHA and RECIPIENT under this paragraph shall survive beyond the term of this Agreement.
- b. RECIPIENT shall indemnify, hold harmless and defend the COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which the COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of any act, omission or negligence of RECIPIENT or its Subtenants, officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors in or about, or in relation to the Property, or resulting from this Agreement, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from any act, omission or negligence of the COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of the COUNTY and RECIPIENT under this paragraph shall survive beyond the term of this Agreement.
- c. In order to protect itself, DCHA, and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this Agreement, RECIPIENT shall obtain and at all times during the term of this Agreement keep in full force and effect comprehensive general liability policy issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Commissioner, with liability

coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. COUNTY and DCHA shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this Agreement, RECIPIENT shall furnish COUNTY and DCHA with a certificate of insurance listing COUNTY and DCHA as an additional insured and, upon request, certified copies of the required insurance policies. If RECIPIENT'S insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement. The Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. RECIPIENT shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. RECIPIENT shall furnish COUNTY and DCHA, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that RECIPIENT shall furnish the COUNTY and DCHA with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either RECIPIENT or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by RECIPIENT. In the event any action, suit or other proceeding is brought against COUNTY or DCHA upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to RECIPIENT and shall cooperate with RECIPIENT'S attorneys in the defense of the action, suit or other proceeding. RECIPIENT shall furnish evidence of adequate Worker's Compensation Insurance.

- d. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

19. EVENTS OF DEFAULT. The principal indebtedness evidenced by the Note or the unpaid balance thereof outstanding at the time of the event of default described below, shall be due and payable at the election of the COUNTY and/or DCHA if any one or more of the following events (herein called "Events of Default") occur for any reason whatsoever. The determination that an Event of Default has occurred shall be solely within the discretion of DCHA and/or COUNTY.

- A. If RECIPIENT fails to begin construction on the Project within one (1) year of the last party's signature on this Agreement, Project shall be deemed terminated and RECIPIENT will return to DCHA all funds distributed to RECIPIENT pursuant to this Agreement.
- B. If RECIPIENT fails to provide a temporary or final certificate of occupancy on the Project within 36-months from the date of the last party's signature on this Agreement, unless such delay is the result of *force majeure* or the requirement that

- construction stop on site as a direct result of the COVID-19 global health pandemic, RECIPIENT agrees that the Project shall be deemed terminated and RECIPIENT will return to DCHA all funds distributed pursuant to this Agreement.
- C. Failure of RECIPIENT to pay any principal of or interest on the Subaward Note when due and payable, and such default continues for a period of 15 days; or
  - D. Failure of RECIPIENT to perform or observe any of the other terms of this Agreement, the WHEDA LURA as determined by WHEDA in its sole discretion and as evidenced solely by a notice of default from WHEDA or the commencement of enforcement action by WHEDA, the COUNTY LURA, the Subaward Note; or
  - E. Any representation or warranty made by any of the RECIPIENT herein or any statement or representations made in any certificate, statement, or opinion delivered pursuant to this Agreement proves to be incorrect in any material respect as of the date when made; or
  - F. Failure by the RECIPIENT to meet any obligations for the payment of borrowed money for this Project (other than its obligations hereunder or under the Note) or any such obligation that shall become or be declared, pursuant to its terms, due and payable prior to the express maturity thereof by reason of default or other violation by RECIPIENT of the terms thereof; or
  - G. Failure of RECIPIENT to perform or observe any of the other covenants or agreements herein contained not covered by A. through F. above, and such default shall have continued for a period of 30 days after notice thereof to the RECIPIENT by COUNTY and/or DCHA; or
  - H. Any assignment for the benefit of the RECIPIENT'S creditors and such assignment is not dismissed or modified for 90 days; or
  - I. The filing, by or against the RECIPIENT, of a petition under any chapter of the U.S. Bankruptcy Code, or for the appointment of a receiver for RECIPIENT and such petition remains not dismissed for 90 days; or
  - J. Any act that indicates RECIPIENT'S consent to, approval of, or acquiescence in any such proceedings or in the appointment of any receiver or of any trustee for said RECIPIENT with respect to a substantial part of its property, either tangible or intangible.
  - K. Any final judgment for the payment of money that is not fully covered by liability insurance and is in excess of \$25,000.00 rendered against RECIPIENT and not discharged and/or bonded over within 30 days.
  - L. A change in ownership or control of any of the RECIPIENT or of its assets without the prior written consent of the COUNTY and/or DCHA, provided however it shall not be an event of default for the RECIPIENT's investor member to transfer its investor member interest in the RECIPIENT without COUNTY or DCHA consent nor for the RECIPIENT's investor member to remove the RECIPIENT's managing member in accordance with the terms and conditions set forth in the RECIPIENT's operating agreement in effect from time to time, nor a transfer by RECIPIENT to a related party or a trust at the direction of Jacob T. Klein for estate planning purposes.

20. REMEDIES IN THE EVENT OF DEFAULT. Upon the occurrence of an Event of Default, DCHA and/or COUNTY may exercise any or all of the following remedies:

A. After ninety (90) days written notice to the RECIPIENT of any non-monetary default described above, or fifteen (15) days written notice to RECIPIENT of any monetary default described above, during which time the default may be cured, or, if the default is of a nature that it cannot be reasonably cured within such timeframe, then the cure period shall be extended to such reasonable time as required to cure the default (but in no event longer than 180 days), and after the expiration of any such cure period, DCHA and/or COUNTY may terminate the Agreement effective immediately and declare the entire outstanding balance of the Subaward Note together with interest and all other charges, immediately due and payable, whether or not the indebtedness evidenced by the Subaward Note shall be otherwise due and payable.

B. DCHA and/or COUNTY may enforce its rights by any appropriate proceedings, judicial or otherwise.

C. No delay on the part of either party in exercising any right, power, or privilege shall operate as a waiver.

D. In the event of a default which does not require the payment of money to cure, and with the exception of the default described in 19.A, above, RECIPIENT shall be deemed to have cured a default if or before the expiration of sixty (60) days after written notice of default from DCHA and/or COUNTY, steps as are reasonably necessary to cure the default have been taken within a period of time that, under all of the facts and circumstances then existing, is reasonable, as determined by DCHA and/or COUNTY in its sole discretion, and the RECIPIENT is diligently prosecuting such steps to completion such that the default will be cured within a reasonable time period. The determination that the steps to cure the default are both reasonable and timely shall be solely within the discretion of COUNTY and/or DCHA. Additionally, any event of default by the Borrower may be cured by the RECIPIENT'S investor member, however, the investor member is not obligated to cure an event of default. Such cure shall be accepted or rejected as if tendered by RECIPIENT.

E. COUNTY and/or DCHA may, at its discretion, recapture the AHDF Funds and demand repayment of any outstanding debt evidenced by the Note in accordance with the terms therein and not yet repaid to the DCHA by RECIPIENT. Repayment of loan funds is required if the Property does not meet the affordability requirements for the specified period of affordability.

21. TERMINATION, SUSPENSION AND/OR MODIFICATION. RECIPIENT acknowledges that COUNTY and/or DCHA may suspend or terminate this Agreement if the RECIPIENT materially fails to comply with any term of the Agreement. Failure of RECIPIENT to fulfill any of its obligations under this Agreement in a timely manner or violation by RECIPIENT of any covenants or stipulations contained in this Agreement shall, after written notice and an opportunity to cure constitute grounds for DCHA and/or COUNTY to terminate this Agreement upon thirty (30) days prior written notice to RECIPIENT.

The following shall constitute grounds for immediate termination after written notice and, where permitted by law, a reasonable opportunity to cure of not less than 30 days:

- a. Violation by RECIPIENT of any State, Federal, or local law or failure to comply with any applicable State or Federal service standards as expressed by applicable statutes, rules, and regulations
- b. Failure of RECIPIENT to carry applicable licenses or certifications as required by law.
- c. Failure of RECIPIENT to comply with reporting requirements contained herein.
- d. Inability of RECIPIENT to perform the work required by this Agreement.

22. PREPAYMENT PERMITTED, AFFORDABILITY PERIOD REMAINS IN PLACE.

RECIPIENT shall have the right to prepay the Subaward Note at any time without penalty. Prepayment of the Subaward Note prior to the termination of the Affordability Period shall not relieve RECIPIENT from the terms of this AGREEMENT.

RECIPIENT agrees that it shall continue to be bound by the terms of this AGREEMENT during the entire Affordability Period.

23. DURATION OF AGREEMENT AND AFFORDABILITY PERIOD. The provisions of this AGREEMENT shall remain in full force and effect for the Affordability Period. The period of housing unit affordability shall not be modified or waived, prior to the expiration of the Affordability Period, upon any prepayment, repayment or forgiveness of the Loan Funds provided under this AGREEMENT.

If repayment of Loan Funds as required under this AGREEMENT is not accomplished by the end of the Affordability Period, the provisions of this AGREEMENT shall continue in full force and effect until all Loan Funds are repaid in full.

24. CUMULATIVE REMEDIES. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

25. COVENANTS AND CONDITIONS. Each provision of this Agreement performable by any Party shall be deemed both a covenant and a condition.

26. BINDING EFFECT; CHOICE OF LAW. This Agreement shall bind the Parties, their heirs, personal representatives, successors and assigns. This Agreement shall be governed by and be construed and interpreted in accordance with the laws of the State of Wisconsin. Venue for any legal proceedings shall be in the Dane County Circuit Court.

27. AUTHORITY. The Parties represent and warrant that each party is a duly authorized and existing municipal, quasi-municipal, or private corporation, that each party has and is qualified to transact business in Wisconsin, that the each party has full right, authority and power to enter into this Agreement and to perform its obligations thereunder, that each person signing this Agreement on behalf of the organization is authorized to do so and that this Agreement is binding upon the organization in accordance with its terms.

28. **NON-DISCRIMINATION.** During the term of this Agreement, RECIPIENT agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). RECIPIENT agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.
29. **SEVERABILITY.** If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
30. **NOTICES.** Upon an Event of Default, the COUNTY or DCHA shall send a notice of such default in accordance with this Section. The COUNTY and DCHA shall accept any cure proffered by RECIPIENT's senior lender and/or investor member as a cure proffered by RECIPIENT; provided, however, that neither RECIPIENT's senior lender nor its investor member shall be obligated to proffer a cure. Notices, reports and communications shall be in writing and shall be deemed to have been properly given when personally delivered to the Party, or three (3) days after the same is sent by certified or registered U.S. mail, postage prepaid, or by overnight courier property addressed to the Party entitled to the receive such notice as set forth:

**If to Recipient:**

University Park Commons LLC  
c/o JT Klein Company, Inc.  
Attn: Jacob T. Klein  
818 South Park Street  
Madison, WI 53715

*With a copy to:*

Reinhart Boerner Van Deuren s.c.  
Attn: William Cummings  
1000 North Water Street, #1700  
Milwaukee, WI 53202

*With a copy to:*



First Business Bank  
Attn: Brian Hagen  
401 Charmany Drive, Suite 100  
Madison, WI 53719

*With a copy to:*

Foley & Lardner LLP  
Attn: Wayman C. Lawrence  
150 East Gilman Street, Suite 400  
Madison, WI 53703

**If to County:**

Dane County  
Attn: Dane County Office of Workforce and Economic Development  
City-County Building Rm. 421  
210 Martin Luther King Jr., Blvd.  
Madison, WI 53703

With a copy to:

Office of the Corporation Counsel  
City-County Building Rm. 419  
210 Martin Luther King Jr Blvd.  
Madison, WI 53703

**If to DCHA:**

Dane County Housing Authority  
Attn: Executive Director  
6000 Gisholt Drive, Suite 203  
Monona, WI 53713

With a copy to:

Office of the Corporation Counsel  
City-County Building Rm. 419  
210 Martin Luther King Jr Blvd.  
Madison, WI 53703

Any Party may, at any time, give notice in writing to the other Parties of a change of address for purposes of this paragraph.

31. Photo-voltaic system. A portion of the proceeds of the grant from the County to DCHA, and the Loan from DCHA to Recipient, is to incentivize the inclusion of a photo-voltaic solar array on the Property. Recipient has contracted, or will contract, with a third party solar specialist to determine the exact specifications of the photo-voltaic system. In the event the Recipient fails to include a photo-voltaic system in the construction of the development on the Property, and such failure remains uncured for one year after

written notice to Recipient from DCHA or the County of such failure, Recipient shall be obligated to make a prepayment (without any prepayment penalty) to DCHA in the amount of \$50,000.

**SIGNATURE PAGE TO FOLLOW**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**RECIPIENT**

**UNIVERSITY PARK COMMONS LLC**, a  
Wisconsin limited liability company

By: University Park Commons MM, LLC  
Its: Managing Member

By: JTK 3, LLC  
Its: Manager

By: JT Klein Company, Inc.  
Its: Manager

By:   
Jacob T. Klein, President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**HOUSING AUTHORITY OF DANE  
COUNTY, WISCONSIN**, a quasi-municipal  
corporation pursuant to section 59.53(22) of the  
Wisconsin Statutes

By:   
Karyn Knaak, Executive Director

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**COUNTY OF DANE,**  
a Wisconsin County and body corporate  
pursuant to Chapter 59 of the Wisconsin  
Statutes.

By: \_\_\_\_\_  
Joe Parisi, Dane County Executive

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**COUNTY OF DANE,**  
a Wisconsin County and body corporate  
pursuant to Chapter 59 of the Wisconsin  
Statutes.

By: \_\_\_\_\_  
Scott McDonnell, Dane County Clerk

**Exhibit A**

Legal Description

**[To be finalized]**

**Exhibit B**

**WHEDA Land Use Restriction Agreement**

*See attached.*



**Exhibit C**

**Dane County Land Use Restriction Agreement**

*See attached.*

**LAND USE RESTRICTION  
AGREEMENT**

Document Number

Document Name

**THIS LAND USE RESTRICTION AGREEMENT** (the “Agreement”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2021, by University Park Commons LLC, a Wisconsin limited liability company and its successors and assigns (“Owner”) in favor and for the benefit of County of Dane, a Wisconsin quasi-municipal corporation, and its successors and assigns (“County”).

**RECITALS:**

WHEREAS, Owner owns the property legally described on Exhibit A which is attached hereto and incorporated by reference (the “Property”), and located in Madison, Wisconsin;

WHEREAS, Owner has built or will build a 68-unit affordable housing development on the Property;

WHEREAS, County will provide a grant to Housing Authority of Dane County, Wisconsin (“DCHA”), which DCHA shall loan to Owner (the “Loan”), all of which will happen subject to a Grant Agreement dated as of the date hereof by and among Owner, DCHA and County (the “Grant Agreement”); and

WHEREAS, as a condition precedent to County entering into the Grant Agreement, County requires that Owner restrict the use of the Property as hereinafter described (the “Restrictions”).

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby covenants and agrees on behalf of itself and its successors in title to the Property and/or interest in Owner, as follows:

**AGREEMENT:**

**ARTICLE 1**

**REPRESENTATIONS, WARRANTIES, AND COVENANTS OF THE OWNER**

The Owner represents, warrants, covenants and agrees as follows:

- 1.1 Application. The Restrictions set forth herein shall be applicable to the residential units within the Property (the “Apartments”).
- 1.2 Authority. Owner has the full legal right, power, and authority to execute and deliver this Agreement and to perform all the undertakings of Owner hereunder.
- 1.3 Information Correct. The information set forth in this Agreement, including the Recitals, are true and correct as of the date hereof and Owner will promptly notify County upon the occurrence of

Recording Area

Drafted by and Return to:  
Susan Rauti  
Assistant Corporation Counsel  
City County Building, Room 419  
210 Martin Luther King Jr. Blvd.  
Madison, WI 53703

Parcel Identification Number (PIN)

any act or omission that immediately, or with the passage of time, makes any statement(s) herein untrue or incorrect in any material way.

- 1.4 Conflicting Agreements. Owner has not and shall not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof. In any event, Owner represents, warrants, covenants, agrees, and acknowledges that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- 1.5 Use of the Development. Owner shall not permit the use of any residential rental unit of the Development for any purpose other than rental housing and shall not take any action which would in any way otherwise impair the use of the Development as described in this subsection.
- 1.6 Non-Discrimination. Owner shall comply with all federal, state, and local fair housing laws, rules and regulations as now or hereafter in effect and shall not discriminate upon any basis prohibited by law in the lease, use, or occupancy of the Development or in connection with the employment or application for employment of persons for the operation and management of the Development or refuse to lease a unit to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such holder. The Owner agrees to administer the Development to affirmatively further fair housing.
- 1.7 Occupancy Restrictions. Until the 30-year anniversary of the date hereof, Owner shall, at all times, ensure that the Project is occupied by qualifying tenants as set forth herein, to wit: twenty seven (27) units will be rented to person(s) who earn 80% or less than the area median gross income adjusted for family size (the "AMI") as determined by United States Department of Housing and Urban Development ("HUD") from time to time with respect to Dane County; twenty seven (27) units will be rented to person(s) who earn 50% or less than AMI as determined by HUD from time to time with respect to Dane County; and fourteen (14) units will be rented to person(s) who earn 30% or less than AMI as determined by HUD from time to time with respect to Dane County. Each of the Apartments shall be rent restricted such that Owner charges tenants no more than Owner would be permitted to charge pursuant to the rent limitations as published by Wisconsin Housing and Economic Development Authority factoring in the number of bedrooms in the Apartment and it being located in Madison, Wisconsin.
- 1.8 Evidence of Tenant Income. The Owner shall provide to the County the same evidence of tenant income that the Owner provides to WHEDA, to the fullest extent permitted by applicable law, and on the same terms and conditions that the Owner is required to provide the same to WHEDA.
  - (a) The Owner shall obtain and maintain on file, as a condition to occupancy for each person who is intended to be a Qualifying Tenant, an Income Certification in a form acceptable to the County; which form may change from time to time ("Income Certification"). In addition, the Owner shall obtain from each such person whatever other information, documents, or certification are deemed necessary by the County to substantiate the Income Certification.
  - (b) The form of lease to be utilized by the Owner in renting any units in the Development to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person, subject to the eviction process, for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Income Certification or the failure by such tenant to execute an Income Certification.

- (c) Income Certifications shall be maintained and accessible to the County with respect to each Qualifying Tenant who resides in a Department unit, and the Owner shall, promptly upon request, file a copy thereof with the County.
  - (d) The status of a tenant as a Qualifying Tenant shall be determined no less frequently than annually.
- 1.9 Reduction or Disposition of the Development. The Owner shall not demolish any part of the Residential Unit nor substantially subtract from any real or personal property of the Residential Unit, nor dispose to any person any portion of any building in the Residential Unit unless all of such building is disposed of to such person.
- 1.10 Monitoring by the County.
  - (a) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the County to inspect any books and records of the Owner regarding the Development and with respect to the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement.
  - (b) The Owner shall submit any other information, documents, or certifications requested by the County that the County may deem reasonably necessary to substantiate the Owner's continuing compliance with the provisions of this Agreement and the Grant Agreement.
- 1.11 Reporting Requirements. Upon written request by County, Owner shall provide to County an annual written report which shall, at a minimum, include the following information: number of tenants, how many units owned by Owner (whether or not part of the Premises) are rented to tenants with household incomes at 80%, 70%, 60%, 50%, 40% and 30% of the Area Median Income ("AMI") as determined by the U.S. Department of Housing and Urban Development, the number of eviction actions filed, the reason for eviction, the number of eviction notices issued to the tenants in the twelve months preceding the eviction filing, the number of eviction judgments granted, writs executed, and/or other case resolution (e.g. vacated prior to execution of writ or allowed to stay with conditions) in a form supplied by the County, and any other information reasonably requested by the County in writing that may affect the status of the Premises or would be necessary for determining tenants' compliance with the terms, covenants, and condition of this LURA. The eviction report described in this section shall be due to the County no later than February 15 and shall reflect the period from January 1 to December 31 of the previous calendar year.
- 1.12 Lien Priority. Owner shall not permit a lien or other encumbrance to exist with priority senior to this Agreement without the County's prior written consent (other than the WHEDA LURA and such other items recorded on title as of the date hereof that are expressly acceptable to the County, expressly including senior mortgage documents including, without limitation, the senior mortgage to be recorded by the permanent lender).
- 1.13 Organizational Documents. Owner has provided or will (within 30 days after the respective effective date) provide to the County its organizational documents (including without limitation articles of incorporation, articles of organization, certificate of partnership, bylaws, operating agreement, or partnership agreement) and any amendments thereto during the term of this Agreement to the extent such amendments affect the control of the Owner or distributions due to the Owner; provided, however, Owner will endeavor to provide all amendments to County, but it shall not be a violation of this LURA if Owner fails to provide notice or amendments to organizational documents to the extent the amendments are ministerial in nature.

- 1.14 Notice to County. Promptly upon discovering any existing violation of any of the covenants, restrictions, and representation set forth herein, Owner shall notify the County in writing of such violation. In the event that Owner becomes aware of any situation, event, or condition, which would result in noncompliance of the Development, Owner shall promptly give written notice thereof to the County and take any lawful action to cause the Development to comply with this Agreement.
- 1.15 Tenancy Addendum. Owner shall comply with the specific provisions relating to security deposits, late fees, termination of tenancy, parking & guest policies outlined in the Tenancy Addendum (“Addendum”). Certain provisions of the Addendum are attached as Exhibit B. The provisions relating to security deposits, late fees, termination of tenancy, parking and guest policies outlined in the tenancy Addendum shall be attached to all of Owner’s leases for residential units. Upon any such update, the Owner shall provide written notice of the changes to DCHA and the County. If there are conflicts between the Addendum provision and the lease, the Addendum requirements shall take precedence.
- 1.16 Housing First. Owner will target 14 units (21.6% of total units) to very low-income families, veterans, and individuals with disabilities. Owner, or its designee, agrees to meet regularly with the County, Owner’s supportive services partner(s) and Owner’s property management partner(s) to determine how referrals for available units will be identified for the project prior to lease up and when subsequent vacancies occur.
- 1.17 Fair Tenant Selection Criteria. Owner shall comply with the Fair Tenant Selection Criteria (“FTSC”) as outlined in Exhibit C. The FTSC shall be attached to all of Owner’s applications for residential units. Each incident of violation of the FTSC, as determined by the County, shall result in a penalty of Five hundred dollars (\$500) payable to the County by Owner. Owner shall include written justification for denials of residential rental applications. Upon request by the County, Owner shall provide the County supporting documentation for decisions related to FTSC. Supporting documentation must be kept by the Owner for two (2) years following the denial decision.
- 1.18 Modifications. The County and Owner acknowledge the pages attached hereto as Exhibits B and C were included in Owner’s response to the County request for proposals referred to in the Recitals of the Grant Agreement. Owner shall continue to comply with the terms and conditions outlined in Exhibits B and C throughout the term of the Agreement, unless the County agrees to modify this Agreement in writing. County’s consent to modify the terms and conditions on Exhibit B and C shall not be required to the extent a change in law mandates a modification of the terms and conditions set forth in Exhibit B and C. To the extent Owner wishes to modify Exhibit B or Exhibit C, Owner shall request County’s written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. For example, in the event Owner changes management companies, Owner’s Tenancy Addendum may be slightly modified as to form, which the County shall timely consider and, if acceptable, approve.

## ARTICLE 2 EVENTS OF DEFAULT: REMEDIES

- 2.1 Events of Default. If County becomes aware of a violation of any of the provisions hereof, it shall give immediate written notice thereof to Owner directing Owner to the remedy the violation within a reasonable specified period of time, which will be a minimum of 60 days. If any violation of this Agreement is not corrected to the satisfaction of the County within the period of time specified

by the County in the notice described above, the County shall have the right, without further notice, to declare an event of default (“Event of Default”) under this Agreement. Owner’s investor member shall be given the opportunity to remedy any violation described herein on the same terms as the Owner, and any remedy tendered by the investor member shall be accepted or rejected by the County as if offered by the County.

- 2.2 Remedies. During the occurrence of an Event of Default, the County shall have the right to apply to any court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement or any other remedies at law or in equity or any such other action as shall be necessary or desirable so as to correct noncompliance with this Agreement. The Owner hereby acknowledges that the County and the other beneficiaries of this Agreement hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

### ARTICLE 3 TERM OF AGREEMENT

- 3.1 Term of Agreement. The term of this Agreement and the restrictions imposed hereby shall commence upon initial occupancy of the Development. The term shall end as referenced in Section 1.7.
- 3.2 Early Termination. Notwithstanding the provisions of Section 3.1 above, this Agreement and the restrictions imposed hereby shall terminate upon the date the Development is acquired by foreclosure (or instrument in lieu of foreclosure).

### ARTICLE 4 MISCELLANEOUS

- 4.1 Recitals Incorporated by Reference. The Recitals set forth above are hereby incorporated by reference and made part of this Agreement.
- 4.2 Covenants Run With the Land; Successors Bound. This Agreement shall be recorded in the real property records of the county where the Development is located. This Agreement shall run with the land and bind the Owner and its successors and assigns and all subsequent owners of the Development and all holders of any other interest therein.
- 4.3 Reliance by the County. The Owner hereby agrees that the Owner’s representations and covenants set forth herein may be relied up on by the County. The County may conclusively rely upon statements, certificates, and other information provided by the owner and the Qualifying Tenants, and upon audits of the books and records of the Owner or the Development.
- 4.4 Release. The Owner hereby releases the County from any claim, loss, demand, or judgment arising out of the exercise in good faith of the County of any rights or remedies granted to the County under this Agreement. Specifically, the Owner acknowledges and agrees that it is the Owner’s sole responsibility to ensure that this Agreement constitutes an Extended Low Income Housing Commitment.
- 4.5 Amendment. This Agreement may be amended only in writing as mutually agreed by Owner and the County.
- 4.6 Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth in the preamble, or to such other place as a party may from time to time designate in writing. The County and the Owner may, by notice given hereunder, designate any

further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notices to the Owner shall also be sent to the Owner's investor member for so long as the Owner has a low-income housing tax credit investor and senior lender, with such notices being sent to the following addresses:

First Business Bank  
401 Charmany Drive, Unit 100  
Madison, WI 53719  
Attn: Brian Hagen

With a copy to:

Foley & Lardner LLP  
150 East Gilman Street, Suite 400  
Madison, WI 53703  
Attn: Wayman C. Lawrence

- 4.7 Definitions and Interpretation. All the terms and provisions hereof shall be construed to effectuate the purpose set forth herein and to sustain the validity hereof. The titles and headings of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall not be considered or given any effect in construing this instrument or any provision hereof or in ascertaining intent, if any questions of intent should arise.
- 4.8 Governing Law. This Agreement shall be governed by the laws of the state of Wisconsin and, where applicable, the laws of the United States of America.
- 4.9 Severability. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions thereof.
- 4.10 Multiple Counterparts. This Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument and each of which shall be deemed to be an original.

[Signature Page Follows]

IN WITNESS WHEREOF, the OWNER executed this Agreement as of the date first above written.

OWNER:

**UNIVERSITY PARK COMMONS LLC,**  
a Wisconsin limited liability company

By: University Park Commons MM, LLC  
Its: Managing Member

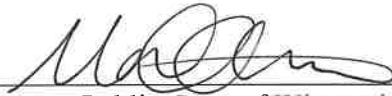
By: JTK 3, LLC  
Its: Manager

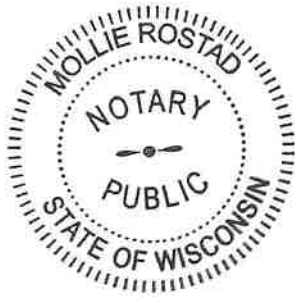
By: JT Klein Company, Inc.  
Its: Manager

By:   
\_\_\_\_\_  
Jacob T. Klein, President

STATE OF WISCONSIN    )  
  ) ss  
DANE COUNTY            )

Personally came before me this 27<sup>th</sup> day of August, 2021, the above named Jacob T. Klein, as President of JT Klein Company, Inc., the Manager of JTK 3, LLC, Manager of University Park Commons MM, LLC, the Managing Member of University Park Commons LLC to me known to be the person who executed the foregoing instrument and acknowledged the same.

  
\_\_\_\_\_  
Notary Public - State of Wisconsin  
My Commission: 1/13/2025





IN WITNESS WHEREOF, COUNTY executed this Agreement as of the date first above written.

COUNTY OF DANE, WISCONSIN  
a Wisconsin county and body corporate pursuant to Chapter 59  
of the Wisconsin Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN    )  
  ) ss  
\_\_\_\_\_ COUNTY    )

Personally came before me this \_\_\_\_ day    of    \_\_\_\_\_,    20\_\_,    the    above    named  
\_\_\_\_\_ and \_\_\_\_\_ of  
County of Dane, to me known to be the person who executed the foregoing instrument and acknowledged the  
same.

\_\_\_\_\_  
Notary Public .State of Wisconsin  
My Commission: \_\_\_\_\_

**EXHIBIT A  
TO LAND USE RESTRICTION AGREEMENT**

**LEGAL DESCRIPTION**

**[To be finalized]**

**EXHIBIT B**  
**TO LAND USE RESTRICTION AGREEMENT**  
**TENANCY ADDENDUM**

*See attached.*

## Tenancy Addendum

Respondents to this RFP that agree to include the following provisions within all tenant leases or as an addendum to all tenant leases will receive 10 points.

- a. **Security Deposits.** The amount of a security deposit shall not be more than one month's rent.
- b. **Late Fees and Other Fees.** Late fees must be set forth in the rental agreement. Late fees shall not exceed 5% of the tenant's portion of the monthly rent. Other penalty fees are prohibited. All other fees must be directly related to the cost for a specific amenity or service provided to the tenant and comply with all applicable laws.
- c. **Rights of Youth to Access Common Spaces.** Youth under the age of 18 are allow to use and enjoy common areas without supervision. This does not preclude reasonable rules in ensure the safety of children and youth.
- d. **Good Cause for Termination.** A tenancy may not be terminated during or at the end of the lease unless there is good cause. Good cause is defined in include the following: (i) a serious violation of the lease; (ii) repeated minor violations of the lease; or (iii) a refusal to re-certify program eligibility. Repeated means a pattern of minor violations, not isolated incidents. Termination notices and procedures shall comply with Chapter 704 of Wisconsin Statutes and federal law, when applicable. Written notice is required for non-renewal and shall include the specific grounds for non-renewal and the right of the tenant to request a meeting to discuss the non-renewal with the landlord or landlord's property management agent within fourteen (14) days of the notice. If requested, the landlord or property management agent will meet with the tenant to discuss the non-renewal, allow the tenant to respond to the alleged grounds for non-renewal, and pursue a mutually acceptable resolution.
- e. **Reasonable Guest Rules.** Tenants have the right to have guests. In the event the property management establishes rules related to guests, they must be reasonable. Unreasonable rules include, but are not limited to the following: (1) Prior authorization of guests by the property management, unless the guest is staying for an extended period of time (e.g. more than 2 weeks); (2) Prohibition on overnight guests; (3) Requiring that the resident be with the guest at all times on the property. (4) Requiring guests to show ID unless requested by the tenant. (5) Subjecting caregivers, whether caring for a child or children, or an adult with disabilities, to limitations on the number of days for guests.

Landlord may ban a person who is not a tenant from the rental premises if the person has committed violent criminal activity or drug related criminal activity at rental premises. No person shall be banned from the rental premises without the consent of the tenant unless the following have taken place:

- (1) A notice of the ban is issued to the tenant stating the:
  - (a) name of the person banned,

(b) grounds for the ban including, (i) the specific facts detailing the activity resulting in the ban; (ii) the source of the information relied upon in making the ban decision; and (iii) a copy of any criminal record reviewed when making the ban decision; and

(c) the right of the tenant to have a meeting to dispute the proposed ban, discuss alternatives to the ban, and address any unintended consequences of the proposed ban.

(2) If requested, a hearing on the ban has taken place to provide the tenant an opportunity to dispute the proposed ban, discuss alternatives of the ban, and address any unintended consequences of the proposed ban.

A tenant may not invite or allow a banned person as a guest on the premises, provided the Landlord has followed the proper procedure and given notice to Tenant as set forth herein.

A tenant who violates the guest policy may be given a written warning detailing the facts of the alleged violation. The written warning shall detail the violation, and warn the tenant that repeated violations may result in termination of tenancy. Tenants that repeatedly violate the guest policy, (e.g. three (3) or more violations within a twelve (12) month period) may be issued a notice of termination in accordance with state and federal law.

Nothing in this policy limits a person's right to pursue a civil order for protection against another individual.

- f. **Parking Policies.** Parking policies and practices must comply with applicable laws. Vehicles shall not be towed to a location that is more than 6 miles from the rental premises, unless there is not a towing company with a tow location available within 6 miles.

**EXHIBIT C**  
**TO LAND USE RESTRICTION AGREEMENT**  
**FAIR TENANT SELECTION CRITERIA**

*See attached.*

# Tenant Selection Plan

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University Park Commons

August 1, 2021

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I. **Introduction**

a. **Development Description** University Park Commons is located in Madison, WI (“Development”) is a proposed 68-unit apartment community serving low-to-moderate income individuals that will be owned by JT Klein Company (“Owner”) and managed by Oakbrook Corporation (“Management”). The Owner and Management, on behalf of the Owner, subscribe to the following procedures in qualifying applicants for occupancy in this Development, which includes 68 units subject to the statutory and regulatory requirements of the Federal Low Income Housing Tax Credit program (“LIHTC”).

i. The LIHTC Requirements mean collectively, LIHTC of the Internal Revenue Code of 1986, as amended, 26 U.S.C. LIHTC, its implementing federal tax regulations set forth in 26 CFR Part 1.42, the Low Income Housing Tax Credit Extended Use Agreement between the Owner and the Wisconsin Housing & Economic Development Authority (“WHEDA”) for the Development, and all applicable IRS revenue rulings, revenue procedures, tax assistance memoranda, and related written guidance and notices.

b. **Tenant Type**

i. The Development is designated as housing for Families

1. Supportive Service Units – Fourteen (14) units at the Development are designated for Veterans, persons with disabilities, and those at risk of homelessness.

c. **Unit Distribution**

- i. 14 units at up to 30% of the median income in Dane County, WI
- ii. 27 units at up to 50% of the median income in Dane County, WI
- iii. 27 units at up to 80% of the median income in Dane County, WI

d. **Rent Structure** – Note that the tenant rent payment will not exceed the HUD annual published limits for the LIHTC program.

e. **Nondiscrimination Policies**

i. General: Federal civil rights laws addressing fair housing prohibit discrimination against applicants or tenants on the basis of race, color, national origin, sex, gender, age, disability, religion, and familial status. **Wisconsin** fair housing regulations prohibit discrimination against applicants or tenants for federally protected classes plus the following: sexual orientation, marital status, ancestry, lawful source of income, and victims of domestic abuse or other crimes. **Dane County fair housing regulations prohibit discrimination on the basis of federal and state protected classes plus the following: physical condition, mental illness, and handicap (including the right to service and companion animals), type of military discharge, physical appearance, gender identity and gender expression (including transgendered people), domestic partnership status, political beliefs, student status, and receipt of rental assistance.**

HUD’s Office of General Counsel issued a memo dated April 4, 2016, which is guidance concerning how the Fair Housing Act applies to the use of criminal history by providers or operators of housing and real-estate related transactions.

The Development is in compliance with this and other key federal civil rights laws regarding fair housing and accessibility as described below.

- ii. Fair Housing Act – The Development complies with Fair Housing Act Amendments of 1988 (“Fair Housing Act”) which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status, and national origin regardless of any federal financial assistance. Fair Housing Act obligations include:
  - 1. Management will not refuse, either directly or indirectly, to rent or negotiate for rental of a dwelling based on race, color, religion, sex, disability, familial status, and national origin.
  - 2. Management will not (i) engage in activities that steer potential tenants away from or toward particular units by words or actions, (ii) make housing units and related services unavailable to any potential tenants, (iii) purposely provide false information to applicants about the availability of units that limits the living options of prospective tenants, and (iv) deny or limit services based on race, color, religion, sex, disability, familial status, and national origin.
  - 3. Management will market available units in a nondiscriminatory manner.
  - 4. Management will make reasonable accommodations in rules, policies, practices, or services as may be necessary to afford handicapped persons equal opportunity to use and enjoy a dwelling.
- iii. Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination based upon disability in all programs or activities operated by recipients of federal financial assistance. Section 504 obligations include the following:
  - 1. Allowing for reasonable structural modifications (with prior approval and, in certain circumstances, at tenant’s expense) to units and/or common areas that are needed by applicants and tenants with disabilities, unless these modifications would change the fundamental nature of the project or result in undue financial and administrative burdens.
  - 2. Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order.
  - 3. Providing auxiliary aids and services necessary for effective communication with persons with disabilities.
  - 4. Performing a self-evaluation of Management’s programs and policies to ensure that they do not discriminate based on disability.
  - 5. Developing a transition plan to ensure that structural changes are properly implemented to meet program accessibility requirements.
  - 6. Section 504 also establishes accessibility requirements for newly constructed or rehabilitated housing, including providing a minimum percentage of accessible units.
  - 7. In accordance with Section 504 of the Rehabilitation Act of 1973, accessible units are allocated using a special priority approach. When accessible units become available, the housing provider must offer the units in this order:
    - a. To current residents that would benefit from the available unit’s accessibility features, but whose current unit does not have such features
    - b. To eligible and qualified households on the Waiting List with disabilities who would benefit from the available unit’s accessibility features
    - c. To other eligible and qualified households on the Waiting List (i.e., without disabilities) which may require the household to agree, in

writing, to transfer to a non-accessible unit at the owner's request (the request will only be made if an accessible unit is not available to a person who requires the features of an accessible unit)

8. The Section 504 Coordinator for this property is:

Jennifer Foland  
Oakbrook Corporation  
2 Science Court  
Madison, WI 53701  
608-238-2600  
800-947-3529 TTY Relay

iv. Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity:

1. Effective March 5, 2012, HUD implemented new regulations intended to ensure that HUD's core housing programs are open to all eligible persons regardless of actual or perceived sexual orientation, gender identity or marital status (HUD Notice 2015-01).
  2. Owners and operators of HUD-assisted housing, or housing whose financing is insured by HUD, must make housing available without regard to sexual orientation, gender identity, or marital status.
  3. All otherwise eligible households, regardless of marital status, sexual orientation, or gender identity, will have the opportunity to participate in HUD programs.
  4. Owners and operators of HUD-assisted housing or housing insured by HUD are prohibited from asking about an applicant or occupant's sexual orientation and gender identity for the purpose of determining eligibility or otherwise making housing available.
- v. Title VI of the Civil Rights Act of 1964: Prohibits all recipients of federal financial assistance from discriminating based on race, color, or national origin.
- vi. Age Discrimination Act of 1975: Prohibits discrimination based upon age in federally assisted and funded programs, except in limited circumstances. It is not a violation of the Age Discrimination Act to use age as screening criteria in a particular program if age distinctions are permitted by statute for that program or if age distinctions are a factor necessary for the normal operation of the program or the achievement of a statutory objective of the program or activity.
- vii. Executive Order 13166 – Limited English Proficiency: This Order requires Owner/Management to take reasonable steps to ensure meaningful access to the information and services they provide for persons with limited English proficiency. This may include interpreter services and/or written materials translated into other languages.
- viii. Violence Against Women and Justice Department Reauthorization Act of 2005 & 2013 & Final Rule of 2016 ("VAWA"): VAWA protects victims of domestic violence, dating violence, sexual assault, or stalking, as well as their immediate family members generally, from being evicted or being denied housing assistance if an incident of violence is reported and confirmed.

1. Owner/Management responding to an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking that could potentially have an impact on a tenant's participation in the housing program  
Owner/Management:
  - a. May request in writing that an individual complete, sign and submit within 14 business days of the request, the HUD-approved certification form (HUD-91066).
  - b. In lieu of the certification form or in addition to it, Owner/Management may accept (i) a federal, state, tribal, territorial, or local police record or court record or (ii) documentation signed and attested to by a professional (employee, agent or volunteer of a victim service provider, an attorney, medical personnel, etc.) from whom the victim has sought assistance.
2. Owner/Management will keep all information related to incident(s) of domestic violence, dating violence, sexual assault, or stalking in a separate secure location from other tenant files, and will not be shared unless:
  - a. Individual's written consent is obtained;
  - b. Information is required for use in an eviction proceeding or termination or assistance; or
  - c. Otherwise required by law.
3. If a victim commits separate criminal activity, they may be evicted for engaging in crime. In addition, if a victim poses an actual and imminent threat to other tenants or those employed at, or providing service to, the property, they could be evicted. Management may evict residents submitting a false certification of domestic violence, dating violence, sexual assault, or stalking.
4. Management will remove, evict, and/or terminate assistance to an individual determined to be causing the abuse.

## II. **Preferences**

- a. **Establishing Preferences** – Preferences are not permitted if they in any way negate affirmative marketing efforts or fair housing obligations. The following preferences apply to the Development:
  - i. **Existing Tenant Preference**: The following actions are always given priority if applicable, and if not, State Mandated Preferences take precedence.
    1. A unit transfer for household seeking protections under VAWA
    2. A unit transfer based on the need for an accessible unit
    3. A unit transfer for a medical reason certified by a doctor
    4. A unit transfer of a non-handicapped individual living in a handicapped accessible unit to accommodate a handicapped applicant on the Waiting List
    5. A unit transfer for other reasons approved by Management
  - ii. **Supportive Housing Preference**: Preference will be given to veterans, persons with disabilities, and/or individuals at risk for homelessness for the fourteen (14) units set aside as supportive housing units.
  - iii. **State/Federal Mandated Preferences**: The Development must comply with any state or federal mandated preferences as described below:
    1. Displaced from an urban renewal area

2. Displaced as a result of a government action
3. Displaced as a result of a major disaster

iv. Optional Preferences: The Development does not have any optional preferences.

b. **Verification of Preferences** – The State/Federal Mandated Preferences will be verified by third party verification.

c. **Selection of Households for Participation**

- i. An eligible applicant who qualifies for a preference will receive housing before any other applicant who is not so qualified. These preferences take precedence over other applicants' place on the Waiting List, or date of submission of application.
- ii. Applicants will be informed of the availability of preferences and will be given an opportunity to certify that they qualify for a preference. Applicants may claim a preference at any time during the application process.

d. **When a Preference is Denied**

- i. If it is determined that an applicant does not meet the criteria for receiving a preference, the applicant will promptly receive a written notice of this determination from Management. The notice will contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with the Management's designee to review this decision. If the applicant requests a meeting, it will be conducted by a person or persons designated by Management.
- ii. Denial of a preference does not prevent the applicant from exercising any legal rights the applicant may have against Management and/or Owner.

e. **Exceptions to the Preference Rule**

- i. Relocation and/or Unit Transfers: Management must give priority to current households (i) when their units are designated for rehabilitation and/or (ii) for current households residing in a unit within the Development that has been designated as uninhabitable by federal, state, local municipalities or Management due to fire, flood, or other natural disaster.

III. **Pre-Application Processing** – Development will not use Preliminary Applications.

a. **Distribution of Information** – Information will be given to households who respond to the marketing efforts about the Development's preferences and will indicate that all applicants will be given an opportunity to show that they qualify for a preference.

- i. The information will state that those persons qualifying for a preference will receive housing before any other applicant who is not so qualified.

IV. **Waiting List Procedures**

a. **Creation of Waiting List** – If an applicant is eligible for tenancy but no appropriately sized unit is available (as referred to in Section VII Occupancy Standards), Management will place the applicant on the Waiting List for the Development. The Waiting List will be maintained electronically and in hard copy. Placement on the Waiting List does not guarantee occupancy; it merely means that these persons will be contacted in the future with detailed instructions on how to formally apply for residence at the Development. When names are placed on the Waiting List, persons will be informed that it is their responsibility to inform the Development's Management office of changes in mailing address, telephone number, email address, or TTY/TDD

number (if applicable). **A separate Waiting List will be maintained for the fourteen (14) units set aside as supportive housing units.**

**b. Changes in Income or Household Composition**

- i. When placed on the Waiting List, applicants will be informed to notify Management in writing if any changes to the following occur:
  - 1. Address and/or phone number
  - 2. Household composition
  - 3. Preference status
  - 4. Income

**V. The Screening (Interview) Process**

**a. Application Requirements**

The following information will be used to determine program eligibility for anyone who is seeking housing at the Development.

Live in aides, new household members, and police officers, security personnel or managers residing in units will be subject to same screening for drug abuse and other criminal activity applied to other applicants.

- i. Application – All adult household members must complete an application and sign the Authorization for Release of Information Form. Management shall accommodate persons with disabilities who, as a result of their disabilities, cannot utilize the Management’s preferred application process by providing alternative methods of taking applications.
  - ii. A credit report will be ordered and an application fee may be charged to cover the actual cost of this report.
  - iii. A criminal background search will be obtained including a search of a State and National sex offender registry. **On-site management personnel do not search or review Wisconsin Circuit Court Access records.**
  - iv. Verification of employment, income, bank accounts, and other assets is required as applicable for each applicant.
  - v. Current and previous housing for past two years is required. **A lack of housing history will not be used as the basis for denial of an application.**
- b. Completion of Application Process** – All applications will be processed within thirty days after the date of the applicant’s initial interview or within five business days of receipt of all required documentation, whichever is later (excluding weekends and designated federal holidays). Applications will be processed on a first come first served basis.
- c. Security Deposit Requirements** – a security deposit will be required at move-in and will be based on screening results, but in any event shall not be more than one (1) month’s rent.

**VI. Eligibility Requirements**

**a. Income** – The annual gross income of the applicant(s) must:

- i. Be equal to or less than the income limit established by the applicable program’s administrative rules for the appropriate household size; and
- ii. Meet the 40% rent to income threshold
  - 1. Adjustments to this policy may be made by Management depending upon a household’s total assets and access to public assistance (e.g., food stamps, energy assistance, etc.)

**2. If applicant cannot meet the minimum income requirement but can demonstrate the ability to comply with the rent obligation based on a rental history of paying an equivalent rent to income ratio for the prior 24 months, that condition shall be waived as a requirement for approval.**

- b. Sole Residence** – The unit must be the applicant’s sole residence in order for the applicant to be eligible for housing.
- c. Social Security Numbers** – Social security numbers for all U.S. citizens must be disclosed for all adult household members.
- d. Date of Birth** – Date of birth must be disclosed for all household members.
- e. Student Eligibility Requirements HOME (if applicable)** – HOME assisted units shall not be provided to any individual who:
  - i.** Is enrolled as either a part-time or full-time student at an institution of higher education, for the purposes of obtaining a degree, certificate, or other program leading to a recognized educational credential; and
  - ii.** Is under 24 years of age; and
  - iii.** Is not married; and
  - iv.** Is not a veteran of the United States Military; and
  - v.** Does not have a dependent child; and
  - vi.** Is not a person with disabilities and was not receiving section 8 assistance as of November 30, 2005; and
  - vii.** Is not living with his or her parents who are receiving Section 8 assistance; and
  - viii.** Is not individually eligible to receive Section 8 assistance or has parents (individually or jointly) who are not income eligible to receive Section 8 assistance. (Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance and the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to be eligible.
- f. Student Eligibility Requirements LIHTC** – Households consisting entirely of full-time students (either currently or have been for five months of the current calendar year) do not qualify unless the household meets one of the following exceptions:
  - i.** All members of the household are married and are entitled to file a joint tax return.
  - ii.** The household consists of single parent(s) and their child (or children) and no one in the household is dependent of third party.
  - iii.** At least one member of the household receives assistance under Title IV of the Social Security Act (i.e. TANF).
  - iv.** At least one member of the household is participating in an officially sanctioned job training program.
  - v.** At least one member of the household was formerly in foster care.

**VII. Occupancy Standards**

- a.** The standards used at this development are:
    - i.** Maximum number of persons allowed in a 1BR unit is two (2) persons. The minimum number of persons required for a 1BR unit is one (1) person.
    - ii.** Maximum number of persons allowed in a 2BR unit is four (4) persons. The minimum number of persons required for a 2BR unit is one (1) person.
    - iii.** Maximum number of persons allowed in a 3BR unit is six (6) persons. The minimum number of persons required for a 3BR unit is two (2) persons.
- NOTE: Exceptions may be made on non-senior properties for minors under the age of two years old.

- b. The unit applied for must have enough space to accommodate the applicant's household.
- c. Management's occupancy standards comply with federal, state, and local fair housing and civil rights laws, landlord-tenant laws, and zoning restrictions.

**VIII. Rejection Criteria** – The ability of the applicant to fulfill lease obligations will be considered. In addition to verifying whether a household is income qualified and program eligible, Management will use various criteria in determining the acceptability of all applicants. An applicant may be rejected for one or more of the following reasons:

**a. Insufficient/Inaccurate Information on Application** – refusing to cooperate fully in all aspects of the application process or supplying false information will be grounds for rejection.

**b. Credit and Financial Standing**

- i. Unsatisfactory history of meeting financial obligations (including, but not limited to timely payment of rent, outstanding judgments, or a history of late payment of bills) will be considered. If an applicant is rejected based on the credit report, they will be provided the name of the credit bureau that performed the credit. Management will not disclose the specifics of any information reported by the credit bureau. Applicants will be given the opportunity to correct or clear the adverse credit.
- ii. The inability to verify credit references is a factor for rejection of an application. Consideration will be given for special circumstances in which credit has not been established.

**c. Criminal Convictions/Current Drug Use**

- i. Applicants who fall into the following categories will be rejected:
  1. Any household in which any member whose use of marijuana, or current addiction to or engagement in the illegal use of a controlled substance interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents will be denied admission and, if an occupant, will be subject to termination of tenancy.
  2. Any household in which any member was evicted in the last three years from federally assisted housing for drug-related criminal activity. Exception: if the evicted household member has successfully completed an approved supervised drug rehabilitation or the circumstances leading to the eviction no longer exist (e.g., the household member no longer resides with the applicant household).
  3. Any household member that is subject to a state sex offender lifetime requirement.
  4. Any household member for whom there is reasonable cause to believe that the member's behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents. The screening standards must be based on behavior, not the condition of alcoholism or alcohol abuse.
  5. Any household member who has been convicted of the following felonies:
    - a. Homicide
    - b. Kidnapping/abduction
    - c. Forcible Sex
    - d. Arson
- ii. Additional criminal history will be considered and may be the cause of rejection:
  1. Assault



2. Domestic abuse resulting in assault or battery charges unless applicant is a victim of domestic violence, dating violence, sexual assault, or stalking as defined by the Violence Against Women Act (VAWA)
  3. Weapons violations
  4. Other violent felonies not listed above
  5. Fugitive felon status or parole violations
  6. Theft, burglary, breaking and entering, fraud or larceny
  7. Vandalism exceeding \$1,000
  8. Disturbing the peace (repeat offender)
  9. Criminal trespass
  10. Other criminal behavior that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or people who live in the immediate vicinity of the site or the health and safety of the owner, employees, contractors, subcontractors or agents of the owner.
- iii. Management will consider the criminal activity that occurred during the following periods:
1. Misdemeanors during the past seven-year period
  2. Gross misdemeanors during the past fifteen-year period
  3. Felonies (not listed as automatic rejections) during the past ten-year to thirty-year period
- d. **History of Residence**
- i. Management will consider whether the applicant or any other person who will be living in the unit, has a history of physical violence to persons or property, or has exhibited living habits at prior residences that could adversely affect the health, safety, and quiet enjoyment of other residents at the rental community. Management will consider all circumstance regarding this type of activity as well as the period during which it occurred.
- e. **Household Characteristics** – Household size or household characteristics were not appropriate for the specific type of unit available at the time of application.

**IX. Rejection Procedures**

- a. If Management rejects an application, a formal letter of rejection will be sent to the applicant at the address shown on the application unless otherwise notified. If the cause for rejection is due to an unfavorable credit history, the applicant will be notified of the credit reporting service, their address and telephone number for direct contact with the service. If it can be verified that the credit report is in error, the application will be re-processed, and, if accepted, the application will be prioritized according to the original application date. Management may not discuss credit-reporting information with the applicant.

**X. Special Occupancy Categories** – Applicants will be interviewed and processed as authorized in Sections V through VIII, with exceptions made as follows:

- a. **Persons with Disabilities**
  - i. An applicant with disabilities will be given priority for an accessible unit if such applicant deems that this type of unit is appropriate for their household.

- ii. If the household determines that the accessible unit is not appropriate for the household's needs, the household's name will be returned to its place on the Waiting List.

**Exhibit D**

**Unit Mix**

*See attached.*

### University Park Commons Unit Mix

<b>Bedrooms</b>	<b>Bathrooms</b>	<b>AMI</b>	<b># of Units</b>
1 Bed	1 Bath	30%	9
1 Bed	1 Bath	50%	19
1 Bed	1 Bath	80%	8
2 Bed	2 Bath	30%	2
2 Bed	2 Bath	80%	16
3 Bed	2 Bath	30%	3
3 Bed	2 Bath	50%	8
3 Bed	2 Bath	80%	3

**Total Units      68**

**Exhibit E**

**Subaward Note**

*See attached.*

# Promissory Note

## Cash Flow with Interest

**PROJECT NAME:** University Park Commons

**BORROWER NAME:** University Park Commons LLC

**AMOUNT OF LOAN:** \$1,000,000

**PLACE:** 649 Sand Pearl Lane, MADISON, WISCONSIN

**DATE:** \_\_\_\_\_

**FOR VALUE RECEIVED**, the Borrower promises to pay to the order of the HOUSING AUTHORITY OF DANE COUNTY, WISCONSIN (“DCHA”), at its offices located at 6000 Gisholt Drive, Suite 203, Monona, Wisconsin, 53713, the principal amount of \$1,000,000 plus 2.00% simple interest beginning on April 1<sup>st</sup> of the year following the year in which final disbursement of the loan proceeds is made, and continuing for a period of 30 years. Interest only payments are due on an annual basis on April 1<sup>st</sup> of each year, contingent upon sufficient cash flow. Sufficient cash flow shall be determined in accordance with the priorities set forth in Section [4.1] of the Borrower’s Amended and Restated Operating Agreement, dated \_\_\_ [\_\_\_], 2021. In the event there is insufficient cash flow to make an annual payment, whether in whole or in part, such unpaid amounts (“Deferred Payment”) shall be added to the payment due on April 1, 2053 (the “Maturity Date”). For any Deferred Payment of this loan, Borrower will be required to submit documentation to the DCHA, including, but not limited to, financial statements in form reasonably acceptable to the DCHA, establishing cash flow in a given year by April 1<sup>st</sup>. The adequacy of such documentation shall be determined in the reasonable discretion of the DCHA. Final payment of any principal, accrued interest, and Deferred Payments shall be payable in full on the Maturity Date unless sooner paid (the “Final Payment”). Failure to satisfy the Final Payment on the Maturity Date shall constitute a default hereunder. Prior to the Maturity Date if there is an event of sale, transfer, or change or discontinuance in the permitted use of the Property (except as permitted under the terms of this Note or the Mortgage, as defined below) located in Madison, Dane County, Wisconsin (the “Property”) the legal description of which is attached as Exhibit A, this note will become due and payable immediately. The proceeds of this loan are intended to fund the construction of that certain affordable mixed use development consisting of 68 residential rental units on the Property (the “Project”). This loan may be prepaid at any time without notice, premium, or penalty.

**THIS NOTE** is evidenced by an Affordable Housing Development Fund Grant Agreement dated as of the date hereof (the “Agreement”) and is secured by a Real Estate Mortgage given by the Borrower to the DCHA dated of even date (the “Mortgage”).

**DELINQUENCY CHARGE.** Except for an approved Deferred Payment, if a payment owed under the Note is not paid on or before the 15th day after its due date, the DCHA may collect a delinquency charge equal to 12% per annum on the unpaid balance until the amount due under the Note is paid in full.

**FOLLOWING** all applicable notice and cure periods provided in the Agreement, the Mortgage, this Note, including the entire balance of principal and interest, together with late

charges, shall become immediately due and payable to the DCHA without notice or demand upon the occurrence of any of the following:

- a) If the Borrower shall default in any of the covenants, agreements, provisions, terms or conditions of the Mortgage or Agreement which provisions are incorporated herein by reference, and the default is not cured within the time period provided in the Mortgage or Agreement, as applicable.
- b) Title to, or equitable ownership in, the Property is transferred to any party other than University Park Commons LLC, or an affiliate of either entity acceptable with prior written consent of the DCHA.
- c) If Borrower permits or allows any use of the Property other than as the Project as described in the Loan Contracts.

Notwithstanding anything to the contrary in this Note, the Agreement, or the Mortgage, First Business Bank, the investor member of the Borrower ("Investor Member") shall have the right, but not the obligation, to cure any defaults of the Borrower hereunder, and the DCHA agrees to accept such cures tendered by the Investor Member on behalf of the Borrower, and the Investor Member shall be afforded any cure periods as may be applicable to Borrower.

The Borrower and endorser of this Note agrees to waive demand, notice of non-payment and protest, and in the event suit shall be brought for the collection hereof, or the same has to be collected upon demand of an attorney, to pay reasonable attorney's fees for making such collection, through and including all appellate levels and post-judgment proceedings.

No delay or omission on the part of the holder hereof in exercising any right hereunder shall operate as a waiver of any such right or of any other right under this Note. A waiver on any one occasion shall not be construed as a bar to or a waiver of any such right on any future occasion. The Borrower for itself, its successors and assigns, does hereby expressly waive presentment for payment and notice of nonpayment. It is expressly understood and agreed that the Borrower shall not be released from the covenants herein contained by reason of any forbearance or extension of time granted or release of any subsequent owner or owners of the Property mortgaged as secured for this obligation.

The "Loan Contracts" are this Note, and the Mortgage which explicitly secures the Note, the Grant Agreement, the WHEDA LURA and the County LURA each executed by the Borrower in connection with the loan evidenced by this Note ("Loan").

Except as otherwise provided herein, this Note shall be non-recourse to Borrower in that Borrower and its members shall have no corporate liability under the Loan Contracts for the repayment of the Loan or for the performance of any other obligation of Borrower thereunder, and the DCHA's only recourse for the satisfaction of the Loan and the performance of such obligations shall be the DCHA's exercise of its rights and remedies with respect to the Property.

Borrower shall be corporately liable to the DCHA, to the extent not satisfied from the exercise of the DCHA's right and remedies with respect to the Property described in the Mortgage, for repayment of the portion of the Loan equal to any loss or damage suffered by the DCHA as a result of:

1. the fraud or intentional material misrepresentation by Borrower in connection with the application for or creation of the Loan or any request by Borrower for any action or consent by the DCHA in connection with the Loan; or
2. subject to the rights of any holder of a superior lien on the Property, failure of Borrower to:
  - i. pay to the DCHA, upon demand after the occurrence of any event of default which is not timely cured, all payments DCHA is entitled under the Loan Contracts;
  - ii. apply all Property insurance proceeds and condemnation proceeds as required by the Loan Contracts; or
  - iii. apply Property rents, first to the payment of reasonable Property operating expenses (including property management fee and taxes) and amounts payable to, or at the direction of, and holder of superior lien on the Property, and then the amounts payable under the Loan Contracts in accordance with the priorities set forth in the Borrower's Amended and Restated Operating Agreement.

Notwithstanding the foregoing, Borrower will not be corporately liable to the extent that Borrower lacks the legal right to direct the disbursement of any funds because of a bankruptcy, receivership or similar judicial proceedings.

This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement is sought.

The Borrower may draw up to 90% of the Loan proceeds to be used for eligible construction costs of the Project. Borrower shall provide evidence of full project financing before funds will be released. DCHA shall withhold 10% of the Loan proceeds (\$100,000) until a certificate of occupancy for the Project has been issued by the City of Madison.

The right of the holder of this promissory note to payment of any of the indebtedness evidenced by this Note is and will at all times be subordinate to the right of the First Business Bank, its successors and assigns, under a Multifamily Note dated XXXX, 2021 ("Senior Note") to payment in full of the indebtedness evidenced by the Senior Note. The foregoing subordination is pursuant to a Subordination Agreement dated as of XXXXX, 2021 between First Business Bank and the holder of this promissory note on the date of the Subordination Agreement.

**THE BORROWER** acknowledges receipt of an exact copy of this Note.

#### **NOTICE TO BORROWER**

- A. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.**
- B. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENTS YOU SIGN.**
- C. YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS NOTE WITHOUT PENALTY OR PREMIUM DUE.**



Signed and sealed as of the \_\_\_\_ day of \_\_\_\_, 2021 at Madison, Wisconsin.


**University Park Commons LLC,**

a Wisconsin Limited Liability Company

By: University Park Commons MM, LLC  
Its: Managing Member

By: JTK 3, LLC  
Its: Manager

By: JT Klein Company, Inc.  
Its: Manager

By:   
\_\_\_\_\_  
Jacob T. Klein, President

## **EXHIBIT A**

Legal Description

**[To be finalized]**

PIN: 251-0709-304-0408-6

**Exhibit F**

**Tenancy Addendum**

*See attached.*

## Tenancy Addendum

Respondents to this RFP that agree to include the following provisions within all tenant leases or as an addendum to all tenant leases will receive 10 points.

- a. **Security Deposits.** The amount of a security deposit shall not be more than one month's rent.
- b. **Late Fees and Other Fees.** Late fees must be set forth in the rental agreement. Late fees shall not exceed 5% of the tenant's portion of the monthly rent. Other penalty fees are prohibited. All other fees must be directly related to the cost for a specific amenity or service provided to the tenant and comply with all applicable laws.
- c. **Rights of Youth to Access Common Spaces.** Youth under the age of 18 are allow to use and enjoy common areas without supervision. This does not preclude reasonable rules in ensure the safety of children and youth.
- d. **Good Cause for Termination.** A tenancy may not be terminated during or at the end of the lease unless there is good cause. Good cause is defined in include the following: (i) a serious violation of the lease; (ii) repeated minor violations of the lease; or (iii) a refusal to re-certify program eligibility. Repeated means a pattern of minor violations, not isolated incidents. Termination notices and procedures shall comply with Chapter 704 of Wisconsin Statutes and federal law, when applicable. Written notice is required for non-renewal and shall include the specific grounds for non-renewal and the right of the tenant to request a meeting to discuss the non-renewal with the landlord or landlord's property management agent within fourteen (14) days of the notice. If requested, the landlord or property management agent will meet with the tenant to discuss the non-renewal, allow the tenant to respond to the alleged grounds for non-renewal, and pursue a mutually acceptable resolution.
- e. **Reasonable Guest Rules.** Tenants have the right to have guests. In the event the property management establishes rules related to guests, they must be reasonable. Unreasonable rules include, but are not limited to the following: (1) Prior authorization of guests by the property management, unless the guest is staying for an extended period of time (e.g. more than 2 weeks); (2) Prohibition on overnight guests; (3) Requiring that the resident be with the guest at all times on the property. (4) Requiring guests to show ID unless requested by the tenant. (5) Subjecting caregivers, whether caring for a child or children, or an adult with disabilities, to limitations on the number of days for guests.

Landlord may ban a person who is not a tenant from the rental premises if the person has committed violent criminal activity or drug related criminal activity at rental premises. No person shall be banned from the rental premises without the consent of the tenant unless the following have taken place:

- (1) A notice of the ban is issued to the tenant stating the:
  - (a) name of the person banned,

(b) grounds for the ban including, (i) the specific facts detailing the activity resulting in the ban; (ii) the source of the information relied upon in making the ban decision; and (iii) a copy of any criminal record reviewed when making the ban decision; and

(c) the right of the tenant to have a meeting to dispute the proposed ban, discuss alternatives to the ban, and address any unintended consequences of the proposed ban.

(2) If requested, a hearing on the ban has taken place to provide the tenant an opportunity to dispute the proposed ban, discuss alternatives of the ban, and address any unintended consequences of the proposed ban.

A tenant may not invite or allow a banned person as a guest on the premises, provided the Landlord has followed the proper procedure and given notice to Tenant as set forth herein.

A tenant who violates the guest policy may be given a written warning detailing the facts of the alleged violation. The written warning shall detail the violation, and warn the tenant that repeated violations may result in termination of tenancy. Tenants that repeatedly violate the guest policy, (e.g. three (3) or more violations within a twelve (12) month period) may be issued a notice of termination in accordance with state and federal law.

Nothing in this policy limits a person's right to pursue a civil order for protection against another individual.

- f. **Parking Policies.** Parking policies and practices must comply with applicable laws. Vehicles shall not be towed to a location that is more than 6 miles from the rental premises, unless there is not a towing company with a tow location available within 6 miles.

**Exhibit G**

**Fair Tenant Selection Criteria**

*See attached.*

# Tenant Selection Plan

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University Park Commons

August 1, 2021

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I. **Introduction**

a. **Development Description** University Park Commons is located in Madison, WI (“Development”) is a proposed 68-unit apartment community serving low-to-moderate income individuals that will be owned by JT Klein Company (“Owner”) and managed by Oakbrook Corporation (“Management”). The Owner and Management, on behalf of the Owner, subscribe to the following procedures in qualifying applicants for occupancy in this Development, which includes 68 units subject to the statutory and regulatory requirements of the Federal Low Income Housing Tax Credit program (“LIHTC”).

i. The LIHTC Requirements mean collectively, LIHTC of the Internal Revenue Code of 1986, as amended, 26 U.S.C. LIHTC, its implementing federal tax regulations set forth in 26 CFR Part 1.42, the Low Income Housing Tax Credit Extended Use Agreement between the Owner and the Wisconsin Housing & Economic Development Authority (“WHEDA”) for the Development, and all applicable IRS revenue rulings, revenue procedures, tax assistance memoranda, and related written guidance and notices.

b. **Tenant Type**

i. The Development is designated as housing for Families

1. Supportive Service Units – Fourteen (14) units at the Development are designated for Veterans, persons with disabilities, and those at risk of homelessness.

c. **Unit Distribution**

- i. 14 units at up to 30% of the median income in Dane County, WI
- ii. 27 units at up to 50% of the median income in Dane County, WI
- iii. 27 units at up to 80% of the median income in Dane County, WI

d. **Rent Structure** – Note that the tenant rent payment will not exceed the HUD annual published limits for the LIHTC program.

e. **Nondiscrimination Policies**

i. General: Federal civil rights laws addressing fair housing prohibit discrimination against applicants or tenants on the basis of race, color, national origin, sex, gender, age, disability, religion, and familial status. **Wisconsin** fair housing regulations prohibit discrimination against applicants or tenants for federally protected classes plus the following: sexual orientation, marital status, ancestry, lawful source of income, and victims of domestic abuse or other crimes. **Dane County fair housing regulations prohibit discrimination on the basis of federal and state protected classes plus the following: physical condition, mental illness, and handicap (including the right to service and companion animals), type of military discharge, physical appearance, gender identity and gender expression (including transgendered people), domestic partnership status, political beliefs, student status, and receipt of rental assistance.**

HUD’s Office of General Counsel issued a memo dated April 4, 2016, which is guidance concerning how the Fair Housing Act applies to the use of criminal history by providers or operators of housing and real-estate related transactions.

The Development is in compliance with this and other key federal civil rights laws regarding fair housing and accessibility as described below.

- ii. Fair Housing Act – The Development complies with Fair Housing Act Amendments of 1988 (“Fair Housing Act”) which prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status, and national origin regardless of any federal financial assistance. Fair Housing Act obligations include:
  - 1. Management will not refuse, either directly or indirectly, to rent or negotiate for rental of a dwelling based on race, color, religion, sex, disability, familial status, and national origin.
  - 2. Management will not (i) engage in activities that steer potential tenants away from or toward particular units by words or actions, (ii) make housing units and related services unavailable to any potential tenants, (iii) purposely provide false information to applicants about the availability of units that limits the living options of prospective tenants, and (iv) deny or limit services based on race, color, religion, sex, disability, familial status, and national origin.
  - 3. Management will market available units in a nondiscriminatory manner.
  - 4. Management will make reasonable accommodations in rules, policies, practices, or services as may be necessary to afford handicapped persons equal opportunity to use and enjoy a dwelling.
- iii. Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination based upon disability in all programs or activities operated by recipients of federal financial assistance. Section 504 obligations include the following:
  - 1. Allowing for reasonable structural modifications (with prior approval and, in certain circumstances, at tenant’s expense) to units and/or common areas that are needed by applicants and tenants with disabilities, unless these modifications would change the fundamental nature of the project or result in undue financial and administrative burdens.
  - 2. Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order.
  - 3. Providing auxiliary aids and services necessary for effective communication with persons with disabilities.
  - 4. Performing a self-evaluation of Management’s programs and policies to ensure that they do not discriminate based on disability.
  - 5. Developing a transition plan to ensure that structural changes are properly implemented to meet program accessibility requirements.
  - 6. Section 504 also establishes accessibility requirements for newly constructed or rehabilitated housing, including providing a minimum percentage of accessible units.
  - 7. In accordance with Section 504 of the Rehabilitation Act of 1973, accessible units are allocated using a special priority approach. When accessible units become available, the housing provider must offer the units in this order:
    - a. To current residents that would benefit from the available unit’s accessibility features, but whose current unit does not have such features
    - b. To eligible and qualified households on the Waiting List with disabilities who would benefit from the available unit’s accessibility features
    - c. To other eligible and qualified households on the Waiting List (i.e., without disabilities) which may require the household to agree, in

writing, to transfer to a non-accessible unit at the owner's request (the request will only be made if an accessible unit is not available to a person who requires the features of an accessible unit)

8. The Section 504 Coordinator for this property is:

Jennifer Foland  
Oakbrook Corporation  
2 Science Court  
Madison, WI 53701  
608-238-2600  
800-947-3529 TTY Relay

iv. Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity:

1. Effective March 5, 2012, HUD implemented new regulations intended to ensure that HUD's core housing programs are open to all eligible persons regardless of actual or perceived sexual orientation, gender identity or marital status (HUD Notice 2015-01).
  2. Owners and operators of HUD-assisted housing, or housing whose financing is insured by HUD, must make housing available without regard to sexual orientation, gender identity, or marital status.
  3. All otherwise eligible households, regardless of marital status, sexual orientation, or gender identity, will have the opportunity to participate in HUD programs.
  4. Owners and operators of HUD-assisted housing or housing insured by HUD are prohibited from asking about an applicant or occupant's sexual orientation and gender identity for the purpose of determining eligibility or otherwise making housing available.
- v. Title VI of the Civil Rights Act of 1964: Prohibits all recipients of federal financial assistance from discriminating based on race, color, or national origin.
- vi. Age Discrimination Act of 1975: Prohibits discrimination based upon age in federally assisted and funded programs, except in limited circumstances. It is not a violation of the Age Discrimination Act to use age as screening criteria in a particular program if age distinctions are permitted by statute for that program or if age distinctions are a factor necessary for the normal operation of the program or the achievement of a statutory objective of the program or activity.
- vii. Executive Order 13166 – Limited English Proficiency: This Order requires Owner/Management to take reasonable steps to ensure meaningful access to the information and services they provide for persons with limited English proficiency. This may include interpreter services and/or written materials translated into other languages.
- viii. Violence Against Women and Justice Department Reauthorization Act of 2005 & 2013 & Final Rule of 2016 ("VAWA"): VAWA protects victims of domestic violence, dating violence, sexual assault, or stalking, as well as their immediate family members generally, from being evicted or being denied housing assistance if an incident of violence is reported and confirmed.

1. Owner/Management responding to an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking that could potentially have an impact on a tenant's participation in the housing program  
Owner/Management:
  - a. May request in writing that an individual complete, sign and submit within 14 business days of the request, the HUD-approved certification form (HUD-91066).
  - b. In lieu of the certification form or in addition to it, Owner/Management may accept (i) a federal, state, tribal, territorial, or local police record or court record or (ii) documentation signed and attested to by a professional (employee, agent or volunteer of a victim service provider, an attorney, medical personnel, etc.) from whom the victim has sought assistance.
2. Owner/Management will keep all information related to incident(s) of domestic violence, dating violence, sexual assault, or stalking in a separate secure location from other tenant files, and will not be shared unless:
  - a. Individual's written consent is obtained;
  - b. Information is required for use in an eviction proceeding or termination or assistance; or
  - c. Otherwise required by law.
3. If a victim commits separate criminal activity, they may be evicted for engaging in crime. In addition, if a victim poses an actual and imminent threat to other tenants or those employed at, or providing service to, the property, they could be evicted. Management may evict residents submitting a false certification of domestic violence, dating violence, sexual assault, or stalking.
4. Management will remove, evict, and/or terminate assistance to an individual determined to be causing the abuse.

## II. **Preferences**

- a. **Establishing Preferences** – Preferences are not permitted if they in any way negate affirmative marketing efforts or fair housing obligations. The following preferences apply to the Development:
  - i. **Existing Tenant Preference**: The following actions are always given priority if applicable, and if not, State Mandated Preferences take precedence.
    1. A unit transfer for household seeking protections under VAWA
    2. A unit transfer based on the need for an accessible unit
    3. A unit transfer for a medical reason certified by a doctor
    4. A unit transfer of a non-handicapped individual living in a handicapped accessible unit to accommodate a handicapped applicant on the Waiting List
    5. A unit transfer for other reasons approved by Management
  - ii. **Supportive Housing Preference**: Preference will be given to veterans, persons with disabilities, and/or individuals at risk for homelessness for the fourteen (14) units set aside as supportive housing units.
  - iii. **State/Federal Mandated Preferences**: The Development must comply with any state or federal mandated preferences as described below:
    1. Displaced from an urban renewal area

2. Displaced as a result of a government action
3. Displaced as a result of a major disaster

iv. Optional Preferences: The Development does not have any optional preferences.

b. **Verification of Preferences** – The State/Federal Mandated Preferences will be verified by third party verification.

c. **Selection of Households for Participation**

- i. An eligible applicant who qualifies for a preference will receive housing before any other applicant who is not so qualified. These preferences take precedence over other applicants' place on the Waiting List, or date of submission of application.
- ii. Applicants will be informed of the availability of preferences and will be given an opportunity to certify that they qualify for a preference. Applicants may claim a preference at any time during the application process.

d. **When a Preference is Denied**

- i. If it is determined that an applicant does not meet the criteria for receiving a preference, the applicant will promptly receive a written notice of this determination from Management. The notice will contain a brief statement of the reasons for the determination, and state that the applicant has the right to meet with the Management's designee to review this decision. If the applicant requests a meeting, it will be conducted by a person or persons designated by Management.
- ii. Denial of a preference does not prevent the applicant from exercising any legal rights the applicant may have against Management and/or Owner.

e. **Exceptions to the Preference Rule**

- i. Relocation and/or Unit Transfers: Management must give priority to current households (i) when their units are designated for rehabilitation and/or (ii) for current households residing in a unit within the Development that has been designated as uninhabitable by federal, state, local municipalities or Management due to fire, flood, or other natural disaster.

III. **Pre-Application Processing** – Development will not use Preliminary Applications.

a. **Distribution of Information** – Information will be given to households who respond to the marketing efforts about the Development's preferences and will indicate that all applicants will be given an opportunity to show that they qualify for a preference.

- i. The information will state that those persons qualifying for a preference will receive housing before any other applicant who is not so qualified.

IV. **Waiting List Procedures**

a. **Creation of Waiting List** – If an applicant is eligible for tenancy but no appropriately sized unit is available (as referred to in Section VII Occupancy Standards), Management will place the applicant on the Waiting List for the Development. The Waiting List will be maintained electronically and in hard copy. Placement on the Waiting List does not guarantee occupancy; it merely means that these persons will be contacted in the future with detailed instructions on how to formally apply for residence at the Development. When names are placed on the Waiting List, persons will be informed that it is their responsibility to inform the Development's Management office of changes in mailing address, telephone number, email address, or TTY/TDD

number (if applicable). **A separate Waiting List will be maintained for the fourteen (14) units set aside as supportive housing units.**

**b. Changes in Income or Household Composition**

- i. When placed on the Waiting List, applicants will be informed to notify Management in writing if any changes to the following occur:
  - 1. Address and/or phone number
  - 2. Household composition
  - 3. Preference status
  - 4. Income

**V. The Screening (Interview) Process**

**a. Application Requirements**

The following information will be used to determine program eligibility for anyone who is seeking housing at the Development.

Live in aides, new household members, and police officers, security personnel or managers residing in units will be subject to same screening for drug abuse and other criminal activity applied to other applicants.

- i. Application – All adult household members must complete an application and sign the Authorization for Release of Information Form. Management shall accommodate persons with disabilities who, as a result of their disabilities, cannot utilize the Management’s preferred application process by providing alternative methods of taking applications.
  - ii. A credit report will be ordered and an application fee may be charged to cover the actual cost of this report.
  - iii. A criminal background search will be obtained including a search of a State and National sex offender registry. **On-site management personnel do not search or review Wisconsin Circuit Court Access records.**
  - iv. Verification of employment, income, bank accounts, and other assets is required as applicable for each applicant.
  - v. Current and previous housing for past two years is required. **A lack of housing history will not be used as the basis for denial of an application.**
- b. Completion of Application Process** – All applications will be processed within thirty days after the date of the applicant’s initial interview or within five business days of receipt of all required documentation, whichever is later (excluding weekends and designated federal holidays). Applications will be processed on a first come first served basis.
- c. Security Deposit Requirements** – a security deposit will be required at move-in and will be based on screening results, but in any event shall not be more than one (1) month’s rent.

**VI. Eligibility Requirements**

**a. Income** – The annual gross income of the applicant(s) must:

- i. Be equal to or less than the income limit established by the applicable program’s administrative rules for the appropriate household size; and
- ii. Meet the 40% rent to income threshold
  - 1. Adjustments to this policy may be made by Management depending upon a household’s total assets and access to public assistance (e.g., food stamps, energy assistance, etc.)

**2. If applicant cannot meet the minimum income requirement but can demonstrate the ability to comply with the rent obligation based on a rental history of paying an equivalent rent to income ratio for the prior 24 months, that condition shall be waived as a requirement for approval.**

- b. Sole Residence** – The unit must be the applicant’s sole residence in order for the applicant to be eligible for housing.
- c. Social Security Numbers** – Social security numbers for all U.S. citizens must be disclosed for all adult household members.
- d. Date of Birth** – Date of birth must be disclosed for all household members.
- e. Student Eligibility Requirements HOME (if applicable)** – HOME assisted units shall not be provided to any individual who:
  - i.** Is enrolled as either a part-time or full-time student at an institution of higher education, for the purposes of obtaining a degree, certificate, or other program leading to a recognized educational credential; and
  - ii.** Is under 24 years of age; and
  - iii.** Is not married; and
  - iv.** Is not a veteran of the United States Military; and
  - v.** Does not have a dependent child; and
  - vi.** Is not a person with disabilities and was not receiving section 8 assistance as of November 30, 2005; and
  - vii.** Is not living with his or her parents who are receiving Section 8 assistance; and
  - viii.** Is not individually eligible to receive Section 8 assistance or has parents (individually or jointly) who are not income eligible to receive Section 8 assistance. (Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance and the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to be eligible.
- f. Student Eligibility Requirements LIHTC** – Households consisting entirely of full-time students (either currently or have been for five months of the current calendar year) do not qualify unless the household meets one of the following exceptions:
  - i.** All members of the household are married and are entitled to file a joint tax return.
  - ii.** The household consists of single parent(s) and their child (or children) and no one in the household is dependent of third party.
  - iii.** At least one member of the household receives assistance under Title IV of the Social Security Act (i.e. TANF).
  - iv.** At least one member of the household is participating in an officially sanctioned job training program.
  - v.** At least one member of the household was formerly in foster care.

**VII. Occupancy Standards**

- a.** The standards used at this development are:
    - i.** Maximum number of persons allowed in a 1BR unit is two (2) persons. The minimum number of persons required for a 1BR unit is one (1) person.
    - ii.** Maximum number of persons allowed in a 2BR unit is four (4) persons. The minimum number of persons required for a 2BR unit is one (1) person.
    - iii.** Maximum number of persons allowed in a 3BR unit is six (6) persons. The minimum number of persons required for a 3BR unit is two (2) persons.
- NOTE: Exceptions may be made on non-senior properties for minors under the age of two years old.

- b. The unit applied for must have enough space to accommodate the applicant's household.
- c. Management's occupancy standards comply with federal, state, and local fair housing and civil rights laws, landlord-tenant laws, and zoning restrictions.

**VIII. Rejection Criteria** – The ability of the applicant to fulfill lease obligations will be considered. In addition to verifying whether a household is income qualified and program eligible, Management will use various criteria in determining the acceptability of all applicants. An applicant may be rejected for one or more of the following reasons:

**a. Insufficient/Inaccurate Information on Application** – refusing to cooperate fully in all aspects of the application process or supplying false information will be grounds for rejection.

**b. Credit and Financial Standing**

- i. Unsatisfactory history of meeting financial obligations (including, but not limited to timely payment of rent, outstanding judgments, or a history of late payment of bills) will be considered. If an applicant is rejected based on the credit report, they will be provided the name of the credit bureau that performed the credit. Management will not disclose the specifics of any information reported by the credit bureau. Applicants will be given the opportunity to correct or clear the adverse credit.
- ii. The inability to verify credit references is a factor for rejection of an application. Consideration will be given for special circumstances in which credit has not been established.

**c. Criminal Convictions/Current Drug Use**

- i. Applicants who fall into the following categories will be rejected:
  1. Any household in which any member whose use of marijuana, or current addiction to or engagement in the illegal use of a controlled substance interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents will be denied admission and, if an occupant, will be subject to termination of tenancy.
  2. Any household in which any member was evicted in the last three years from federally assisted housing for drug-related criminal activity. Exception: if the evicted household member has successfully completed an approved supervised drug rehabilitation or the circumstances leading to the eviction no longer exist (e.g., the household member no longer resides with the applicant household).
  3. Any household member that is subject to a state sex offender lifetime requirement.
  4. Any household member for whom there is reasonable cause to believe that the member's behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents. The screening standards must be based on behavior, not the condition of alcoholism or alcohol abuse.
  5. Any household member who has been convicted of the following felonies:
    - a. Homicide
    - b. Kidnapping/abduction
    - c. Forcible Sex
    - d. Arson
- ii. Additional criminal history will be considered and may be the cause of rejection:
  1. Assault



2. Domestic abuse resulting in assault or battery charges unless applicant is a victim of domestic violence, dating violence, sexual assault, or stalking as defined by the Violence Against Women Act (VAWA)
  3. Weapons violations
  4. Other violent felonies not listed above
  5. Fugitive felon status or parole violations
  6. Theft, burglary, breaking and entering, fraud or larceny
  7. Vandalism exceeding \$1,000
  8. Disturbing the peace (repeat offender)
  9. Criminal trespass
  10. Other criminal behavior that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or people who live in the immediate vicinity of the site or the health and safety of the owner, employees, contractors, subcontractors or agents of the owner.
- iii. Management will consider the criminal activity that occurred during the following periods:
1. Misdemeanors during the past seven-year period
  2. Gross misdemeanors during the past fifteen-year period
  3. Felonies (not listed as automatic rejections) during the past ten-year to thirty-year period
- d. **History of Residence**
- i. Management will consider whether the applicant or any other person who will be living in the unit, has a history of physical violence to persons or property, or has exhibited living habits at prior residences that could adversely affect the health, safety, and quiet enjoyment of other residents at the rental community. Management will consider all circumstance regarding this type of activity as well as the period during which it occurred.
- e. **Household Characteristics** – Household size or household characteristics were not appropriate for the specific type of unit available at the time of application.

**IX. Rejection Procedures**

- a. If Management rejects an application, a formal letter of rejection will be sent to the applicant at the address shown on the application unless otherwise notified. If the cause for rejection is due to an unfavorable credit history, the applicant will be notified of the credit reporting service, their address and telephone number for direct contact with the service. If it can be verified that the credit report is in error, the application will be re-processed, and, if accepted, the application will be prioritized according to the original application date. Management may not discuss credit-reporting information with the applicant.

**X. Special Occupancy Categories** – Applicants will be interviewed and processed as authorized in Sections V through VIII, with exceptions made as follows:

- a. **Persons with Disabilities**
  - i. An applicant with disabilities will be given priority for an accessible unit if such applicant deems that this type of unit is appropriate for their household.

- ii. If the household determines that the accessible unit is not appropriate for the household's needs, the household's name will be returned to its place on the Waiting List.