

Dane County Contract Cover Sheet

Res 391
Significant

Dept./Division	Human Services /Housing Access and Affordability	Contract # <small>Admin will assign</small>	14307
Vendor Name	Bayview Foundation, Inc.	Addendum	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Vendor MUNIS #	742	Type of Contract	
Brief Contract Title/Description	HAA Agreements related to an affordable housing project at 601 Bayview in the City of Madison.	<input type="checkbox"/>	Dane County Contract
Contract Term	65 years	<input type="checkbox"/>	Grant
Total Contract Amount	\$1,300,000	<input type="checkbox"/>	County Lessee
		<input type="checkbox"/>	County Lessor
		<input type="checkbox"/>	Intergovernmental
		<input type="checkbox"/>	Purchase of Property
		<input type="checkbox"/>	Property Sale
		<input checked="" type="checkbox"/>	Other

Purchasing Authority	<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)		RFB/RFP #
	<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		

MUNIS Req.	Org Code	Obj Code	Amount	\$	
Req #	N/A	Org Code	Obj Code	Amount	\$
Year	Org Code	Obj Code	Amount	\$	

Resolution /Addendum Form	A resolution is required if the contract exceeds \$100,000 (\$40,000 Public Works). A copy of the Resolution must be attached to the contract cover sheet.		
	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works) – a resolution is not required.		
	<input checked="" type="checkbox"/> Resolution required and a copy is attached.		Res #
	<input type="checkbox"/> Addendum Form required.		Year
			391
			2020

Contract Review/Approvals				
Initials	Dept.	Date In	Date Out	Comments
MG	Received by DOA	4/21/21		
	Controller			approvals from all departments via email attached herein
	Purchasing			
	Corporation Counsel			
	Risk Management			
	County Executive			

Dane County Dept. Contact Info		Vendor Contact Info	
Name	Spring Larson, Contract Coord. Assistant	Name	Alexis London
Phone #	(608) 242-6391	Phone #	
Email	larsen.spring@countyofdane.com	Email	alexislondon@bayviewfoundation.org
Address	1202 Northport Drive, RM Gr42A, Madison WI 53704	Address	601 Bayview, Madison WI 53715

Human Services Only	a. Dane County Res. #	N/A	Approvals	Initials	Date
	b. Budget/Personnel Required	NA	g. Accountant	KB	3/11/21
	c. Program Manager Name	Wutrich	h. Supervisor	CW	3/11/2021
	d. Current Contract Amount	\$	i. Corporation Counsel	NA	
	e. Adjustment Amount	\$	j. To Provider		
	f. Revised Contract Amount	\$	k. From Provider		

Certification: The attached contract is a:	
<input type="checkbox"/>	Dane County Contract <u>without</u> any modifications.
<input type="checkbox"/>	Dane County Contract <u>with</u> modifications. The modifications have been reviewed by:
<input checked="" type="checkbox"/>	Non-standard contract.

Contract Cover Sheet Signature

Dept. Head / Authorized Designee	Signature	Date
	<i>Shawn Tessmann</i>	3/11/2021
	Printed Name	
	Shawn Tessmann, Director of Human Services	

Contracts Exceeding \$100,000

Major Contracts Review – DCO Sect. 25.11(3)

Director of Administration	Signature	Date
	<i>Greg Brockmeyer</i>	4/22/21
	Comments	
Corporation Counsel	Signature	Date
	<i>Susan Rauti</i>	4/21/21
	Comments	

Goldade, Michelle

From: Goldade, Michelle
Sent: Wednesday, April 21, 2021 2:20 PM
To: Hicklin, Charles; Rogan, Megan; Rauti, Susan; Lowndes, Daniel
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #14307
Attachments: 14307.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 4/21/2021 2:26 PM	Approve: 4/21/2021 2:26 PM
	Rogan, Megan	Read: 4/21/2021 2:25 PM	Approve: 4/21/2021 2:25 PM
	Rauti, Susan	Read: 4/21/2021 2:22 PM	Approve: 4/21/2021 2:28 PM
	Lowndes, Daniel	Read: 4/21/2021 2:28 PM	Approve: 4/22/2021 9:17 AM
	Stavn, Stephanie	Read: 4/21/2021 3:55 PM	
	Oby, Joe		

This contract is being re-routed as there was a change to the sublease section of the document...please re-approve.

Contract #14307
Department: Human Services/HAA
Vendor: Bayview Foundation
Contract Description: Affordable Housing Project at 601 Bayview in the City of Madison (Res 391)
Contract Term: 4/1/21 – 12/31/2086
Contract Amount: \$1,300,000

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

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.

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2020 RES-391

**APPROVING AGREEMENTS AND PURCHASE SUPPORTING AN AFFORDABLE HOUSING
PROJECT AT 601 BAY VIEW IN THE CITY OF MADISON
DCDHS – HAA DIVISION**

The 2020 Dane County capital budget awarded funding of \$1,300,000 to Horizon Development Group and Bayview Foundation, Inc., also known as its affiliate Bayview Housing Partners LLC., for the Bayview Townhomes project located at 601 Bay View, Madison.

The project will reconstruct the affordable housing complex at 601 Bay View in the City of Madison. The project will demolish the existing 102 apartments in a phased manner and will replace the buildings with 130 new units. The phased approach will avoid displacing existing residents. The newly constructed housing will consist of twenty-four (24) 1-bedroom units, thirty-three (38) 2-bedroom units, and sixty-eight (68) 3-bedroom units. Eight units will have Project-Based Vouchers through the Dane County Housing Authority, ninety-nine (99) units will be designated as Section 8 HAP units, thirteen units will be will be restricted to those earning less than 60% area median income (AMI), and the remaining thirteen will be market rate units. Six units will be targeted to families receiving services through the Salvation Army’s Dane County Assists with New Starts (DAWNS) program.

As part of the funding, the county will purchase land that will be leased back to the project owner.

NOW, THEREFORE, BE IT RESOLVED that the County Board authorized the purchase of land to be developed by Bayview Housing Partners, LLC., and

BE IT FURTHER RESOLVED that the County Board authorizes the lease of the land to Bayview Housing Partners, LLC., and the County Executive and County Clerk are authorized to execute the leases;

BE IT FINALLY RESOLVED that the County Real Estate staff are authorized to execute documents necessary to purchase the land and the Controller is authorized to make payments necessary for these purchases.

LEASE

In consideration of the mutual promises and covenants contained in this Lease, dated as of _____, 2021, County of Dane, Wisconsin (the "Landlord") and Bayview Foundation, Inc., a Wisconsin non-stock corporation (the "Tenant") agree as follows:

1. PREMISES. Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, the land described on Exhibit A attached hereto (the "Premises").

2. CONDITION OF PREMISES. Tenant acknowledges and agrees that Tenant is leasing the Premises "AS IS", and Landlord makes no warranties, express or implied, as to fitness, merchantability, use or condition of the Premises. Tenant leases the Premises without representation or warranty of Landlord, express or implied, in fact or by law, and without recourse, with respect to: (a) the condition of the Premises and (b) the ability to use the Premises for any particular purpose.

3. TERM. The Lease term shall commence upon the date hereof and shall terminate on December 31, 2086.

4. RENT. Tenant has paid to Landlord on the date hereof the sum of Thirty Dollars (\$30) as rent for the Premises for the entire Lease term.

5. UTILITIES. Tenant shall be responsible for payment of all utilities, including electricity, sewer and water furnished to the Premises during the term of this Lease.

6. USE. A community center for "Bayview Apartments and Townhomes" is currently located on the Premises. The community center will continue to be occupied and used until it is demolished as part of the redevelopment of Bayview Apartments and Townhomes. Upon the demolition of the community center, the Premises will be improved with a parking lot and ancillary green space for the redeveloped "Bayview Townhomes and Apartments" (the "Residential Project"). Notwithstanding the foregoing, the Premises may be used for any lawful purpose. Tenant will not use the Premises in any manner that prevents the obtaining of insurance required in Section 9.

7. MAINTENANCE AND REPAIR. Tenant shall, at its expense, keep and maintain the Premises in a good, clean, safe, secure and sanitary condition, and to that end shall perform any and all necessary repairs, replacements and maintenance to the Premises.

8. COVENANTS.

(a) Compliance with Laws. Tenant agrees to comply with all laws, orders, ordinances and regulations and with any direction made pursuant to law of any public officer, relating to Tenant's use of the Premises.

(b) Surrender. Upon the termination of this Lease for any reason, (a) Tenant shall remove Tenant's goods, effects and fixtures and those of any other persons claiming under

Tenant, and quit and deliver up the Premises to Landlord peaceably and quietly and (b) title to the Improvements (as defined in Section 12 hereof) located on the Premises shall automatically transfer to Landlord.

(c) Personal Property Taxes. Tenant agrees to pay, before delinquency, any and all taxes levied or assessed and which become payable during the Lease term upon Tenant's equipment, furniture, fixtures and other personal property located in the Premises.

(d) Real Estate Taxes and Assessments. Tenant agrees to pay, before delinquency, any and all real estate taxes and special assessments levied or assessed and which become payable during the Lease term upon the Premises.

(e) Signage. Tenant may place any signs on the Premises provided they comply with applicable municipal ordinances.

(f) Expenses of Operating the Premises. Tenant shall, at its expense, obtain any and all services related to the operation of the Premises that it desires, including without limitation the provision of any landscaping services, snow removal, and supplies, if necessary for operation of the Premises in compliance with Section 6 hereof.

(g) Financing. Landlord shall not finance the Premises or otherwise encumber its interest in the Premises without Tenant's and any Investor Member's prior written consent. Tenant shall have the right to encumber its leasehold interest in the Premises and execute and deliver a collateral assignment hereof in connection with any such financing, and Landlord agrees to execute such consent to collateral assignment as Tenant's lender may reasonably require.

9. INSURANCE. During the Lease term, Tenant shall keep in full force and effect, at its expense: (a) a policy of commercial general liability insurance covering the Premises, with a combined single limit of not less than \$1,000,000; and (b) insurance against fire, vandalism, malicious mischief and such other perils as are from time to time included in a "special form" property insurance policy, insuring Tenant's merchandise, trade fixtures, furnishings, equipment and all other items of personal property of Tenant located on or within the Premises, in an amount not less than their full replacement value. Tenant's commercial general liability insurance policy shall name Landlord and Tenant as insureds. A copy of the paid-up policies evidencing such insurance or certificates of insurers shall be delivered to Landlord prior to the commencement date of this Lease and upon renewals not less than 30 days prior to the expiration of such coverage.

10. DAMAGE OR DESTRUCTION. In case of damage to the Premises by fire, vandalism, malicious mischief or any other casualty, the Premises may be repaired or rebuilt by Tenant.

11. NO MUTUAL INDEMNIFICATION. Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses,

claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations of joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes.

12. IMPROVEMENTS AND ALTERATIONS. Tenant may make, at any time and from time to time, any alterations or improvements ("Improvements") to the Premises it desires including, without limitation, alterations to Improvements previously made by Tenant. All Improvements shall be made at Tenant's sole cost and expense. Tenant shall obtain all necessary permits, and Landlord shall cooperate as needed by Tenant to obtain said permits; further, Tenant shall provide Landlord with copies thereof. Tenant shall promptly repair any damage and perform any necessary cleanup resulting from any Improvements. All Improvements (except trade fixtures, furniture and equipment belonging to Tenant) in existence upon termination of this Lease shall be Landlord's property and shall remain upon the Premises, all without compensation to Tenant. Tenant agrees not to create, incur, impose or permit any construction liens against the Premises by reason of any Improvement and Tenant agrees to hold Landlord harmless from and against any such lien claim. At its expense, Tenant shall cause to be discharged, within thirty days of the filing thereof, any construction lien claim filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, or on behalf of Tenant.

13. EMINENT DOMAIN. In the event the entire Premises is lawfully condemned or taken in any manner for any public or quasi-public use or purpose, or sold or conveyed in lieu of condemnation, this Lease shall terminate as of the date of such taking or conveyance. In the event only a portion of the Premises is taken or conveyed, the Premises shall be repaired or rebuilt. Landlord shall be entitled to all awards payable to Landlord for its fee interest in the Premises resulting from a taking, and Tenant shall be entitled to all awards payable to Tenant for its leasehold interest in the Premises resulting from a taking including, without limitation, moving expenses, the cost of any Improvements made by Tenant to the Premises and losses incurred by Tenant as a result of the taking; provided however that Landlord and Tenant agree that all such condemnation proceeds shall be applied first to rebuilding and restoring any damage to the Premises as a result of such condemnation. Landlord hereby covenants and agrees that it will not use any taking or eminent domain powers and authority it may have to initiate or pursue condemnation with respect to the Premises during the Term, except that the County may exercise its condemnation powers or authority pursuant to section 32.05 of the Wisconsin Statutes to facilitate the construction, relocation, widening, or make any other improvement to any alley, street, road, highways, or other public right-of-way.

14. ASSIGNMENT AND SUBLETTING. Tenant will sublease the Premises to Bayview Housing Partners, LLC ("Bayview Partners"). Any other sublease or assignment of this Lease shall require Landlord's written consent. Landlord shall not assign or transfer this Lease without first obtaining Tenant's written consent. Bayview Partners shall not be required to obtain Landlord's consent in connection with the transfer, assignment or other conveyance of any membership interest in Bayview Partners.

15. DEFAULT.

(a) Defaults. If Tenant (i) fails to pay any installment of rent or other charges hereunder when due and such default is not cured within five days after receipt of written notice thereof from Landlord, or (ii) fails to perform any other covenant, term, agreement or condition of this Lease and such default is not cured within 30 days after receipt of written notice thereof from Landlord to Tenant and Investor Member (unless the default is of a nature that it cannot be cured within 30 days, in which event Tenant must commence the cure within the 30-day period and diligently prosecute same to completion), or (iii) fails to provide a temporary or final certificate of occupancy for the Residential Project within 42 months from the date of this Lease, unless such failure is the result of force majeure or the requirement that construction stop on the Residential Project as a direct result of a plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulations or direction, then Landlord, in addition to all other rights and remedies available to Landlord at law or in equity or by other provisions hereof, may immediately re-enter the Premises and remove all persons and property and, at Landlord's option, terminate this Lease or terminate Tenant's right to possession of the Premises without terminating the Lease. Tenant further agrees that in case of any such termination Tenant will indemnify Landlord against all damages which Landlord may incur by reason of such termination including, without limitation, reasonable attorneys' fees.

If Tenant shall default in the observance or performance of any term or covenant of this Lease, or if Tenant shall fail to pay any sum of money, other than rent required to be paid by Tenant hereunder, Landlord may, without waiving or releasing Tenant, remedy such default at the expense of Tenant after notice and expiration of any applicable cure period. If Landlord makes any expenditures or incurs any obligations for the payment of money in connection with Tenant's default including, but not limited to, reasonable attorneys' fees, Tenant shall pay to Landlord as additional rent such sums paid or obligations incurred, with costs and interest at the rate of 12% per year.

Any cure of any default by Tenant made or tendered by any Investor Member (defined below) of the Tenant shall be deemed to be a cure by the Tenant and shall be accepted or rejected on the same basis as if made or tendered by the Tenant. Landlord shall have no right to terminate this Lease unless Landlord has given written notice to any Investor Member of Tenant and the Investor Member has failed to remedy such default within the applicable cure period.

(b) Unpaid Sums. Any amounts owing from Tenant to Landlord under this Lease shall bear interest at the annual rate of 12% calculated from the date due until the date of payment.

16. ESTOPPEL CERTIFICATE. Within fourteen (14) days after written request from Landlord, Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate in form and content reasonably acceptable to Landlord. Within fourteen (14) days

after written request from Tenant, Landlord shall execute, acknowledge and deliver to Tenant an estoppel certificate in form and content reasonably acceptable to Tenant.

17. OPTION TO PURCHASE. Landlord acknowledges and agrees that Tenant shall have the Option to Purchase the Premises for the purchase price (the "Purchase Price") of \$10.00 (the "Option"). The option contained herein shall be exercisable by Tenant at any time after January 1, 2051, until the end of the Lease term. The Option shall be deemed exercised if and when Tenant notifies Landlord in writing (the "Exercise Notice") of Tenant's election to exercise the Option. The date, if any, upon which Tenant exercises the Option shall be called the "Exercise Date." The closing on the sale of the Premises to Tenant ("Closing") shall occur on the date set forth in the Exercise Notice, which date shall be no sooner than 30 days but no later than 90 days after the Exercise Date. Tenant shall have the right assign its rights to acquire the Premises under this section to Bayview Partners or another affiliate by providing written notice to Landlord prior to Closing.

18. RIGHT OF FIRST REFUSAL. Tenant shall have a right of first refusal to purchase the Premises, upon the terms and conditions set forth in this Section 18 (the "Right of First Refusal"). If Landlord receives a bona fide offer to purchase the Premises from a third party purchaser (the "Offer") whether or not solicited, prior to accepting such Offer, Landlord shall deliver a complete and accurate copy of the Offer to Tenant, together with a written statement to the effect that Landlord intends to accept the Offer if Tenant does not exercise its rights hereunder (the "Offer Notice"). If Tenant desires to purchase the Premises, it shall be on substantially the terms and conditions set forth in the Offer, except that the price shall be lesser of (i) the Purchase Price stated in Section 17 above; and (ii) the price set forth in the Offer, and Tenant shall notify Landlord in writing within thirty (30) days following Tenant's receipt of the Offer Notice. If Tenant fails to exercise its Right of First Refusal pursuant to this Section, the Premises may be sold, transferred or assigned pursuant to the Offer to a bona fide third-party purchaser subject to the terms of this Lease, and Tenant's Right of First Refusal shall remain in full force and effect after such a transfer and binding on the transferee. Notwithstanding the foregoing, if a transfer pursuant to an Offer presented to Tenant does not close, or if the Offer is later materially amended, then the Tenant's Right of First Refusal shall survive and the Landlord must comply with this Section as to any new or amended Offers. For the purposes of this Section, a material amendment to an Offer shall include, but not be limited to, any adjustment in the purchase price under the Offer or any extension in the time for closing under the Offer by more than thirty (30) days. In the event the Landlord receives an Offer which is not a bona fide, arms-length or unrelated, third party offer, or otherwise transfers the Premises to a related party or pursuant a non-arms-length transaction, then such transfer shall be made subject to this Lease and Tenant's Right of First Refusal shall remain in full force and effect after such a transfer and binding on the transferee. Tenant shall have the right assign its rights to acquire the Premises under this section to Bayview Partners or another affiliate by providing written notice to Landlord prior to closing.

19. QUIET ENJOYMENT. Landlord covenants that if Tenant shall pay the rent and observe and perform all the terms, covenants and conditions of this Lease on its part to be observed and performed, Tenant may peaceably and quietly enjoy the Premises subject to the terms and conditions of this Lease.

20. AFFORDABILITY REQUIREMENTS. Landlord and Tenant acknowledge that Bayview Partners will own the Residential Project and intends to operate the Residential Project as an affordable residential rental development. In consideration of the terms and provisions of this Lease, Tenant covenants to Landlord that Tenant shall and shall cause Bayview Partners to maintain the Residential Project in accordance with the occupancy restrictions set forth in the Land Use Restriction Agreement to be executed by Bayview Partners in favor of Landlord with respect to the Residential Project (the "LURA") during the term thereof, it being acknowledged and agreed that the Residential Project affordability restrictions contained in this Lease shall terminate upon the expiration or earlier termination of the LURA. A violation of the LURA, as determined by Landlord in its reasonable discretion, shall be deemed an event of default by Tenant of this Lease.

21. FAIR TENANT SELECTION CRITERIA. Tenant shall and shall cause Bayview Partners to comply with the Fair Tenant Selection Criteria attached hereto as Exhibit B (the "Fair Tenant Selection Criteria") throughout the term of this Lease. The Fair Tenant Selection Criteria shall not be modified or amended unless Landlord provides its prior written consent to such modification or amendment. Notwithstanding the foregoing, Landlord's consent to a modification or amendment of the Fair Tenant Selection Criteria shall not be required to the extent a change in law mandates a modification or other amendment of the Fair Tenant Selection Criteria. Upon any modification or other amendment of the Fair Tenant Selection Criteria, Tenant or Bayview Partners shall provide written notice of such modifications or other amendments to Landlord.

22. TENANCY ADDENDUM. Tenant shall and shall cause Bayview Partners to include the Tenancy Addendum attached hereto as Exhibit C (the "Tenancy Addendum") as a part of each lease of a residential unit within the Residential Project throughout the term of this Lease. The Tenancy Addendum shall not be modified or amended unless Landlord provides its prior written consent to such modification or amendment. Notwithstanding the foregoing, Landlord's consent to a modification or amendment of the Tenancy Addendum shall not be required to the extent a change in law mandates a modification or other amendment of the Tenancy Addendum. Upon any modification or other amendment of the Tenancy Addendum, Tenant or Bayview Partners shall provide written notice of such modifications or other amendments to Landlord.

23. HOUSING FIRST. Tenant shall and shall cause Bayview Partners to target six (6) units in the Residential Project for households with income not exceeding 30% of Area Median Income for families experiencing and/or at risk of homelessness being served in a rapid-rehousing program.

24. REPORTING REQUIREMENTS. Tenant or Bayview Partners shall provide to Landlord an annual written report which shall, at a minimum, include the following information: number of tenants, how many units in the Residential Project are rented to tenants with household incomes at 60%, 50%, 40% and 30% of 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 Landlord, and any other information that may affect the status of the Premises or would be necessary for determining tenants compliance with the terms, covenants, and conditions of this Lease. The eviction report described in this section shall be due to Landlord no later than February 15 and shall reflect the period from January 1 to December 31 of the previous calendar year. Tenant shall also provide, upon reasonable request by Landlord, reports and other documentation related to tenancy, leasing and rental records for assisted units in the Residential Project. Tenant shall take and shall cause Bayview Partners to take reasonable steps to assist Landlord in monitoring units assisted or available for assistance in the Residential Project.

25. TAX MATTERS. This Lease is intended to convey to Tenant all the benefits and burdens of ownership of the Improvements and to cause Tenant to be treated as the owner of the Premises for federal income tax purposes. The parties agree to treat this Lease in a manner consistent with this intention, including filing all federal income tax returns and other reports consistent with such treatment. Landlord will not claim tax credits, depreciation or any other federal or state income tax benefits with respect to the Premises, or take any action which is inconsistent with this provision. Any and all depreciation, amortization and tax credits for Federal, state or local tax purposes relating to the Premises and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto will be deducted or credited exclusively by Tenant during the term hereof and for the tax years during the term hereof.

26. MISCELLANEOUS PROVISIONS.

(a) Successors and Assigns. This Lease shall inure to and be binding upon Landlord and Tenant and their respective successors and assigns.

(b) Non-waiver. Waiver by Landlord or Tenant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition of this Lease.

(c) Entire Agreement. This Lease contains all covenants and agreements between Landlord and Tenant relating to the Premises. No prior agreements or understandings pertaining thereto shall be valid or of any force or effect. This Lease shall not be altered, modified or amended except in writing signed by Landlord and Tenant.

(d) Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

(e) Memorandum. At the request of either party, Landlord and Tenant shall execute, acknowledge, and deliver a Memorandum of Lease, which shall be in recordable form, provide public notice of the principal terms hereof, including but not limited to the Option and Right of First Refusal.

(f) Standstill. Notwithstanding any other provision of this Lease for so long as Wincopin Circle LLLP, its successors and assigns and Affordable Housing Fund II LLC, its successor and assigns, are members of Bayview Partners, or until the expiration of the tax credit compliance period (as defined in Bayview Partners' operating agreement), whichever is later, in no event will Landlord have the right to (a) declare a default under this Lease (except for a default with respect to the affordability requirements set forth in the LURA which default is not timely cured as provide in such LURA), (b) declare any late charges or penalties due under this Lease, or (c) enforce any of its remedies under this Lease (except for the affordability requirements set forth in the LURA). Nothing contained herein shall prohibit Landlord from taking action to enforce specific performance of the affordability requirements contained in the LURA.

(g) Notices. All notices which Landlord or Tenant may be required, or may desire, to serve on the other may be served by personal service or by mailing by registered or certified mail, postage prepaid, at such address as set forth on the signature pages hereof or such other address as the parties may from time to time designate to the other in writing. In addition, any notice sent by Landlord or by Tenant pursuant to this Lease shall also be sent to Tenant's investor member, Wincopin Circle LLLP, its successors and assigns, and Affordable Housing Fund II LLC, its successors and assigns (collectively, the "Investor Member") at:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044
Attention Asset Management
Email: sshack@enterprisecommunity.com

With a copy to:

Affordable Housing Fund II LLC
c/o Sugar Creek Capital
17 W. Lockwood Avenue
St. Louis, MO 63119
Attn: Legal Department

The time of rendition of such notice shall be deemed to be the time when the notice is delivered to or rejected by the recipient.

[Signature pages follow.]

In Witness Whereof, the parties hereto have executed this Lease as of the date first set forth above.

LANDLORD:

COUNTY OF DANE, WISCONSIN

BY: _____

Name: _____

Title: _____

Address:

Jenna Wuthrich

Housing Specialist, Dane County

City County Building, Room 421

Madison, WI 53703

Email: Wuthrich@countyofdane.com

With a copy to:

Office of the Corporation Counsel, Dane County

City County Building, Room 419

Madison, WI 53703

[Tenant's Signature Continues on Following Page]

Signature Page to Lease

TENANT:

BAYVIEW FOUNDATION, INC.

By: 
Alexis London, Executive Director

Address:

Bayview Foundation, Inc.
601 Bayview
Madison, WI 53715
Attention: Alexis London
Email: alexislondon@bayviewfoundation.org

Signature Page to Lease

EXHIBIT A

LEGAL DESCRIPTION

Lot 2 (Two) of Certified Survey Map No. _____ recorded in the Office of the Register of Deeds for Dane County, Wisconsin on _____, 2021, in Volume ____ of Certified Survey Maps, Page _____, as Document No. _____, located in the City of Madison, Dane County, Wisconsin.

EXHIBIT B

FAIR TENANT SELECTION CRITERIA

General Screening Process

The screening process applied to the project must not deny applicants based on the following:

- a. Inability to meet a minimum income requirement if the applicant can demonstrate the ability to comply with the rent obligation based on a rental history of paying at an equivalent rent to income ratio for 24 months;
- b. Lack of housing history;
- c. Credit score;
- d. Information on credit report that is disputed, in repayment, or unrelated to a past housing or utility (gas, electric, and water only) obligations.
- e. Inability to meet financial obligations other than housing and utilities necessary for housing (gas, electric, water).
- f. Owing money to a prior landlord or negative rent payment history if the tenant's housing and utility costs were more than 50% of their monthly income.
- g. Owing money to a prior landlord or negative rent or utility payment history if applicant does one of the following: (1) establishes a regular record of repayment of the obligation; 2) signs up for automatic payment of rent to the housing provider; or (3) obtains a representative payee.
- h. Wisconsin Circuit Court Access records;
- i. Criminal activity, except: (i) a criminal conviction within the last two years for violent criminal activity or drug related criminal activity resulting in a criminal conviction, and (ii) if the program or project is federally assisted, criminal activity for which federal law currently requires denial. (*Violent criminal activity* is defined in 24 C.F.R § 5.100 and means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. "Drug related criminal activity is defined in Wis. Stat. s. 704.17(3m)(a)(2). "Drug-related criminal activity" means criminal activity that involves the manufacture or distribution of a controlled substance. "Drug-related criminal activity" does not include the manufacture, possession, or use of a controlled substance that is prescribed by a physician for the use of by a disabled person, as defined in s. 100.264(1)(a), and manufactured by, used, by or in the possession of the disabled person or in the possession of the disabled person's personal care worker or other caregiver.)
- j. Membership in a class protected by Dane County fair housing ordinances and non-discrimination ordinances in the municipality where the project is located.

Denial Process

- 1) Prior to a denial based on a criminal record, the housing provider shall provide the applicant access to a copy of the criminal record at least five days prior to the in-person appeal meeting and an opportunity to dispute the accuracy and relevance of the report, which is already required of HUD assisted housing providers. See 24 C.F.R. 82.553(d), which applies to public housing agencies administering the section 8 rent assistance program.
- 2) Prior to a denial based on a criminal record, the housing provider shall provide the applicant the opportunity to exclude the culpable family member as a condition of admission of the remaining family members.
- 3) Prior to a denial decision, the housing provider is encouraged to meet with the applicant to review their application and make an individualized determination of their eligibility, considering: (a) factors identified in the provider's own screening policies, (b) if applicable, federal regulations, and (c) whether the applicant has a disability that relates to concerns with their eligibility and an exception to the admissions rules, policies, practices, and services is necessary as a reasonable accommodation of the applicant's disability. In making a denial decision, the housing provider shall consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial on other family members who were not involved in the action or failure.
- 4) The property manager will base any denial on sufficient evidence. An arrest record or police incident report is not sufficient evidence. Uncorroborated hearsay is not sufficient evidence.
- 5) Denial notices shall include the following:
 - a) The reason for denial with details sufficient for the applicant to prepare a defense, including:
 - (i) The action or inaction forming the basis for the denial,
 - (ii) Who participated in the action or inaction,
 - (iii) When the action or inaction was committed, and
 - (iv) The source(s) of information relied upon for the action or inaction.
 - b) Notice of the applicant's right to a copy of their application file, which shall include all evidence upon which the denial decision was based.
 - c) Notice of the applicant's right to copies of the property manager's screening criteria.

- d) Notice of the right to request an in-person appeal meeting on the denial decision by making a written request for a hearing within 45 days. The housing provider is not required to hold the unit open while the appeal is pending.
 - e) Notice of the right to have an advocate present at the in-person appeal meeting and of the right to be represented by an attorney or other representative.
 - f) Notice of the right to present evidence in support of their application, including, but not limited to evidence related to the applicant's completion or participation in a rehabilitation program, behavioral health treatment, or other supportive services.
- 6) The if the applicant requests an in-person appeal meeting, the hearing will be conducted by a person who was not involved in or consulted in making the decision to deny the application nor a subordinate of such a person so involved.
 - 7) The in-person appeal meeting shall be scheduled within ten working days of the request, unless the applicant requests a later date.
 - 8) A written decision on the application shall be provided to the applicant within ten working days after the in-person appeal meeting.

EXHIBIT C

TENANCY ADDENDUM

- 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

FAIR TENANT SELECTION CRITERIA

General Screening Process

The screening process applied to the project must not deny applicants based on the following:

- a. Inability to meet a minimum income requirement if the applicant can demonstrate the ability to comply with the rent obligation based on a rental history of paying at an equivalent rent to income ratio for 24 months;
- b. Lack of housing history;
- c. Credit score;
- d. Information on credit report that is disputed, in repayment, or unrelated to a past housing or utility (gas, electric, and water only) obligations.
- e. Inability to meet financial obligations other than housing and utilities necessary for housing (gas, electric, water).
- f. Owing money to a prior landlord or negative rent payment history if the tenant's housing and utility costs were more than 50% of their monthly income.
- g. Owing money to a prior landlord or negative rent or utility payment history if applicant does one of the following: (1) establishes a regular record of repayment of the obligation; 2) signs up for automatic payment of rent to the housing provider; or (3) obtains a representative payee.
- h. Wisconsin Circuit Court Access records;
- i. Criminal activity, except: (i) a criminal conviction within the last two years for violent criminal activity or drug related criminal activity resulting in a criminal conviction, and (ii) if the program or project is federally assisted, criminal activity for which federal law currently requires denial. (*Violent criminal activity* is defined in 24 C.F.R § 5.100 and means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. "Drug related criminal activity" is defined in Wis. Stat. s. 704.17(3m)(a)(2). "Drug-related criminal activity" means criminal activity that involves the manufacture or distribution of a controlled substance. "Drug-related criminal activity" does not include the manufacture, possession, or use of a controlled substance that is prescribed by a physician for the use of by a disabled person, as defined in s. 100.264(1)(a), and manufactured by, used, by or in the possession of the disabled person or in the possession of the disabled person's personal care worker or other caregiver.)
- j. Membership in a class protected by Dane County fair housing ordinances and non-discrimination ordinances in the municipality where the project is located.

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- 4) The property manager will base any denial on sufficient evidence. An arrest record or police incident report is not sufficient evidence. Uncorroborated hearsay is not sufficient evidence.
- 5) Denial notices shall include the following:
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EXHIBIT D

TENANCY ADDENDUM

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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.

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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.

**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 Bayview Housing Partners, 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, County owns the land legally described on Exhibit A which is attached hereto and incorporated by reference (the "County Land"), and located in Madison, Wisconsin;

WHEREAS, County and Bayview Foundation, Inc., a Wisconsin non-stock corporation ("Foundation") entered into that certain Lease dated March ____, 2021 where by the County leased the County Land to Foundation (the "Primary Lease");

WHEREAS, Foundation and Owner entered into that certain Sublease dated March ____, 2021 whereby Foundation subleased the County Land to Owner ("Sublease");

WHEREAS, Owner owns the land described on Exhibit B which is attached hereto and incorporated by reference (the "Owner Land" and together with the County Land, the "Land") and all buildings and other improvements located on the Land;

WHEREAS, Owner intends to redevelop the apartment project currently located on the Land and will build a 130-unit affordable housing development on the Land, consisting of 73 apartments in two (2) buildings and 57 townhomes in eight (8) buildings (collectively, the "Improvements"), and Owner shall be the sole owner of the Improvements during the term of the Lease;

WHEREAS, as a condition precedent to County entering into the Lease, County requires that Owner restrict the use of the Improvements 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

Recording Area

Drafted by and Return to:
County of Dane
Attn: Susan Rauti
210 Martin Luther King Jr. Blvd.
Madison, Wisconsin 53703

[ADD BEFORE CLOSING]

Parcel Identification Number (PIN)

covenants and agrees on behalf of itself and its successors in title to the Improvements 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 63 of the apartments and all 57 townhomes within the Improvements (the "Rent Restricted Units").
- 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 the County upon the occurrence of 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 Rent Restricted Unit of the Improvements for any purpose other than rental housing and shall not take any action which would in any way otherwise impair the use of the Improvements 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 Improvements or in connection with the employment or application for employment of persons for the operation and management of the Improvements 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, except that occupancy and operation of the senior building may be limited in accordance with the Housing for Older Persons Act of 1995. The Owner agrees to administer the Improvements to affirmatively further fair housing.

1.7 Occupancy Restrictions. Upon completion of the Improvements and until the date which is the 30-year anniversary of the completion date of the Improvements, Owner shall, at all times, ensure that the Project is occupied by qualifying tenants as set forth herein, to wit: ninety-four (94) units will be rented to person(s) who earn 60% 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; and twenty-six (26) 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 (the "30% Units"), and generally disbursed throughout the unit-bedroom types as set forth on Exhibit C. Six (6) of the 30% Units will target families experiencing and/or at risk of homelessness being served in a rapid-rehousing program. Each of the Rent Restricted Units 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 ("WHEDA") factoring in the number of bedrooms in the Apartment and it being located in Madison, Wisconsin. County acknowledges that compliance with the income and rent restrictions set forth in this Section 1.7 shall be calculated consistently with the income and rent restrictions set forth in that certain Land Use Restriction Agreement Low-Income Housing Tax Credit to be entered into between Owner and WHEDA (the "WHEDA LURA").

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 pursuant to the WHEDA LURA.

- (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 of the Improvements 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 Rent Restricted 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 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 Improvements 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.

1.10 Reporting Requirements. Upon written request by County, Owner shall provide or make available 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 60%, 50% 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 1 and shall reflect the period from January 1 to December 31 of the previous calendar year

1.11 Records. Owner shall provide, upon reasonable request by County, reports and other documentation related to tenancy, leasing and rental records for Rent Restricted Units assisted under this Agreement. Owner shall take reasonable steps to assist County in monitoring the Rent Restricted Units assisted or available for assistance under this Agreement.

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 mortgages to be recorded by the construction lender and 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).
- 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 Improvements, Owner shall promptly give written notice thereof to the County and take any lawful action to cause the Rent Restricted Units to comply with this Agreement.

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 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 Improvements. The term shall end on the thirty (30) year anniversary of the date hereof.
- 3.2 Early Termination. Notwithstanding the provisions of Section 3.1 above, this Agreement and the restrictions imposed hereby shall, at the election of the holder of the foreclosed mortgage, terminate upon the date the Improvements are 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 Dane County. This Agreement shall run with the Improvements and bind the Owner and its successors and assigns and all subsequent owners of the Improvements 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 upon 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 Improvements.
- 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.
- 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 on the signature pages hereof, 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:

INVESTOR:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044
Attention Asset Management
Email: sshack@enterprisecommunity.com

With a copy to:

Affordable Housing Fund II LLC
c/o Sugar Creek Capital
17 W. Lockwood Avenue
St. Louis, MO 63119
Attn: Legal Department

LENDER:

Wisconsin Housing and Economic Development Authority
201 West Washington Avenue, Suite 700
Madison, WI 53703
Attention: General Counsel

- 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, 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: _____

Address:

Jenna Wuthrich
Housing Specialist, Dane County
City County Building, Room 421
Madison, WI 53703
Email: Wuthrich@countyofdane.com

With a copy to:
Office of the Corporation Counsel, Dane
County
City County Building, Room 419
Madison, WI 53703

STATE OF WISCONSIN)
) ss
DANE _____ COUNTY)

Personally came before me this ____ day of March, 2021, the above named _____, the _____ 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 OF COUNTY LAND

Lot 2 (Two) of Certified Survey Map No. _____ recorded in the Office of the Register of Deeds for Dane County, Wisconsin on _____, 2021, in Volume ___ of Certified Survey Maps, Page _____, as Document No. _____, located in the City of Madison, Dane County, Wisconsin.

EXHIBIT B
TO LAND USE RESTRICTION AGREEMENT
LEGAL DESCRIPTION OF OWNER LAND

Lot 1 (One) of Certified Survey Map No. _____ recorded in the Office of the Register of Deeds for Dane County, Wisconsin on _____, 2021, in Volume ____ of Certified Survey Maps, Page _____, as Document No. _____, located in the City of Madison, Dane County, Wisconsin.

EXHIBIT C

Unit Mix

The newly constructed Improvements will consist of twenty-four (24) 1-bedroom units, thirty-eight (38) 2-bedroom units, and sixty-eight (68) 3-bedroom units. Eight units will have Project-Based Vouchers through the Dane County Housing Authority, ninety-nine (99) units will be designated as Section 8 HAP units under a twenty (20) year Housing Assistance Payment Contract, thirteen units will be will be affordable under the Low-Income Housing Tax Credit program, and the remaining thirteen will be market rate units. Six units will be targeted to families that are being served in a rapid-rehousing program.

SUBLEASE

In consideration of the mutual promises and covenants contained in this Sublease, dated as of _____, 2021, Bayview Foundation, Inc., a Wisconsin non-stock corporation (the "Sublessor") and Bayview Housing Partners, LLC, a Wisconsin limited liability company (the "Sublessee") agree as follows:

1. PRIME LEASE. Reference is made to a certain Lease dated _____, 2021 ("Prime Lease") by and between Sublessor, as "Tenant" and County of Dane, Wisconsin, as "Landlord" ("Prime Landlord"), for certain land described on Exhibit A attached hereto ("Premises").

2. SUBLEASE. Sublessor agrees to sublease to Sublessee, and Sublessee agrees to sublease from Sublessor, the Premises. This Sublease and all of its terms, covenants, representations, warranties, agreements and conditions are in all respects subject and subordinate to the Prime Lease (which Prime Lease is attached hereto as Exhibit B). Sublessee acknowledges notice and full knowledge of all the terms, covenants and conditions of the Prime Lease.

3. CONDITION OF PREMISES. Sublessee acknowledges and agrees that Sublessee is leasing the Premises "AS IS", and Sublessor makes no warranties, express or implied, as to fitness, merchantability, use or condition of the Premises. Sublessee leases the Premises without representation or warranty of Sublessor, express or implied, in fact or by law, and without recourse, with respect to: (a) the condition of the Premises and (b) the ability to use the Premises for any particular purpose.

4. TERM. This Sublease term shall commence upon the date hereof and shall terminate on December 31, 2086.

5. RENT. Commencing on _____, 2021, Sublessee shall pay to Sublessor rent in the amount of _____ Dollars (\$_____) per year ("Rent"). Rent shall be payable from available Net Cash Flow in accordance with Sublessee's First Amended and Restated Operating Agreement, dated as of [], 2021 (the "Sublessee's Operating Agreement"). If there is insufficient Net Cash Flow in any year to fully pay the Rent, then any remaining amounts of unpaid Rent shall accrue and be payable from Net Cash Flow in future years. Interest shall accrue on all amounts of unpaid Rent at a compounding rate of interest equal to the applicable federal rate. Net Cash Flow shall have the meaning given to such term in Sublessee's Operating Agreement.

6. UTILITIES. Sublessee shall be responsible for payment of all utilities, including electricity, sewer and water furnished to the Premises during the term of this Lease.

7. USE. A community center for "Bayview Apartments and Townhomes" is currently located on the Premises. The community center will continue to be occupied and used until it is demolished as part of the redevelopment of Bayview Apartments and Townhomes. Upon the demolition of the community center, the Premises will be improved with a parking lot and ancillary green space for the redeveloped "Bayview Townhomes and Apartments" (the

“Residential Project”). Notwithstanding the foregoing, the Premises may be used for any lawful purpose. Sublessee will not use the Premises in any manner that prevents the obtaining of insurance required in Section 9.

8. MAINTENANCE AND REPAIR. Sublessee shall, at its expense, keep and maintain the Premises in a good, clean, safe, secure and sanitary condition, and to that end shall perform any and all necessary repairs, replacements and maintenance to the Premises.

9. COVENANTS.

(a) Compliance with Laws. Sublessee agrees to comply with all laws, orders, ordinances and regulations and with any direction made pursuant to law of any public officer, relating to Sublessee’s use of the Premises.

(b) Surrender. Upon the termination of this Sublease for any reason, Sublessee shall remove Sublessee’s goods, effects and fixtures and those of any other persons claiming under Sublessee, and quit and deliver up the Premises to Sublessor peaceably and quietly.

(c) Personal Property Taxes. Sublessee agrees to pay, before delinquency, any and all taxes levied or assessed and which become payable during the Sublease term upon Sublessee’s equipment, furniture, fixtures and other personal property located in the Premises.

(d) Real Estate Taxes and Assessments. Sublessee agrees to pay, before delinquency, any and all real estate taxes and special assessments levied or assessed and which become payable during the Sublease term upon the Premises.

(e) Signage. Sublessee may place any signs on the Premises provided they comply with applicable municipal ordinances.

(f) Expenses of Operating the Premises. Sublessee shall, at its expense, obtain any and all services related to the operation of the Premises that it desires, including without limitation the provision of any landscaping services, snow removal, and supplies, if necessary for operation of the Premises in compliance with Section 7 hereof.

(g) Financing. Sublessor shall not finance the Premises or otherwise encumber its interest in the Premises without Sublessee’s and any Investor Member’s prior written consent. Sublessee shall have the right to encumber its leasehold interest in the Premises and execute and deliver a collateral assignment hereof in connection with any such financing, and Sublessor agrees to execute such consent to collateral assignment as Sublessee’s lender may reasonably require.

10. INSURANCE. During the Sublease term, Sublessee shall keep in full force and effect, at its expense: (a) a policy of commercial general liability insurance covering the Premises, with a combined single limit of not less than \$1,000,000; and (b) insurance against fire, vandalism, malicious mischief and such other perils as are from time to time included in a

“special form” property insurance policy, insuring Sublessee’s merchandise, trade fixtures, furnishings, equipment and all other items of personal property of Sublessee located on or within the Premises, in an amount not less than their full replacement value. Sublessee’s commercial general liability insurance policy shall name Prime Landlord, Sublessor and Sublessee as insureds. A copy of the paid-up policies evidencing such insurance or certificates of insurers shall be delivered to Prime Landlord and Sublessor prior to the commencement date of this Lease and upon renewals not less than 30 days prior to the expiration of such coverage.

11. DAMAGE OR DESTRUCTION. In case of damage to the Premises by fire, vandalism, malicious mischief or any other casualty, the Premises may be repaired or rebuilt by Sublessee.

12. NO MUTUAL INDEMNIFICATION. Each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, boards, commissions, agencies, officers, and representatives and shall be responsible for any losses, claims, and liabilities which are attributable to such acts, errors, or omissions including providing its own defense. In situations of joint liability, each party shall be responsible for the consequences of its own acts, errors, or omissions and those of its employees, agents, boards, commissions, agencies, officers and representatives. It is not the intent of the parties to impose liability beyond that imposed by state statutes.

13. IMPROVEMENTS AND ALTERATIONS. Sublessee may make, at any time and from time to time, any alterations or improvements (“Improvements”) to the Premises it desires. All Improvements shall be made at Sublessee’s sole cost and expense. Sublessee shall obtain all necessary permits, and Sublessor shall cooperate as needed by Sublessee to obtain said permits; further, Sublessee shall provide Sublessor with copies thereof. Sublessee shall promptly repair any damage and perform any necessary cleanup resulting from any Improvements. All Improvements (except trade fixtures, furniture and equipment belonging to Sublessee) in existence upon termination of this Lease shall be Prime Landlord’s property and shall remain upon the Premises, all without compensation to Sublessee. Sublessee agrees not to create, incur, impose or permit any construction liens against the Premises by reason of any Improvement and Sublessee agrees to hold Prime Landlord and Sublessor harmless from and against any such lien claim. At its expense, Sublessee shall cause to be discharged, within thirty days of the filing thereof, any construction lien claim filed against the Premises for work claimed to have been done for, or materials claimed to have been furnished to, or on behalf of Sublessee.

14. EMINENT DOMAIN. In the event the entire Premises is lawfully condemned or taken in any manner for any public or quasi-public use or purpose, or sold or conveyed in lieu of condemnation, this Sublease shall terminate as of the date of such taking or conveyance. In the event only a portion of the Premises is taken or conveyed, the Premises shall be repaired or rebuilt. Prime Landlord shall be entitled to all awards payable to Prime Landlord for its fee interest in the Premises resulting from a taking, and Sublessee shall be entitled to all awards payable to Sublessor for its leasehold interest in the Premises resulting from a taking including, without limitation, moving expenses, the cost of any Improvements made by Sublessee to the Premises and losses incurred by Sublessee as a result of the taking; provided however that Prime Landlord, Sublessor and Sublessee agree that all such condemnation proceeds shall be applied

first to rebuilding and restoring any damage to the Premises as a result of such condemnation. Prime Landlord hereby covenants and agrees that it will not use any taking or eminent domain powers and authority it may have to initiate or pursue condemnation with respect to the Premises during the Term, except that Prime Landlord may exercise its condemnation powers or authority pursuant to section 32.05 of the Wisconsin Statutes to facilitate the construction, relocation, widening, or make any other improvement to any alley, street, road, highways, or other public right-of-way.

15. ASSIGNMENT AND SUBLETTING. Any sublease or assignment of this Sublease shall require Sublessor's and Prime Landlord's written consent. Sublessor shall not assign or transfer this Sublease without first obtaining Prime Landlord's and Sublessee's written consent. Sublessee shall not be required to obtain Sublessor's consent in connection with the transfer, assignment or other conveyance of any membership interest in Sublessee.

16. DEFAULT.

(a) Defaults. If Sublessee (i) fails to pay any installment of rent or other charges hereunder when due and such default is not cured within five days after receipt of written notice thereof from Sublessor, or (ii) fails to perform any other covenant, term, agreement or condition of this Sublease and such default is not cured within 30 days after receipt of written notice thereof from Sublessor to Sublessee and Investor Member (unless the default is of a nature that it cannot be cured within 30 days, in which event Sublessee must commence the cure within the 30-day period and diligently prosecute same to completion), or (iii) fails to provide a temporary or final certificate of occupancy for the Residential Project within 42 months from the date of this Lease, unless such failure is the result of force majeure or the requirement that construction stop on the Residential Project as a direct result of a plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulations or direction, then Sublessor, in addition to all other rights and remedies available to Sublessor at law or in equity or by other provisions hereof, may immediately re-enter the Premises and remove all persons and property and, at Sublessor's option, terminate this Sublease or terminate Sublessee's right to possession of the Premises without terminating the Sublease. Sublessee further agrees that in case of any such termination Sublessee will indemnify Sublessor against all damages which Sublessor may incur by reason of such termination including, without limitation, reasonable attorneys' fees.

If Sublessee shall default in the observance or performance of any term or covenant of this Sublease, or if Sublessee shall fail to pay any sum of money, other than rent required to be paid by Sublessee hereunder, Sublessor may, without waiving or releasing Sublessee, remedy such default at the expense of Sublessee after notice and expiration of any applicable cure period. If Sublessor makes any expenditures or incurs any obligations for the payment of money in connection with Sublessee's default including, but not limited to, reasonable attorneys' fees, Sublessee shall pay to Sublessor as additional rent such sums paid or obligations incurred, with costs and interest at the rate of 12% per year.

Any cure of any default by Sublessee made or tendered by any Investor Member (defined below) of the Sublessee shall be deemed to be a cure by the Sublessee and shall be accepted or rejected on the same basis as if made or tendered by the Sublessee. Sublessor shall have no right to terminate this Sublease unless Sublessor has given written notice to any Investor Member of Sublessee and the Investor Member has failed to remedy such default within the applicable cure period.

Each of Sublessor and Sublessee agree that if Sublessee is not performing, fulfilling or observing its covenants, agreements and obligations under this Sublease, Prime Landlord may enforce such covenants, agreements and obligations on its behalf and on behalf Sublessor and may declare Sublessee to be in default of this Sublease in accordance with the terms of this Section 16(a).

(b) Unpaid Sums. Any amounts owing from Sublessee to Sublessor under this Sublease shall bear interest at the annual rate of 12% calculated from the date due until the date of payment.

17. ESTOPPEL CERTIFICATE. Within fourteen (14) days after written request from Sublessor, Sublessee shall execute, acknowledge and deliver to Sublessor an estoppel certificate in form and content reasonably acceptable to Sublessor. Within fourteen (14) days after written request from Sublessee, Sublessor shall execute, acknowledge and deliver to Sublessee an estoppel certificate in form and content reasonably acceptable to Sublessee.

18. Intentionally omitted.

19. Intentionally Omitted.

20. QUIET ENJOYMENT. Sublessor covenants that if Sublessee shall pay the rent and observe and perform all the terms, covenants and conditions of this Sublease on its part to be observed and performed, Sublessee may peaceably and quietly enjoy the Premises subject to the terms and conditions of this Sublease.

21. AFFORDABILITY REQUIREMENTS. Prime Landlord and Sublessor acknowledge that Sublessee will own the Residential Project and intends to operate the Residential Project as an affordable residential rental development. In consideration of the terms and provisions of this Lease, Sublessee covenants to Prime Landlord and Sublessor that Sublessee shall maintain the Residential Project in accordance with the occupancy restrictions set forth in the Land Use Restriction Agreement to be executed by Sublessee in favor of Prime Landlord with respect to the Residential Project (the "LURA") during the term thereof, it being acknowledged and agreed that the Residential Project affordability restrictions contained in this Lease shall terminate upon the expiration or earlier termination of the LURA. A violation of the LURA, as determined by Prime Landlord or Sublessor in its reasonable discretion, shall be deemed an event of default by Sublessee of this Lease.

22. FAIR TENANT SELECTION CRITERIA. Sublessee shall comply with the Fair Tenant Selection Criteria attached hereto as Exhibit C (the "Fair Tenant Selection Criteria")

throughout the term of this Lease. The Fair Tenant Selection Criteria shall not be modified or amended unless each of Prime Landlord and Sublessor provides its prior written consent to such modification or amendment. Notwithstanding the foregoing, neither Prime Landlord's nor Sublessor's consent to a modification or amendment of the Fair Tenant Selection Criteria shall be required to the extent a change in law mandates a modification or other amendment of the Fair Tenant Selection Criteria. Upon any modification or other amendment of the Fair Tenant Selection Criteria, Sublessee shall provide written notice of such modifications or other amendments to Prime Landlord and Sublessor.

23. TENANCY ADDENDUM. Sublessee shall include the Tenancy Addendum attached hereto as Exhibit D (the "Tenancy Addendum") as a part of each lease of a residential unit within the Residential Project throughout the term of this Sublease. The Tenancy Addendum shall not be modified or amended unless each of Prime Landlord and Sublessor provides its prior written consent to such modification or amendment. Notwithstanding the foregoing, Prime Landlord's and Sublessor's consent to a modification or amendment of the Tenancy Addendum shall not be required to the extent a change in law mandates a modification or other amendment of the Tenancy Addendum. Upon any modification or other amendment of the Tenancy Addendum, Sublessee shall provide written notice of such modifications or other amendments to Prime Landlord and Sublessor.

24. HOUSING FIRST. Sublessee shall target six (6) units in the Residential Project for households with income not exceeding 30% of Area Median Income for families experiencing and/or at risk of homelessness being served in a rapid-rehousing program.

25. REPORTING REQUIREMENTS. Sublessee shall provide to Prime Landlord and Sublessor an annual written report which shall, at a minimum, include the following information: number of tenants, how many units in the Residential Project are rented to tenants with household incomes at 60%, 50%, 40% and 30% of 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 that may affect the status of the Premises or would be necessary for determining tenants compliance with the terms, covenants, and conditions of this Sublease. 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. Sublessee shall also provide, upon reasonable request by Prime Landlord or Sublessor, reports and other documentation related to tenancy, leasing and rental records for assisted units in the Residential Project. Sublessee shall take reasonable steps to assist Prime Landlord and Sublessor in monitoring units assisted or available for assistance in the Residential Project.

26. TAX MATTERS. This Sublease is intended to convey to Sublessee all the benefits and burdens of ownership of the Improvements and to cause Sublessee to be treated as the owner of the Premises for federal income tax purposes. The parties agree to treat this Sublease in a manner consistent with this intention, including filing all federal income tax returns

and other reports consistent with such treatment. Neither Prime Landlord nor Sublessor will claim tax credits, depreciation or any other federal or state income tax benefits with respect to the Premises, or take any action which is inconsistent with this provision. Any and all depreciation, amortization and tax credits for Federal, state or local tax purposes relating to the Premises and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto will be deducted or credited exclusively by Sublessee during the term hereof and for the tax years during the term hereof.

27. MISCELLANEOUS PROVISIONS.

(a) Successors and Assigns. This Sublease shall inure to and be binding upon Sublessor and Sublessee and their respective successors and assigns.

(b) Non-waiver. Waiver by Sublessor or Sublessee of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition of this Lease.

(c) Entire Agreement. This Sublease contains all covenants and agreements between Sublessor and Sublessee relating to the Premises. No prior agreements or understandings pertaining thereto shall be valid or of any force or effect. This Sublease shall not be altered, modified or amended except in writing signed by Sublessor and Sublessee.

(d) Severability. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

(e) Memorandum. At the request of either party, Sublessor and Sublessee shall execute, acknowledge, and deliver a Memorandum of Sublease, which shall be in recordable form, provide public notice of the principal terms hereof, including but not limited to the Option and Right of First Refusal.

(f) Standstill. Notwithstanding any other provision of this Sublease for so long as Wincopin Circle LLLP, its successors and assigns and Affordable Housing Fund II LLC, its successor and assigns, are members of Sublessee, or until the expiration of the tax credit compliance period (as defined in Sublessee's Operating Agreement), whichever is later, in no event will Prime Landlord or Sublessor have the right to (a) declare a default under this Sublease (except for a default with respect to the affordability requirements set forth in the LURA which default is not timely cured as provide in such LURA), (b) declare any late charges or penalties due under this Sublease, or (c) enforce any of its remedies under this Sublease (except for the affordability requirements set forth in the LURA). Nothing contained herein shall prohibit Prime Landlord or Sublessor from taking action to enforce specific performance of the affordability requirements contained in the LURA.

(g) Notices. All notices which Sublessor or Sublessee may be required, or may desire, to serve on the other may be served by personal service or by mailing by registered or certified mail, postage prepaid, at such address as set forth on the signature pages hereof or

such other address as the parties may from time to time designate to the other in writing. In addition, any notice sent by Sublessor or by Sublessee pursuant to this Sublease shall also be sent to Sublessee's investor member, Wincopin Circle LLLP, its successors and assigns, and Affordable Housing Fund II LLC, its successors and assigns (collectively, the "Investor Member") at:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044
Attention Asset Management
Email: sshack@enterprisecommunity.com

With a copy to:

Affordable Housing Fund II LLC
c/o Sugar Creek Capital
17 W. Lockwood Avenue
St. Louis, MO 63119
Attn: Legal Department

The time of rendition of such notice shall be deemed to be the time when the notice is delivered to or rejected by the recipient.

[Signature pages follow.]

In Witness Whereof, the parties hereto have executed this Lease as of the date first set forth above.

SUBLESSOR:

BAYVIEW FOUNDATION, INC.

By: 
Alexis London, Executive Director

Address:

Bayview Foundation, Inc.
601 Bayview
Madison, WI 53715
Attention: Alexis London
Email: alexislondon@bayviewfoundation.org

[Sublessee's Signature Continues on Following Page]

Signature Page to Sublease

SUBLESSEE:

BAYVIEW HOUSING PARTNERS, LLC

By: Bayview Housing MM, LLC,

Its: Managing Member

By; Bayview Foundation, Inc.

Its: Sole Member

By: 
Alexis London, Executive Director

Address:

Bayview Foundation, Inc.

601 Bayview

Madison, WI 53715

Attention: Alexis London

Email: alexislondon@bayviewfoundation.org

[Prime Landlord's Signature Continues on Following Page]

Prime Landlord joins in this Sublease for the purpose of consenting to the assignment of the Option and Right of First Refusal by Sublessor to Sublessee and agreeing to provide the notices required under Section 19 hereof.

PRIME LANDLORD:

COUNTY OF DANE, WISCONSIN

BY _____
Joseph Parisi, Dane County Executive

Address:
Jenna Wuthrich
Housing Specialist, Dane County
City County Building, Room 421
Madison, WI 53703
Email: Wuthrich@countyofdane.com

With a copy to:
Office of the Corporation Counsel, Dane County
City County Building, Room 419
Madison, WI 53703

EXHIBIT A

LEGAL DESCRIPTION

Lot 2 (Two) of Certified Survey Map No. _____ recorded in the Office of the Register of Deeds for Dane County, Wisconsin on _____, 2021, in Volume ____ of Certified Survey Maps, Page _____, as Document No. _____, located in the City of Madison, Dane County, Wisconsin.

EXHIBIT B
PRIME LEASE

[See Attached]

EXHIBIT C

FAIR TENANT SELECTION CRITERIA

General Screening Process

The screening process applied to the project must not deny applicants based on the following:

- a. Inability to meet a minimum income requirement if the applicant can demonstrate the ability to comply with the rent obligation based on a rental history of paying at an equivalent rent to income ratio for 24 months;
- b. Lack of housing history;
- c. Credit score;
- d. Information on credit report that is disputed, in repayment, or unrelated to a past housing or utility (gas, electric, and water only) obligations.
- e. Inability to meet financial obligations other than housing and utilities necessary for housing (gas, electric, water).
- f. Owing money to a prior landlord or negative rent payment history if the tenant's housing and utility costs were more than 50% of their monthly income.
- g. Owing money to a prior landlord or negative rent or utility payment history if applicant does one of the following: (1) establishes a regular record of repayment of the obligation; 2) signs up for automatic payment of rent to the housing provider; or (3) obtains a representative payee.
- h. Wisconsin Circuit Court Access records;
- i. Criminal activity, except: (i) a criminal conviction within the last two years for violent criminal activity or drug related criminal activity resulting in a criminal conviction, and (ii) if the program or project is federally assisted, criminal activity for which federal law currently requires denial. (*Violent criminal activity* is defined in 24 C.F.R § 5.100 and means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. "Drug related criminal activity" is defined in Wis. Stat. s. 704.17(3m)(a)(2). "Drug-related criminal activity" means criminal activity that involves the manufacture or distribution of a controlled substance. "Drug-related criminal activity" does not include the manufacture, possession, or use of a controlled substance that is prescribed by a physician for the use of by a disabled person, as defined in s. 100.264(1)(a), and manufactured by, used, by or in the possession of the disabled person or in the possession of the disabled person's personal care worker or other caregiver.)
- j. Membership in a class protected by Dane County fair housing ordinances and non-discrimination ordinances in the municipality where the project is located.

Denial Process

- 1) Prior to a denial based on a criminal record, the housing provider shall provide the applicant access to a copy of the criminal record at least five days prior to the in-person appeal meeting and an opportunity to dispute the accuracy and relevance of the report, which is already required of HUD assisted housing providers. See 24 C.F.R. 82.553(d), which applies to public housing agencies administering the section 8 rent assistance program.
- 2) Prior to a denial based on a criminal record, the housing provider shall provide the applicant the opportunity to exclude the culpable family member as a condition of admission of the remaining family members.
- 3) Prior to a denial decision, the housing provider is encouraged to meet with the applicant to review their application and make an individualized determination of their eligibility, considering: (a) factors identified in the provider's own screening policies, (b) if applicable, federal regulations, and (c) whether the applicant has a disability that relates to concerns with their eligibility and an exception to the admissions rules, policies, practices, and services is necessary as a reasonable accommodation of the applicant's disability. In making a denial decision, the housing provider shall consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial on other family members who were not involved in the action or failure.
- 4) The property manager will base any denial on sufficient evidence. An arrest record or police incident report is not sufficient evidence. Uncorroborated hearsay is not sufficient evidence.
- 5) Denial notices shall include the following:
 - a) The reason for denial with details sufficient for the applicant to prepare a defense, including:
 - (i) The action or inaction forming the basis for the denial,
 - (ii) Who participated in the action or inaction,
 - (iii) When the action or inaction was committed, and
 - (iv) The source(s) of information relied upon for the action or inaction.
 - b) Notice of the applicant's right to a copy of their application file, which shall include all evidence upon which the denial decision was based.
 - c) Notice of the applicant's right to copies of the property manager's screening criteria.

- d) Notice of the right to request an in-person appeal meeting on the denial decision by making a written request for a hearing within 45 days. The housing provider is not required to hold the unit open while the appeal is pending.
 - e) Notice of the right to have an advocate present at the in-person appeal meeting and of the right to be represented by an attorney or other representative.
 - f) Notice of the right to present evidence in support of their application, including, but not limited to evidence related to the applicant's completion or participation in a rehabilitation program, behavioral health treatment, or other supportive services.
- 6) The if the applicant requests an in-person appeal meeting, the hearing will be conducted by a person who was not involved in or consulted in making the decision to deny the application nor a subordinate of such a person so involved.
- 7) The in-person appeal meeting shall be scheduled within ten working days of the request, unless the applicant requests a later date.
- 8) A written decision on the application shall be provided to the applicant within ten working days after the in-person appeal meeting.

EXHIBIT D

TENANCY ADDENDUM

- 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.