

Dane County Contract Cover Sheet

Dept./Division	Administration
Vendor Name	Gorman & Company Inc.
Vendor MUNIS #	20377
Brief Contract Title/Description	Addendum to ground and condo leases for the Valor on Washington Affordable Housing Project.
Contract Term	99 years
Total Contract Amount	\$ 0

Contract # <small>Admin will assign</small>	13790A+ 13790-1A
Addendum	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of Contract	
<input type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Grant
<input type="checkbox"/>	County Lessee
<input checked="" type="checkbox"/>	County Lessor
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input 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 #	Year	Org Code	Obj Code	Amount	\$


Resolution	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 type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.	Res # 529
	<input type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.	Year 2019

Contract Review/Approvals				
Initials	(DOB)	Date In	Date Out	Comments
KG		3/6/20		Received by DOA
CU			2/28/20	Controller
CU			2/28/20	Purchasing
SHR		3/6/2020	3/6/2020	Corporation Counsel
SHR		3/6/20	3/6/20	Risk Management
				County Executive

Dane County Contract Info		Vendor Contact Info	
Name	Chuck Hicklin	Name	
Phone #	266-4109	Phone #	
Email		Email	
Address		Address	

<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. <i>Susan R In Corp Counsel worked on these</i>

Contract Cover Sheet Signature

Dept. Head / Authorized Designee	Signature	Date
		<i>2/28/20</i>
	Printed Name	
Charles Hicklin		

Contracts Exceeding \$100,000

Major Contracts Review – DCO Sect. 25.11(3)

Director of Administration	Signature	Date
	Comments	
Corporation Counsel	Signature	Date
	Comments	

2019 RES-529

**APPROVING ADDENDA TO THE GROUND AND CONDOMINIUM
LEASES FOR THE VALOR ON WASHINGTON AFFORDABLE
HOUSING PROJECT**

Gorman and Company was awarded use of the former Messner property on East Washington Avenue through a request for proposal process. The project was also awarded funds through the Affordable Housing RFP processes of both the City of Madison and Dane County.

2019 RES-156 "APPROVING AGREEMENTS AND PURCHASES SUPPORTING AN AFFORDABLE HOUSING PROJECT AT THE FORMER MESSNER PROPERTY IN THE CITY OF MADISON" was approved by the County Board on September 9, 2019. That resolution approved the various documents necessary to convey county AHDF funding as well as approve the ground lease for the site.

As the project has moved toward final development, the entities financing the project have requested technical modifications to the ground and condominium leases approved by 2019 RES-156. These modifications more explicitly state the rights the lender has under the leases in the event of a foreclosure, but do not abrogate the covenants of affordability embedded in the leases.

THEREFORE BE IT RESOLVED that the first amendment to the Valor on Washington ground lease and condominium leases are approved and the County Executive and County Clerk are authorized to execute the addenda.

AMENDMENT TO GROUND LEASE

THIS AMENDMENT TO GROUND LEASE (this "Amendment") is dated as of March _____, 2020, by and between County of Dane, Wisconsin ("Landlord") and Valor on Washington, LLC ("Tenant").

RECITALS

- A. Landlord and Tenant are parties to that certain Ground Lease dated as of the date hereof (the "Original Lease").
- B. Landlord and Tenant wish to amend the Original Lease as set forth herein.

AGREEMENT

1. Section 19(d) is restated as follows:

(d) Landlord agrees that it will take no action to effect a termination of this Lease by reason of any default without first giving each leasehold mortgagee written notice thereof and allowing each such mortgagee sixty (60) days to cure such default (or if such mortgagee is diligently pursuing a cure, a period not to exceed 120 days), **provided, however, that if the cure cannot be effectuated due to circumstances beyond leasehold mortgagee's control (e.g. restrictions in state law, force majeure, lack of unit vacancy due to lease terms, etc.), such cure period afforded to the leasehold mortgagee shall be tolled until the circumstance preventing leasehold mortgagee from pursuing the cure is resolved.** A leasehold mortgagee desiring the benefit of this provision shall provide a notice address to Landlord within sixty (60) days following the recording of such mortgagee's mortgage. If the default is not curable by a leasehold mortgagee, then each leasehold mortgagee shall have the right to enter into a new lease of the Premises with Landlord on the same terms for a period equal to the remaining Term of this Lease. If there are multiple leasehold mortgagees, the right to have a new lease shall be available to such mortgagees in the order of the priority of their respective mortgages. A mortgagee shall notify Landlord within sixty (60) days following the receipt of Landlord's notice of default whether (i) the default is curable by such mortgagee or (ii) the default is curable and such mortgagee desires a new lease.

2. A new Section 25 shall be added that contains the following provisions:

25. SENIOR LENDER PROVISIONS

For so long as the loan made by either Associated Bank, National Association ("Associated") and/or Walker & Dunlop, LLC (together with its successors and assigns, "Freddie Mac Lender" and together with Associated, the "Senior Lender") to Tenant (in either case, the "Senior Leasehold Loan"),

evidenced by those certain loan documents by, between and for the benefit of Tenant and the Senior Lender (the “**Senior Loan Documents**”), remains outstanding, Landlord and Tenant agree as follows:

(a) The Lease cannot terminate solely by reason of an damage or destruction to the Premises unless the Senior Leasehold Loan has been paid in full; subject to Section 25(j) below.

(b) The Senior Lender shall have participation rights for adjustment and losses related to property insurance proceeds.

(c) Landlord and Tenant shall pay any property insurance proceeds to the Senior Lender.

(d) Landlord may not receive any property insurance proceeds until the Premises has been restored in accordance with the terms of this Lease or the Senior Leasehold Loan has been paid in full.

(e) Tenant’s obligation to rebuild shall be limited to the amount of available insurance proceeds.

(f) Landlord and Tenant shall provide notice to the Senior Lender of any condemnation proceedings and the Senior Lender shall have participation rights in any condemnation proceedings.

(g) Any condemnation award received by Tenant shall be paid to the Senior Lender.

(h) For a partial condemnation, Tenant shall be permitted to restore the Premises unless the Senior Lender consents to the distribution of proceeds, in which case proceeds must first be applied towards the Senior Loan pursuant to the Senior Loan Documents.

(i) No party other than Tenant or the Senior Lender shall have rights regarding restoration of the Premises following condemnation or the administration and disbursement of any condemnation proceeds to which Tenant is entitled.

(j) Any termination of this Lease, or material modification or restatement of this Lease, shall require the Senior Lender’s prior written consent; provided, however, that the Senior Lender shall be deemed to have consented to a termination of the Lease if: (1) the triggering event that is causing the termination is a violation of an affordability restriction encumbering the Premises and (2) either: (i) the Senior Lender has failed to commence the cure of the violation of the affordability restrictions or failed to commence a foreclosure proceeding under the Senior Loan Documents within the cure period allotted to the Senior Lender in

Section 19(d), or (ii) the Senior Lender refuses to enter into a new lease on the same terms and conditions as this Lease pursuant to Section 25(q) below.

(k) Landlord must give written notice to the Senior Lender prior to exercising any remedy under the Lease after a Tenant default, and must forward to the Senior Lender all other material notices sent to Tenant under the Lease; provided, however, it is not deemed a failure to provide notice if Landlord fails to copy Senior Lender on such notices.

(l) Landlord acknowledges that Senior Lender's address for notice and other purposes under the Lease is as follows:

If to Freddie Mac Lender:

Walker & Dunlop, LLC
7501 Wisconsin Avenue, Suite 1200E
Bethesda, Maryland 20814
Attention: FHLMC Asset Management
Re: Valor on Washington (FHLMC #500988811)

If to Associated:

Associated Bank, National Association
8040 Excelsior Drive
2nd Floor
Madison, Wisconsin 53717
Attn: Bryan Schreiter, Vice President

With a copy to:

Husch Blackwell LLP
P.O. Box 1379
Madison, Wisconsin 53701-1379
Attn: Paul Dombrowski

(m) The Senior Lender is permitted to exercise its rights and remedies under the Senior Loan Documents, including foreclosure or a similar conveyance to the Senior Lender, without Landlord consent, subject to any consent required per any regulatory agreement or restrictive covenant encumbering the Premises; provided, however, exercise of such rights shall not result in termination of this Lease.

(n) Any sale of the Senior Lender's interest in the Premises after foreclosure or similar conveyance to the Senior Lender shall not require Landlord's consent. Any purchase by a third party at a foreclosure sale shall require the consent of Landlord, where such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that such third party purchaser's right to mortgage the leasehold interest in the Premises may be subject to any consent required per any regulatory agreement or restrictive covenant encumbering the Premises.

(o) With respect to the Senior Lender, Landlord shall not seek a cure from the Senior Lender of any non-monetary default caused by Tenant so long as: (1) such default is incapable of being cured by the Senior Lender as determined by Landlord in its reasonable discretion; (2) the Senior Lender has commenced and is diligently pursuing the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents; and (3) the Senior Lender has cured any curable defaults within the applicable cure period afforded to the Senior Lender. For the avoidance of doubt, Senior Lender acknowledges a violation of affordability pursuant to the Land Use Restriction Agreement in favor of County of Dane is subject to cure.

(p) The Senior Lender shall have additional time to obtain relief from any bankruptcy stay in Tenant's bankruptcy sufficient to enable the Senior Lender to either foreclose the lien of the Senior Leasehold Loan or obtain the appointment of a receiver or secure other remedies necessary to enable the Senior Lender to take control of the Premises.

(q) If the Lease terminates for any reason, Landlord shall be obligated to enter into a new lease with the Senior Lender or its nominee, if such nominee is acceptable to Landlord provided on the same terms and conditions as this Lease and with same title priority.

(r) The Senior Lender and its assigns are automatically released from liability to Landlord with respect to any liability arising from and after assignment of their respective interests in the Lease to a third party transferee.

2. The phrase "WHEDA LURA" shall mean that certain Land Use Restriction Agreement entered into by Tenant in favor of Wisconsin Housing and Economic Development Authority.

3. Landlord and Tenant shall execute a memorandum of this Amendment, in substantially the form attached hereto as Exhibit A.

4. Except as amended by this Amendment, all of the terms, conditions, provisions, and agreements of the Original Lease remain in full force and effect. The provisions of this Amendment supersede and control over any conflicting provisions in the Original Lease; provided, however, nothing in this Amendment shall be deemed to constitute an amendment to the LURA, nor supersede the LURA.

5. This Amendment may be signed in counterparts and, when counterparts of this Amendment have been signed and delivered by both of the parties, this Amendment will be fully binding and effective as if both parties had signed a single document. Signatures by electronic means shall have the same binding effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Lease to be executed as of the day and year first above written.

LANDLORD:

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

By: _____
Name: _____
Title: _____

Attested by: _____
Name: _____
Title: _____

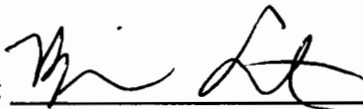
TENANT:

VALOR ON WASHINGTON, LLC,
a Wisconsin limited liability company

By: Valor on Washington MM, LLC

By: GEC Valor on Washington, LLC

By: Gorman & Company, LLC

By: 

Brian Swanton, President

EXHIBIT A

Form of Memorandum of Ground Lease

See attached.

Document Number	Amendment to Memorandum of Ground Lease
Document Number	Document Title

Recording Area

Drafted by and Return to:

Reinhart Boerner Van Deuren s.c.
 Joseph D. Shumow
 22 East Mifflin Street, Suite 700
 Madison, Wisconsin 53703

Parcel Identification Number (PIN)

MEMORANDUM OF AMENDMENT TO GROUND LEASE

This Memorandum of Amendment to Ground Lease (the "**Memorandum**") is made as of this ___ day of March, 2020, by and between County of Dane, Wisconsin, a Wisconsin county and body corporate pursuant to Chapter 59 of the Wisconsin Statutes, as landlord ("**Landlord**"), and Valor on Washington, LLC, a Wisconsin limited liability company, as tenant ("**Tenant**").

This Memorandum is solely intended to provide notice to third parties of the Amendment to Ground Lease and of Tenant's interest in the Premises. In the event of any inconsistency between the terms of the Amendment to Ground Lease and this Memorandum, the terms of the Amendment to Ground Lease shall control.

This Memorandum may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Pages Follow.]

IN WITNESS WHEREOF, this Memorandum has been executed as of the day and year first above written.

LANDLORD:

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

By: _____

Name: _____

Title: _____

Attested by: _____

Name: _____

Title: _____

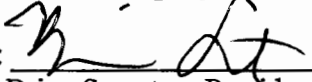
TENANT:

VALOR ON WASHINGTON, LLC,
a Wisconsin limited liability company

By: Valor on Washington MM, LLC

By: GEC Valor on Washington, LLC

By: Gorman & Company, LLC

By: 
Brian Swanton, President

[Notary Blocks Follow.]

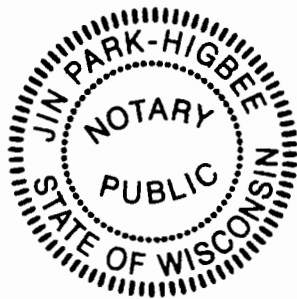
STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this ____ day of _____, 2020, the above-named _____, known to be to the _____ and the above-named _____, known to be to the _____ each of Dane County, Wisconsin, a Wisconsin county and body corporate pursuant to Chapter 59 of the Wisconsin Statutes, who executed the foregoing instrument on behalf of said county.

Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Personally came before me this 24th day of February, 2020, the above-named Brian Swanton to me known to be the President of the Gorman & Company, LLC, the Manager of GEC Valor on Washington, LLC, the Manager of Valor on Washington MM, LLC, the Managing Member of Valor on Washington, LLC, who executed the foregoing instrument on behalf of said company.



Jin Park-Higbee
Jin Park-Higbee
Notary Public, State of Wisconsin
My Commission: May 13, 2022

ANNEX A

Legal Description of Premises

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (this "Amendment") is dated as of _____, by and between County of Dane, Wisconsin ("Landlord") and Valor on Washington, LLC ("Tenant").

RECITALS

- A. Landlord and Tenant are parties to that certain Lease Agreement dated as of the date hereof (the "Original Lease").
- B. Landlord and Tenant wish to amend the Original Lease as set forth herein.

AGREEMENT

- 1. A new Section 23 shall be added that contains the following provisions:

23. SENIOR LENDER PROVISIONS

For so long as the loan made by either Associated Bank, National Association ("**Associated**") and/or Walker & Dunlop, LLC (together with its successors and assigns, "**Freddie Mac Lender**" and together with Associated, the "**Senior Lender**") to Tenant (in either case, the "**Senior Leasehold Loan**"), evidenced by those certain loan documents by, between and for the benefit of Tenant and the Senior Lender (the "**Senior Loan Documents**"), remains outstanding, Landlord and Tenant agree as follows:

- (a) Landlord gives Tenant the express right to mortgage Tenant's leasehold interest in this Lease.
- (b) Landlord shall not finance or otherwise encumber its fee interest in the land.
- (c) Any termination of this Lease, or material modification or restatement of this Lease, shall require the Senior Lender's prior written consent; provided, however, that the Senior Lender shall be deemed to have consented to a termination of the Lease if: (1) the triggering event that is causing the termination is a violation of an affordability restriction encumbering the Premises and (2) either: (i) the Senior Lender has failed to commence the cure of the violation of the affordability restrictions or failed to commence a foreclosure proceeding under the Senior Loan Documents within the cure period allotted to the Senior Lender in Section 23(l), or (ii) the Senior Lender refuses to enter into a new lease on the same terms and conditions as this Lease pursuant to Section 23(o) below.
- (d) The Senior Lender may exercise Tenant's rights pursuant to Section 19 without joinder of Tenant.

(e) The Senior Lender shall have participation rights for adjustment and losses related to property insurance proceeds.

(f) To the extent received by either party, Landlord and Tenant shall pay any property insurance proceeds to the Senior Lender.

(g) Landlord and Tenant shall provide notice to the Senior Lender of any condemnation proceedings and the Senior Lender shall have participation rights in any condemnation proceedings.

(h) Landlord must give written notice to the Senior Lender prior to exercising any remedy under the Lease after a Tenant default, and must forward to the Senior Lender all other material notices sent to Tenant under the Lease; provided, however, it is not deemed a failure to provide notice if Landlord fails to copy Senior Lender on such notices..

(i) Landlord acknowledges that Senior Lender's address for notice and other purposes under the Lease is as follows:

If to Freddie Mac Lender:

Walker & Dunlop, LLC
7501 Wisconsin Avenue, Suite 1200E
Bethesda, Maryland 20814
Attention: FHLMC Asset Management
Re: Valor on Washington (FHLMC #500988811)

If to Associated:

Associated Bank, National Association
8040 Excelsior Drive
2nd Floor
Madison, Wisconsin 53717
Attn: Bryan Schreiter, Vice President

With a copy to:

Husch Blackwell LLP
P.O. Box 1379
Madison, Wisconsin 53701-1379
Attn: Paul Dombrowski

(j) The Senior Lender is permitted to exercise its rights and remedies under the Senior Loan Documents, including foreclosure or a similar conveyance to the Senior Lender, without Landlord consent, subject to any consent required per any regulatory agreement or restrictive covenant encumbering the Premises; provided, however, exercise of such rights shall not result in termination of this Lease.

(k) Any sale of the Senior Lender's interest in the Premises after foreclosure or similar conveyance to the Senior Lender shall not require Landlord's consent. Any purchase by a third party at a foreclosure sale shall require the consent of Landlord, where such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that such third party purchaser's right to mortgage the leasehold interest in the Premises may be subject to any consent required per any regulatory agreement or restrictive covenant encumbering the Premises.

(l) Landlord agrees that it will take no action to effect a termination of this Lease by reason of any default without first giving each leasehold mortgagee written notice thereof and allowing each such mortgagee sixty (60) days to cure such default (or if such mortgagee is diligently pursuing a cure, a period not to exceed 120 days), **provided, however, that if the cure cannot be effectuated due to circumstances beyond leasehold mortgagee's control (e.g. restrictions in state law, force majeure, lack of unit vacancy due to lease terms, etc.), such cure period afforded to the leasehold mortgagee shall be tolled until the circumstance preventing leasehold mortgagee from pursuing the cure is resolved.** A leasehold mortgagee desiring the benefit of this provision shall provide a notice address to Landlord within sixty (60) days following the recording of such mortgagee's mortgage. If the default is not curable by a leasehold mortgagee, then each leasehold mortgage shall have the right to enter into a new lease of the Premises with Landlord on the same terms for a period equal to the remaining Term of this Lease. If there are multiple leasehold mortgagees, the right to have a new lease shall be available to such mortgagees in the order of the priority of their respective mortgages. A mortgagee shall notify Landlord within sixty (60) days following the receipt of Landlord's notice of default whether (i) the default is curable by such mortgagee or (ii) the default is not curable and such mortgagee desires a new lease.

(m) With respect to the Senior Lender, Landlord shall not seek a cure from the Senior Lender of any non-monetary default caused by Tenant so long as: (1) such default is incapable of being cured by the Senior Lender as determined by Landlord in its reasonable discretion; (2) the Senior Lender has commenced and is diligently pursuing the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents; and (3) the Senior Lender has cured any curable defaults within the applicable cure period afforded to the Senior Lender. For the avoidance of doubt, Senior Lender acknowledges a violation of affordability pursuant to the Land Use Restriction Agreement in favor of County of Dane is subject to cure.

(n) The Senior Lender shall have additional time to obtain relief from any bankruptcy stay in Tenant's bankruptcy sufficient to enable the Senior Lender to either foreclose the lien of the Senior Leasehold Loan or obtain the appointment of a receiver or secure other remedies necessary to enable the Senior Lender to take control of the Premises.

(o) If the Lease terminates for any reason, Landlord shall be obligated to enter into a new lease with the Senior Lender or its nominee, if such nominee is acceptable to Landlord provided on the same terms and conditions as this Lease and with same title priority.

(p) The Senior Lender and its assigns are automatically released from liability to Landlord with respect to any liability arising from and after assignment of their respective interests in the Lease to a third party transferee.

2. Except as amended by this Amendment, all of the terms, conditions, provisions, and agreements of the Original Lease remain in full force and effect. The provisions of this Amendment supersede and control over any conflicting provisions in the Original Lease; provided, however, nothing in this Amendment shall be deemed to modify the LURA, nor supersede the LURA.
3. This Amendment may be signed in counterparts and, when counterparts of this Amendment have been signed and delivered by both of the parties, this Amendment will be fully binding and effective as if both parties had signed a single document. Signatures by electronic means shall have the same binding effect as original signatures.

Dated as of the date first set forth above.

LANDLORD:

DANE COUNTY, WISCONSIN

BY _____
Its _____

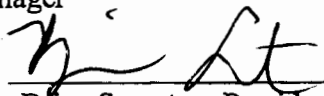
TENANT:

VALOR ON WASHINGTON, LLC

By: Valor on Washington MM, LLC, its
Managing Member

By: GEC Valor on Washington, LLC, its
Manager

By: Gorman & Company, LLC, its
Manager

By: 
Brian Swanton, President