2016 Res-337
Significant

Contract Cover Sheet

Note: Shaded areas are for County Executive review.

Department: Administration	Contract/Addendum #: 12947
1. This contract, grant or addendum: ■ AWARDS ☐ ACCEPTS	Contract / Addendum
2. This contract is discretionary ■ Yes ☐ No	If Addendum, please include original contract number
3. Term of Contract or Addendum: 30 years	☐ POS ☐
4. Amount of Contract or Addendum: $350,000	☒ Grant ☐
5. Purpose: To support the purchase of affordable housing units	☐ Co Lease ☐
	☐ Co Lessor ☐
	☐ Intergovernmental ☐
	☐ Purchase of Property ☐
	☐ Property Sale ☐
	☐ Other ☐

6. Vendor or Funding Source: Dane County Housing Authority
7. MUNIS Vendor Code: 1827
8. Bid/RFP Number: 116055
9. If grant: Funds Positions? ☐ Yes ■ No Will require on-going or matching funds? ☐ Yes ☐ No
10. Are funds included in the budget? ☐ Yes ☐ No
11. Account No. & Amount, Org & Obj. CPADMIN 58720 Amount $ 350,000
    Account No. & Amount, Org & Obj. _____ Amount $ _____
    Account No. & Amount, Org & Obj. _____ Amount $ _____
12. If this contract awards funds, a purchase requisition is necessary. Enter requisition # & year _____
13. Is a resolution needed? ■ Yes ☐ No If yes, please attach a copy of the Resolution.
    If Resolution has already been approved by the County Board, Resolution No. & date of adoption 2016 RES-337
14. Does Domestic Partner equal benefits requirement apply? ☐ Yes ■ No
15. Director's Approval:

Contract Review/Approvals					Vendor
Initials		Ftnt	Date In	Date Out	Vendor Name
MG	Received		1-18-17		
	Controller			1/18/17	Contact Person
	Corporation Counsel		1-19-17	1-19-17	
	Risk Management		1/19/17	1/19/17	Phone No.
	Purchasing		1/19/17	1/19/17	
	County Executive				E-mail Address

Footnotes:

1.

2.

Return to:	Name/Title: Chuck Hicklin Phone: 266-4109 E-mail Address:	Dept.: Mail Address:

Certification

The attached contract: *[check as many as apply]*

- ☐ conforms to Dane County's standard Purchase of Services Agreement form in all respects
- ☐ conforms to Dane County's standard Purchase of Services Agreement form with modifications and is accompanied by a revision copy[1]
- ☑ is a non-standard contract which has been reviewed or developed by corporation counsel and which has not been changed since that review/development
- ☐ is a non-standard contract previously review or developed by corporation counsel which has been changed since that review/development; it is accompanied by a revision copy[1]
- ☐ is a non-standard contract not previously reviewed by corporation counsel; it is accompanied by a revision copy
- ☐ contains non-standard/indemnification language which has been reviewed or developed by risk management and which has not been changed since that review/development
- ☐ contains non-standard insurance/indemnification language which has been changed since review/development or which has not been previously seen by risk management; it is accompanied by a revision copy
- ☐ contains non-standard affirmative action/equal opportunity language which has been reviewed or developed by contract compliance and which has not been changed since that review/development
- ☐ contains non-standard affirmative action/equal opportunity language which has been changed since the earlier review/development by contract compliance or which has not been previously seen by contract compliance; it is accompanied by a revision copy[1]

Date: 1/18/17 Signed: _____

Telephone Number 6-4109 Print Name: Charles Hicklin

Major Contracts Review (DCO Sect. 25.20) This review applies only to contracts which both exceed $100,000 in disbursements or receipts and which require county board review and approval.

Executive Summary (attach additional pages, if needed).

1. ***Department Head*** ☐ Contract is in the best interest of the County.
   Describe any deviations from the standard contracting process and any changes to the standard Purchase of Services Form Agreement.

   Date: _____ Signature: _____

2. ***Director of Administration*** ☐ Contract is in the best interest of the County.
   Comments:

   Date: _____ Signature: _____

3. ***Corporation Counsel*** ☐ Contract is in the best interest of the County.
   Comments:

   Date: 1/19/17 Signature: _____

[1] A revision copy is a copy of the contract which shows the changes from the standard contract or previously revised/developed contract by means of overstrikes (indicating deletions from the standard language) and underlining (showing additions to the standard language).

AFFORDABLE HOUSING DEVELOPMENT FUND
GRANT AGREEMENT

This Agreement made and entered into this _____ day of _____, 2017, **[DATE OF LAST SIGNATURE]** by and between the COUNTY of Dane, Wisconsin ("County"), a municipal corporation pursuant to chapter 59 of the Wisconsin Statutes, and The Housing Authority of the County of Dane, Wisconsin ("DCHA" or "Recipient"), a quasi-municipal corporation pursuant to section 59.53(22) of the Wisconsin Statutes (collectively the "Parties").

WHEREAS, in Fiscal Year 2016, the Dane County Capital Budget includes funding for the Affordable Housing Development Fund ("AHDF"). Pursuant to Wisconsin law, the COUNTY may make grants to the DCHA, who can then provide the grant funds directly to developers of affordable housing projects.

WHEREAS, RECIPIENT has been awarded AHDF monies development of an affordable rental housing project located at 506 West Verona Avenue, City of Verona, County of Dane, Wisconsin ("Affordable Housing Project") that has a legal description as described in Exhibit A, and which shall be owned by Dane County Housing Redevelopment, LLC (the "Project Owner").

WHEREAS, the AHDF Award and the funds constitute a debt to the County and is evidenced by a Promissory Note ("Note").

WHEREAS, as a condition of the COUNTY'S AHDF Award to RECIPIENT, the COUNTY requires and RECIPIENT agrees to restrict, or cause Project Owner to restrict, the use of the Affordable Housing Project as hereinafter described ("Restrictions"). Such Restrictions are contained in this Agreement, as well by the associated Land Use Restriction Agreement ("LURA") and are herein incorporated by reference.

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

1. AWARD. The COUNTY agrees to grant to DCHA AHDF monies in the sum of Three hundred fifty thousand dollars and no cents ($350,000.00) ("AHDF Grant") specifically for the development the Affordable Housing Project. The AHDF Grant shall be used for the purchase of real property and rehabilitation costs in connection with the Affordable Housing Project.

2. USE OF PREMISES. In consideration of receiving AHDF Grant, RECIPIENT agrees, covenants, and warrants that all residential apartment units in the Affordable Housing Project shall be maintained as affordable rental housing. DCHA further agrees, covenants and warrants that such operation shall be conducted in compliance with a certain Land Use Restriction Agreement for Low-Income Housing Tax Credit ("WHEDA LURA") executed by the Project Owner in favor of the Wisconsin Housing and Economic Development Authority ("WHEDA") and recorded against the Affordable Housing Project in the office of the Register of Deeds for Dane County as a part of the

Low Income Housing Tax Credit program ("LIHTC"). Such WHEDA LURA shall guarantee a period of affordability for Thirty years ("Affordability Period"). RECIPIENT agrees, covenants, and warrants that all residential apartment units subject to the WHEDA LURA shall be offered as affordable rental housing consistent with the terms and conditions of the WHEDA LURA. A violation of the WHEDA LURA, as determined by WHEDA in its reasonable discretion, that occurs during the Affordability Period and upon which WHEDA elects to enforce its rights pursuant to the WHEDA LURA, shall be deemed an event of default by RECIPIENT under the terms of this Agreement.

3. TERM. The term of the warranties and covenants entered herein as a part of this Agreement shall be enforceable for a period of thirty years, commencing on _____ ("Commencement Date") **[Enter date executed]** and terminating on _____.

4. REPORTING REQUIREMENTS. Recipient shall provide to County an annual written report which shall, at a minimum, include the following information: number of tenants, how many units are rented to tenants with household incomes at 60%, 50% and 30% of AMI, the number of eviction actions filed, the reason for eviction, the number of eviction notices, issued to the tenants in the twelve months preceding the eviction filing, the number of eviction judgments granted, writs executed, and/or other case resolution (e.g. vacated prior to execution of writ or allowed to stay with conditions) and any other information reasonably requested by the County that may affect the status of the Premises. This report shall be due to the COUNTY no later than February 15 and shall reflect the period from January 1 to December 31 of the previous calendar year.

5. EXISTING LEASES. RECIPIENT shall continue existing leases consistent with any relocation provisions, plans, or requirements associated with the WHEDA LIHTC Program. All new leases, including those which may be contemplated with current occupants, shall be consistent with the purpose of this Agreement and WHEDA LIHTC Program requirements.

6. COMPLIANCE WITH LAWS. RECIPIENT shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City of Verona, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Premises. RECIPIENT may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. RECIPIENT agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold the COUNTY harmless with respect to any actions taken by any lawful governmental authority with respect thereto.

7. TAXES. RECIPIENT covenants and agrees that it shall cause the Project Owner to pay, before delinquency, all municipal, county and state or federal taxes assessed against the

Affordable Housing Project or any fixtures, furnishings, equipment, merchandise, improvements, alterations, stock-in-trade or other personal property of any kind owned, installed or upon the Affordable Housing Project. Recipient covenants and agrees that it shall pay or cause the Project Owner to pay, before delinquency, all special assessments or special charges assessed against the Affordable Housing Project.

8. INSURANCE AND INDEMNIFICATION.

a. RECIPIENT shall indemnify, hold harmless and defend the COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which the COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of any act, omission or negligence of RECIPIENT or its officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors in or about, or in relation to the Affordable Housing Project, or resulting from this Agreement, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from any act, omission or negligence of the COUNTY, its agencies, boards, commissions, officers, employees or representatives. The obligations of the COUNTY and RECIPIENT under this paragraph shall survive beyond the term of this Agreement.

b. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this Agreement, RECIPIENT shall obtain, or shall cause its Project Owner to obtain, and at all times during the term of this Agreement keep in full force and effect comprehensive general liability policy issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Commissioner, with liability coverage provided for therein in the amount of at least $1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. Upon execution of this Agreement, RECIPIENT shall furnish COUNTY with a certificate of insurance listing COUNTY as an additional insured and, upon request, a certified copy of the required insurance policy. If RECIPIENT'S insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement. The Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date. RECIPIENT or Project Owner shall maintain coverage for the duration of this Agreement. RECIPIENT shall furnish COUNTY, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is also agreed that on Claims-Made policies, either RECIPIENT or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by RECIPIENT. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to

RECIPIENT and shall cooperate with RECIPIENT'S attorneys in the defense of the action, suit or other proceeding.

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

9. EVENTS OF DEFAULT. The COUNTY becomes aware of a violation of the provisions of this Agreement, the WHEDA LURA, or the Note, it shall give written notice thereof to the RECIPIENT directing RECIPIENT to remedy the violation within a reasonable specified period of time. If any violation of this Agreement, the WHEDA LURA or the Note is not corrected to the satisfaction of the COUNTY within the period of time specified by the COUNTY in notice described above, the COUNTY shall have the right, without further notice, to declare an event of default ("Event of Default") under this agreement.

10. REMEDIES. Upon or after the occurrence of an Event of Default, the COUNTY shall have the right to apply to any court, for specific performance of this Agreement or the WHEDA LURA or for any injunction against any violation of this Agreement or WHEDA LURA, or any other remedies at law or in equity or any such other action as shall be necessary or desirable so as to cure or correct the Event of Default or other noncompliance with this Agreement or WHEDA LURA. In addition to the remedies described above, the COUNTY may, at its discretion, recapture the AHDF Funds and demand repayment of any outstanding debt evidenced by the Note in accordance with the terms therein and not yet repaid to the COUNTY by RECIPIENT.

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

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

13. BINDING EFFECT; CHOICE OF LAW. This Agreement shall bind the Parties, their heirs, personal representatives, successors and assigns. This Agreement shall be governed by and be construed and interpreted in accordance with the laws of the State of Wisconsin.

14. AUTHORITY. The Parties represent and warrant that each party is a duly authorized and existing municipal, quasi-municipal, or private corporation, that each party has and is qualified to transact business in Wisconsin, that the each party has full right, authority and power to enter into this Agreement and to perform its obligations thereunder, that

each person signing this Agreement on behalf of the organization is authorized to do so and that this Agreement is binding upon the organization in accordance with its terms.

15. SEVERABILITY. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SIGNATURE PAGE TO FOLLOW

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

THE HOUSING AUTHORITY OF THE COUNTY OF DANE, WISCONSIN,

By:_____
Robert B. Dicke, Executive Director

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

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

By:_____
Joe Parisi, Dane County Executive

Exhibit A

Part of the Southwest 1/4 of the Southwest 1/4 of Section 15, Township 6 North, Range 8 East, in the City of Verona, Dane County, Wisconsin, more fully described as follows: Commencing at the Southeast corner of said 1/4 1/4; thence North 87° 42' West along the South line of the said 1/4 1/4, 689.5 feet; thence North 00° 02' West 696.0 feet to the centerline of old USH 18 and 151 and the point of beginning of this description; thence continuing North 00° 02' West 40.32 feet to an iron stake on the new USH 18 and 151 right-of-way line; thence continuing North 00° 02' West 143.66 feet to an iron stake; thence North 88° 39' West 274.17 feet to an iron stake; thence South 00° 02' East 190.5 feet to an iron stake on the new USH 18 and 151 right-of-way line; thence continuing South 00° 02' East 59.65 feet to the centerline of old USH 18 and 151; thence North 77° 42' East along the centerline of old USH 18 and 151, 280.49 feet to the point of beginning. Subject to existing public highways.

Also described as:
A part of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of Section Fifteen (15), Township Six (6) North, Range Eight (8) East, City of Verona, Dane County, Wisconsin containing 46,239 square feet (1.062 acres) of land and being described by:

Commencing at the Southwest Corner of said Section 15; thence S88°-37'-29"E 312.88 feet along the south line of the SW1/4 of said Section 15; thence N01°-22'-31"E 684.52 feet to a point on the north right of way line of W. Verona Avenue and the point of beginning; thence N00°-48'-44"W 190.49 feet to a point on the south line of Block 4 of the First Addition to Kenwood; thence S89°-25'-44"E 274.17 feet along said south line to a point on the west line of Certified Survey Map No. 00070; thence S00°-48'-44"E 143.66 feet along said west line to a point on the north right of way line of W. Verona Avenue; thence along said right of way line in a southwesterly direction 146.92 feet along the arc of a curve to the left having a radius of 11,404.19 feet and a chord which bears S76°-04'-16"W 146.92 feet; thence continue along said right of way line N14°-42'-44"W 20.00 feet; thence continue along said right of way line in a southwesterly direction 128.91 feet along the arc of a curve to the left having a radius of 11,384.19 feet and a chord which bears S77°-25'-16"W 128.91 feet to the point of beginning.

Parcel No. 286/0608-153-9175-0

PROMISSORY NOTE

THIS AGREEMENT is entered into this ___ day of _____, 2017 between the County of Dane, Wisconsin, and The Housing Authority of the County of Dane, Wisconsin, each a "Party" to this agreement, and are jointly referenced as "Parties".

FOR VALUE RECEIVED, THE HOUSING AUTHORITY OF THE COUNTY OF DANE, WISCONSIN ("**Maker**") promises to pay to the order of the County of Dane, or any future holder hereof ("**Payee**"), as administrator of an Affordable Housing Development Fund Grant (the "**Grant**"), the principal sum not to exceed Three Hundred Fifty Thousand and 00/100 Dollars ($350,000.00), or so much thereof as is actually disbursed as provided below for the purchase and rehabilitation of a property located at 506 West Verona Avenue, City of Verona, County of Dane, Wisconsin ("Property").

This is a non-interest paying Grant, subject to the recapture provisions set as set forth in this Note. The Grant Amount is the amount actually disbursed by The Housing Authority of the County of Dane, Wisconsin for the purchase of the Property.

This Note evidences Maker's obligation to repay up to Three Hundred Fifty Thousand and 00/100 Dollars ($350,000.00) loan, with no interest, made by Payee to Maker pursuant to the Grant. The terms and conditions upon which the Grant is made are contained in this note, along with the Affordable Housing Development Fund Grant Agreement ("Grant Agreement"), and Land Use Restriction Agreement for Low-Income Housing Tax Credit made in favor of the Wisconsin Housing and Economic Development Authority ("WHEDA") recorded against the Property as a part of the Low Income Housing Tax Credit program ("LURA"). The term, during which the Maker is obligated to maintain the Property in accordance with the provisions of this Note, the Grant Agreement, and LURA for thirty years from the date of the purchase of the Property ("Grant Term").

Upon request by Maker, at Maker's sole cost and expense, at the close of the thirty year Grant Term and provided that Maker is in compliance with the terms of the Grant as set forth in this Note, the Grant Agreement and LURA, Payee agrees to discharge and release Maker from its obligations under this Note and the obligation of Maker to pay the principal sum disbursed shall automatically be forgiven and extinguished.

Maker agrees, during the Grant Term, to manage and operate the Property as rental housing for low-income households. The operation of such rental housing shall be conducted in compliance with a the LURA, the terms and conditions of which are hereby expressly incorporated into this agreement. Such LURA shall guarantee a period of affordability for Thirty years. A violation of the LURA, as determined by WHEDA in its reasonable discretion, that occurs during the Grant Term and upon which WHEDA elects to enforce its rights pursuant to the LURA, shall be deemed an event of default under the terms of this Note.

The Maker agrees not to sell the Property prior to the end of the Grant Term without consent of Payee unless the Property continues to be subject for the duration of the Grant Term to the income eligibility restrictions set forth in this Note. . If the Maker refinances the Property, the Maker shall not permit mortgage in conjunction with such financing with priority senior to WHEDA LURA without the prior written consent of Payee. If the Property is sold prior to the end of the Grant Term, the Maker must repay the Repayment Amount unless the Property continues to be subject for the duration of the Grant Term to the income eligibility restrictions set forth in this Note.

In the event that at any time during the Grant Term, the Payee declares an Event of Default under the Grant Agreement, or LURA, or the Maker otherwise defaults in its obligation to manage and operate the Property as required by this Note, or otherwise fails to comply with the terms of this Note, and such default occurs for a period of sixty (60) days after written notice to the Maker, it shall be an default of this Note and the Maker may be required, at the Payee's sole discretion, to repay to Payee the Grant Amount, unless such noncompliance is cured within a reasonable time, or the circumstances of the noncompliance are eliminated through a modification or amendment of this agreement in writing.

The Maker shall, at all times, comply with all laws, rules and regulations, and the provisions contained in this note as they relate to operation and management of the Property.

Nothing contained herein nor any transaction related hereto shall be construed or shall so operate either presently or prospectively to require the payment or the doing of any act contrary to law; but if any clause or provision herein contained shall otherwise so operate to invalidate this Note and/or the transaction related hereto, in whole or in part, then such clause(s) and provision(s) only shall be held for naught as though not contained herein and the remainder of this Note shall remain operative and in full force and effect.

All of the covenants contained herein are joint and several and shall also bind, and the benefits hereof shall also inure to the respective executors, administrators, personal representatives, successors and assigns of the parties hereto. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders. The rights and remedies of Payee as provided in this Note or any document securing this Note shall be cumulative and concurrent, and may be pursued singularly, successively or together against Maker, the property described in any mortgage securing this Note or any other security for the debt evidenced by this Note, at the discretion of Payee. This Note may be modified, amended, changed, altered, waived, terminated or discharged only by a written instrument signed by the Maker and the Payee.

This Note shall be construed in accordance with the laws of the State of Wisconsin.

The Maker agrees that if, and as often as, this Note is placed in the hands of an attorney for collection, or to defend or enforce any of the Payee's rights hereunder or under any document securing this Note, whether or not litigation is commenced, the undersigned shall pay to Payee, Payee's reasonable attorney's fees, together with all court costs and other expenses incurred or paid by Payee in connection therewith.

Notices, reports and communications shall be in writing and shall be deemed to have been properly given when personally delivered to the Party, or three (3) days after the same is sent by certified or registered U.S. mail, postage prepaid, or by overnight courier properly addressed to the Party entitled to the receive such notice as set forth:

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

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

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

IN WITNESS WHEREOF, the undersigned Maker and Payee have executed this Note as of the date first above written.

MAKER:

THE HOUSING AUTHORITY OF THE COUNTY OF DANE, WISCONSIN

By: _____
Name: Robert B. Dicke
Title: Executive Director

PAYEE:

COUNTY OF DANE

By: _____
Name: Joe Parisi
Title: Dane County Executive