Res 136 significant

Dane County Contract Cover Sheet

Dept./Division	Admin/Controller
Vendor Name	Gorman and Company
Vendor MUNIS #	20377
Brief Contract Title/Description	Lease for affordable housing project at the Union Corners Grand Family project
Contract Term	99 years
Total Contract Amount	$ 525,000

Contract # Admin will assign	13483
Addendum	☐ Yes ☒ No

Type of Contract

☐	Dane County Contract
☐	Grant
☐	County Lessee
☐	County Lessor
☐	Intergovernmental
☐	Purchase of Property
☐	Property Sale
☐	Other

Purchasing Authority

- ☐ **$10,000 or under – Best Judgment** (1 quote required)
- ☐ **Between $10,000 – $36,000 ($0 – $25,000 Public Works)** (3 quotes required)
- ☒ **Over $36,000 ($25,000 Public Works)** (Formal RFB/RFP required) — **RFB/RFP #** 117037
- ☐ **Bid Waiver – $36,000 or under** ($25,000 or under Public Works)
- ☐ **Bid Waiver – Over $36,000** (N/A to Public Works)
- ☐ **N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other**

MUNIS Req.		Org Code	CPADMIN	Obj Code	58720	Amount	$
Req #	n/a	Org Code		Obj Code		Amount	$
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.

- ☐ Contract does not exceed $100,000 ($40,000 Public Works) – a resolution is not required.
- ☒ Contract exceeds $100,000 ($40,000 Public Works) – resolution required. — **Res #** 136
- ☐ A copy of the Resolution is attached to the contract cover sheet. — **Year** 2018

Contract Review/Approvals

Initials	Dept.	Date In	Date Out	Comments
MG	Received by DOA	9/12/18		
	Controller		9/12/18	
PCP	Purchasing	9/13/18	9/13/18	
	Corporation Counsel	9/12/18	9/13/18	
	Risk Management	9/13/18	9/13/18	
	County Executive			

Dane County Dept. Contact Info		**Vendor Contact Info**	
Name	Chuck Hicklin	**Name**	
Phone #	266-4109	**Phone #**	
Email		**Email**	
Address		**Address**	

Certification: The attached contract is a:	
☐	Dane County Contract without any modifications.
☒	Dane County Contract with modifications. **The modifications have been reviewed by:** Susan Rauti
☐	Non-standard contract.

Contract Cover Sheet Signature

Department Approval of Contract		
Dept. Head / Authorized Designee	**Signature**	**Date**
		9/12/18
	Printed Name	
	Chuck Hicklin	

Contracts Exceeding $100,000

Major Contracts Review – DCO Sect. 25.11(3)

Director of Administration	**Signature**	**Date**
	Comments	
Corporation Counsel	**Signature**	**Date**
		9/13/18
	Comments	

LEASE

In consideration of the mutual promises and covenants contained in this Lease, County of Dane, Wisconsin (the "Landlord") and UC Grandfamily, LLC (the "Tenant") agree as follows as of the _____ day of _____, 2019:

1. PREMISES. Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, Unit 1 (the "Premises") of Grandfamily Condominium (the "Condominium"). Tenant acknowledges that the Condominium is governed by a condominium declaration dated as of the _____ day of _____, 2019 (the "Condominium Declaration").

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. COMMON ELEMENTS. Tenant shall be entitled to the reasonable nonexclusive use of the common elements of the Condominium appurtenant to the Premises. Tenant's use of such common elements shall be subject to the terms of the Condominium Declaration.

4. TERM. The Lease term shall commence upon the date hereof and shall terminate on the ninety-nine year anniversary of the date hereof.

5. RENT. Tenant has paid to Landlord on the date hereof the sum of One Hundred & 00/100 Dollars ($100.00) as rent for the Premises for the entire Lease term (the "Rent Installment").

6. UTILITIES AND SERVICES. Tenant shall pay when due all charges for all utilities used in the Premises.

7. USE. The Premises may be used and occupied for any lawful use permitted under the applicable zoning code. Tenant will not use the Premises in any manner that may increase the insurance risk or prevent the obtaining of insurance.

8. MAINTENANCE AND REPAIR. Tenant shall, at its expense, keep and maintain in good order, condition and repair the Premises.

9. 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. Tenant agrees upon the termination of this Lease for any reason to remove Tenant's personal property and trade fixtures and those of any other persons claiming under Tenant, and to quit and deliver up the Premises to Landlord peaceably and quietly in as good order and condition as the same are at the commencement of this Lease or thereafter may be improved by Tenant, reasonable use and wear, fire and other casualty loss excepted.

(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 exterior of the Premises provided they comply with applicable municipal ordinances.

(f) Maintenance. Tenant shall, at its expense, obtain any maintenance services it desires.

(g) Reporting Requirements. Tenant shall provide to Landlord an annual written report which shall, at a minimum, include the following information: number of tenants, how many units owned by Tenant (whether or not part of the Premises) 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 Agreement. 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.

10. 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. The property insurance for the Premises shall be maintained in accordance with the requirements of the Condominium Declaration.

11. DAMAGE OR DESTRUCTION. In case of damage to the Premises by fire, vandalism, malicious mischief or any other casualty, the Premises shall be repaired or rebuilt in accordance with the requirements of the Condominium Declaration.

12. INDEMNIFICATION. Tenant shall defend and indemnify Landlord and save it harmless from and against any and all liability, damages, costs and expenses, including reasonable attorneys' fees, arising from any negligence or willful misconduct of Tenant or its officers, members, contractors, licensees, agents, servants, employees, guests, invitees, visitors or subtenants in or about the Premises.

13. 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 provide Landlord with copies thereof. Tenant shall promptly repair any damage and perform any necessary cleanup resulting from any Improvements. All Improvements (except fixtures, personal property, 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 lien 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.

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 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 in accordance with the requirements of the Condominium Declaration. 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.

15. ASSIGNMENT AND SUBLETTING. Tenant may assign this Lease and/or sublet all or any portion of the Premises, without Landlord's consent, upon such terms as Tenant desires. Landlord acknowledges that Tenant may charge its subtenants higher rents than the rent that Tenant is paying under this Lease. Landlord shall have no right to any profits made by Tenant as a result of Tenant subletting all or any portion of the Premises.

16. DEFAULT.

(a) If Tenant (i) fails to pay the Rent Installment, (ii) fails to pay the Annual Rent Payment and such default is not cured within 30 days after receipt of written notice thereof from Landlord, or (iii) 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 (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) 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. Notwithstanding the foregoing, Tenant's non-managing members shall have the opportunity, but not the obligation, to cure any default on behalf of Tenant. Such cure shall be accepted or rejected as if tendered by Tenant.

(b) 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 5% per year.

17. ESTOPPEL CERTIFICATE. Within ten (10) 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 ten (10) 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.

18. 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.

19. OPTION TO PURCHASE.

(a) Landlord grants to Tenant during the term of this Lease the option to purchase the Premises at the purchase price of One Hundred & 00/100 Dollars ($100.00) after the Trigger Date (defined below) and the price of Five Hundred Twenty-five Thousand and 00/100 Dollars ($525,000.00) on or prior to the Trigger Date; provided, in any case, that the option shall not be available until the WHEDA LURA (defined below) has been recorded; provided, further, that if the WHEDA LURA has been released by WHEDA, the option shall remain available.

(b) Tenant may exercise this option to purchase by written notice to Landlord (the "Notice of Exercise") given at any time. The purchase price will vary depending on whether the purchase will occur prior to or after the Trigger Date. The Trigger Date shall mean September 1, 2049 or such earlier time as WHEDA (defined below) releases the WHEDA LURA (defined below) (such date, the "Trigger Date"). The closing of the purchase shall be held on a date selected by Tenant not more than 60 days after the date of the Notice of Exercise.

(c) Landlord shall at closing, upon payment of the required purchase price, convey the Premises to Tenant by warranty deed, free and clear of all liens, mortgages, or encumbrances of any kind and nature excepting municipal and zoning ordinances, recorded easements for public utilities, recorded building restrictions, the Condominium Declaration and the plat creating the Condominium, matters arising by or as the result of action of Tenant during the term of this Lease, and matters which Tenant shall have consented to during the term of this Lease.

(d) Tenant shall be responsible, at its cost, for obtaining any title insurance it desires in connection with its purchase of the Premises. Landlord shall execute and deliver any affidavits or other documents reasonably requested by Tenant or the title insurance company in order for Tenant to obtain such title insurance.

(e) In the event of the exercise by Tenant of its option to purchase hereunder, this Lease shall terminate as of the date of closing and consummation of the purchase.

(f) Time is the essence of the exercise of the option and the resulting closing.

20. CONDOMINIUM OBLIGATIONS AND RIGHTS ASSIGNED TO TENANT. All rights (other than approval related to the sale of the Premises) and obligations of the Landlord pursuant to the Condominium Declaration are hereby assigned by Landlord and assumed by Tenant, including without limitation the right to vote and the obligation to pay assessments levied by the Condominium.

21. AFFORDABILITY. As of the date hereof, Tenant or its affiliates have constructed low-income housing tax credit residential rental units (the "Affordable Units"). The Affordable Units are governed by that certain Land Use Restriction Agreement (the "WHEDA LURA"), executed by Tenant and Wisconsin Housing and Economic Development Authority ("WHEDA") and recorded against the Affordable Units in the office of the Register of Deeds for Dane County, Wisconsin. Landlord and Tenant are entering into this Lease, in part, because Tenant or its affiliates are providing the Affordable Units pursuant to the conditions set forth in the WHEDA LURA. A violation of the WHEDA LURA, as determined by WHEDA, that occurs during the Affordability Period (defined below) and upon which WHEDA elects to enforce its rights pursuant to the WHEDA LURA shall be deemed an event of default by Tenant of to this Lease. Upon an event of default arising from this Section 21, at Landlord's sole discretion, Landlord may require Tenant to purchase the Premises from Landlord in exchange for a lump-sum payment of $525,000. Landlord agrees and acknowledges that its right to require Tenant to purchase the Premises is only triggered by a successful enforcement action by WHEDA of a violation by Tenant (or its affiliates) of the WHEDA LURA. The "Affordability Period" shall mean the term of the WHEDA LURA.

22. 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) 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 the parties may from time to time designate to the other in writing, with a copy to Boston Capital Direct Placement, A Limited Partnership, c/o Boston Capital Partners, Inc., One Boston Place, 21st Floor, Boston, Massachusetts 02108, Attn: Asset Management, with a copy to Holland & Knight LLP, 10 St. James Avenue, 11th Floor, Boston, Massachusetts 02116, Attn: Jennifer C. Whalen, Esq. 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.

Dated as of the date first set forth above.

LANDLORD:

DANE COUNTY, WISCONSIN

BY_____
Its_____

TENANT:

UC GRANDFAMILY, LLC

By: UC Grandfamily MM, LLC, its Managing Member

By: GEC UC Grandfamily, LLC, its Manager

By: Gorman & Company, LLC, its Manager

By: _____
Gary J. Gorman, Manager