

Field Code Changed

**HOMELESS ASSISTANCE LOAN AGREEMENT  
(GOODWILL INDUSTRIES)**

This Homeless Assistance Loan Agreement (the "Agreement") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2008~~9~~, by and between Goodwill Industries of South Central Wisconsin, Inc., a Wisconsin non-profit corporation (the "Goodwill"), its permitted successors and assigns, and the Community Development Authority of the City of Madison, a Wisconsin redevelopment authority (the "CDA").

**WITNESSETH:**

**WHEREAS**, the CDA was designated as the local redevelopment authority for the disposition of the Truman Olson U.S. Army Reserve Center ("Truman Olson") in the City of Madison; and

**WHEREAS**, pursuant to federal regulation, the CDA advertised the availability of the Truman Olson property and received a response from Goodwill to develop the property into supportive housing for formerly homeless persons with chronic mental illnesses; and

**WHEREAS**, the City of Madison intends for the Truman Olson property to be used for certain public infrastructure improvements and for economic development projects; and

**WHEREAS**, the CDA has ~~offered Goodwill a loan requested that the City of Madison provide funds~~ to assist Goodwill to construct supportive housing on a site within the City of Madison other than the Truman Olson property; and

**WHEREAS, the City of Madison has agreed, pursuant to Common Council resolution RES-09-00866, to provide funds in the amount of \$200,000 to Goodwill to fund the acquisition of the real property described on Exhibit A, which is attached hereto and incorporated herein by reference (the "Property"); and**

**WHEREAS**, Goodwill wishes to enter into this Agreement for the purpose of receiving loan funds to assist in the acquisition and construction of ~~the real property described in Exhibit A, which is attached hereto and incorporated herein by reference (the "Property")~~ supportive housing on the Property in lieu of ~~on the Truman Olson site~~; and

**WHEREAS**, it is contemplated that the ~~City, on behalf of the~~ CDA, will assist Goodwill's housing project by providing a zero interest ~~forgivable~~ loan to Goodwill in the amount of ~~\$200,000~~.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth hereinafter and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the parties as follows:

1. Loan Purpose. This Agreement is for the purpose of providing assistance from the CDA to Goodwill in the form of a zero interest, forgivable loan in the amount of ~~Two Hundred~~ Two Hundred Thousand Dollars (~~\$200,000~~) (the "Loan") to partially finance

Goodwill's redevelopment of the Property into eight (8) units of permanent supportive housing for persons with chronic mental illnesses, as approved by the Plan Commission on \_\_\_\_\_, 20\_\_; and as more fully described on Exhibit D—who were formerly homeless and who are currently living in group homes (the "Project"). The total project cost is estimated at \$1,458,707\_\_\_\_\_. The Loan shall be repayable in accordance with the Note and with Section 1922 herein.

2. Conditions Precedent to Loan. The Loan is subject to the fulfillment, or waiver at the option of the CDA, in its sole discretion, of each and every one of the following terms, conditions and covenants prior to Loan closing:

~~a. The CDA and the U.S. Department of Defense have entered into a binding Purchase Agreement for the Truman Olson property and funds have been authorized for the CDA's acquisition of such property;~~

~~b.a.~~ The Project will be constructed to conform to the application, Project budget and plans submitted to the CDA City by Goodwill, dated November 11, 2009\_\_\_\_\_, which are incorporated by reference herein and made a part of this Agreement;

~~eb.~~ Goodwill shall have executed a HOME Loan Agreement, Land Use Restriction Agreement (LURA)\_\_\_\_\_, and a Mortgage Note (the "Note") attached hereto as Exhibit B\_\_\_\_\_, secured by a real estate mortgage (the "Mortgage") on the Property for the benefit of the CDA City. The Mortgage shall be recorded in the office of the Dane County Register of Deeds at Goodwill's expense. The lien of the Mortgage shall be subject to and subordinate in all respects to the lien of a first mortgage in favor of \_\_\_\_\_ in the maximum principal amount of \$\_\_\_\_\_ Dollars (\$\_\_\_\_\_), as well as to restrictions and easements of record, municipal and zoning ordinances, current taxes and assessments not due as of the date of the Mortgage, the rights of tenants in possession, and other encumbrances acceptable to the City and the CDA;

~~dc.~~ Goodwill shall ~~comply with the provisions of Exhibit B hereto and~~ ensure that the Project will be accessible to persons with physical disabilities, and that the Project complies with Madison General Ordinance Sections 39.05, applicable Wisconsin Administrative Code provisions and the Americans with Disabilities Act, where applicable;

~~ed.~~ Goodwill shall submit evidence that a property insurance policy of the proper type and amount of coverage to protect the CDA City's loan participation has been obtained. Goodwill shall provide a Mortgage Holder's Endorsement in favor of the CDA. Goodwill agrees to maintain such coverage during the term of the Loan and to submit, annually, insurance certificates that indicate insurance requirements are met and that premiums are fully paid;

~~fe.~~ Goodwill shall furnish and deliver to the CDA City, at Goodwill's sole cost and expense, for examination at least fifteen (15) days before closing, an ALTA commitment for marketable title insurance on the Property issued by a responsible title company licensed by the State of Wisconsin, committing said title insurance company to issue insurance for the Property by an owner's standard form ALTA policy in the amount of \$\_\_\_\_\_, showing all liens, encumbrances and other matters of record, together with "gap" coverage and such other endorsements as the CDA City may reasonably require;

~~g.~~ f. The City Attorney of Madison, Wisconsin has executed the form of legal opinion attached hereto as Exhibit C;

Formatted: Indent: Left: 0.56", First line: 0.44", No bullets or numbering

~~h.g.~~ h.g. Goodwill shall have received all zoning, land use, urban design and construction permitting approvals. Goodwill shall be solely responsible for the cost of such approvals;

~~h.h.~~ h.h. Goodwill shall have received a financing commitment from a financial institution or governmental entity providing for construction financing of the Project, and shall provide a copy of such commitment to the CDA. Goodwill shall provide for all funds which may be necessary to complete the Project; and

~~h.i.~~ h.i. ~~The Department of Housing and Urban Development shall have approved the CDA's redevelopment plan and homeless assistance submission; and~~

~~h.j.~~ h.j. The Common Council of the City of Madison has authorized the funding of the Loan.

~~3. Subordination. The CDA agrees to subordinate its mortgage lien to a mortgage lien in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to \_\_\_\_\_ (the "First Mortgage"). The CDA further agrees to subordinate its lien to replacement financing of this mortgage in an aggregate amount not to exceed the outstanding principal balance of such existing indebtedness.~~

43. Relatedness of Other Loan Documents. The terms of the HOME Loan Agreement, LURA, the Note and Mortgage are hereby incorporated herein by reference, and noncompliance with any term or condition of any of them shall be deemed a default hereunder.

54. Loss or Damage. If there is any unpaid principal or interest remaining on the Loan when all or any of the Project is destroyed or damaged, and unless Goodwill exercises its option to prepay the entire amount owing on the Note, then the following subsections shall apply:

a. Goodwill shall proceed promptly to replace, repair, rebuild and restore the Project to substantially the same condition as existed before the event causing the damage or destruction, and Goodwill will pay all costs thereof and be entitled to retain all net proceeds of the insurance claim. If the net proceeds are not sufficient to pay such costs in full, Goodwill will nonetheless complete it and will pay that portion of the cost in excess of the amount of the net proceeds.

b. Goodwill shall not, by reason of the payment of any costs of repair, rebuilding, replacement or restoration, be entitled to any reimbursement from the CDA or the City or any abatement or diminution of the amounts payable under the Note and Mortgage or other sums payable by Goodwill under the Agreement. Any balance of net proceeds remaining after payment of all costs of any repair, rebuilding, replacement or restoration and any amounts required to be paid pursuant to the First Mortgage, shall be paid to the ~~CDA-City~~ against any unpaid principal or interest on the Note or, if there are no outstanding sums due and owing, to Goodwill.

65. Indemnification. Goodwill shall be liable to and hereby agrees to indemnify, defend and hold harmless the CDA, its officials, agents and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the CDA, its officials, agents and employees for damages because of bodily injury or death, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of Goodwill or its tenants, agents, contractors, subcontractors, invitees or employees, whether caused by or contributed to by the CDA or its agents or employees.

76. Events of Default. Any one or more of the following events is an Event of Default under this Agreement:

- a. Failure to pay any amount which shall have become due under the Note;
- b. Any representation of Goodwill which shall prove to have been false in any material respect;
- c. Non-performance by Goodwill of any covenant, agreement, term or condition in this Agreement, the HOME Loan Agreement, the LURA or the Mortgage and any amendments thereto and Goodwill has failed to cure such default within the required time period, if any, as provided herein or in the Mortgage;
- d. The sale, lease or other transfer of any kind or nature of the Property, or any part thereof, except as to leases of residential units to eligible tenants;
- e. The Property is no longer used to provide housing for persons with mental illnesses; or
- f. Goodwill becomes insolvent or the subject of state insolvency proceedings, fails generally to pay its debts as they become due or makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property or a receiver trustee, custodian or other similar official is appointed for, or takes possession of the Property.

87. Remedies. Upon the occurrence of an Event of Default, the CDA shall, by written notice to Goodwill, declare the Loan and Note to be immediately due and payable and/or may pursue any available remedy by suit at law or in equity to insure or realize the payment of the principal under the Note, including such remedies as are provided in the Mortgage.

No remedy conferred upon or reserved to the CDA hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power occurring upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

In the event the Goodwill should default under any of the provisions of the Agreement and the CDA should employ or assign attorneys or incur other expenses for the collection of the Loan or the enforcement of performance of any obligation or covenant on the part of Goodwill hereunder, the

Goodwill will on demand pay to the CDA the reasonable costs, charges or fees of such attorneys and such other expenses so incurred.

In the event any term or condition contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

~~98.~~ Workforce Utilization. This Section ~~98~~ is inapplicable if Goodwill employs fewer than fifteen (15) employees. Goodwill agrees that, within thirty (30) days after the effective date of this Agreement, Goodwill will provide to the City of Madison Department of Civil Rights certain workforce utilization statistics, using a form to be furnished by the City.

If the Agreement is still in effect, or if the CDA enters into a new agreement with Goodwill, within one year after the date on which the form was required to be provided, Goodwill will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the City Department of Civil Rights no later than one year after the date on which the first form was required to be provided.

Goodwill further agrees that, for at least twelve (12) months after the effective date of this Agreement, it will notify the City of Madison Department of Civil Rights of each of its job openings at facilities in Dane County for which applicants not already employees of Goodwill are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines. Goodwill agrees to interview and consider candidates referred by the Department of Civil Rights if the candidate meets the minimum qualification standards established by Goodwill, and if the referral is timely. A referral is timely if it is received by Goodwill on or before the date stated in the notice.

~~409.~~ Affirmative Action. This Section ~~409~~ is inapplicable if Goodwill employs fewer than fifteen (15) employees or does less than Twenty-Five Thousand Dollars (\$25,000) aggregate annual business with the City in any calendar year during which this Agreement is in effect.

#### ARTICLES OF AGREEMENT

##### ARTICLE I

Goodwill shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of Goodwill. Goodwill agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

ARTICLE II

Goodwill shall in all solicitations or advertisements for employees placed by or on behalf of the contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

ARTICLE III

Goodwill shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

ARTICLE IV

(This Article applies to non-public works contracts.)

Goodwill agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. The contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true (check one):

- A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 CFR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council \_\_\_\_\_.
- B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 CFR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council \_\_\_\_\_.

ARTICLE V

(This Article is inapplicable.)

ARTICLE VI

Goodwill will maintain records as required by Section 39.05(9)(f) of the Madison General Ordinances and will provide the City's Affirmative Action Officer with access to such records and to persons who have relevant and necessary information, as provided in Section 39.05(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

ARTICLE VII

In the event of Goodwill's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this contract or Sections 39.02 and 39.05 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- A. Cancel, terminate or suspend this contract in whole or in part.
- B. Declare Goodwill ineligible for further City contracts until the Affirmative Action requirements are met.

- C. Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the noncomplying subcontractor.

#### ARTICLE VIII

(This Article is inapplicable.)

#### ARTICLE IX

Goodwill shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE, and WBE" shall be substituted for the term "small business" in this Article.)

140. Nondiscrimination. In the performance of its obligations hereunder, Goodwill agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. Goodwill further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex or national origin.

~~12. Prevailing Wages. Goodwill shall pay its employees performing labor on the Project the wage rates established by Sec. 4.23, Madison General Ordinances, and its referenced sections, and shall require in its contracts and subcontracts for work on the Project, adherence by those contractors, subcontractors and agents to the wage rates established by Section 4.23 and its referenced sections. Goodwill and its contractors, subcontractors and agents shall also adhere to the requirements of Madison General Ordinances Sec. 23.01(1)(d) "Payroll and Records", Sec. 23.01(1)(j) "Evidence of Compliance by Contractor", and Sec. 23.01(1)(k) "Evidence of Compliance by Agent and Subcontractor" with the exception that the reference to "City Engineer" and "Department of Public Works" shall be to the CDA.~~

~~13. Living Wage. Goodwill agrees to pay all employees employed by Goodwill in the performance of this Agreement, whether on a full-time or a part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General ordinances.~~

141. Records and Reports. Goodwill shall, without charge to the CDA, maintain such records and shall make such reports to the CDA related to the Project as the CDA may reasonably require from time to time during the term of this Agreement. Goodwill shall, without charge to the CDA, make such records available for inspection and copying by the CDA, and shall make the Project available to the CDA for inspection, at any time during normal business hours and upon reasonable advance notice from the CDA to Goodwill.

152. Notices. All notices under this Agreement shall be sufficiently given and shall be deemed given when personally delivered or when mailed by first class mail postage prepaid to the proper addresses indicated below. The CDA and Goodwill may, by written notice given by each to the other, designate any address to which notices or other communications to them shall be sent when required as contemplated herein:

TO THE CDA:	Community Development Authority Attention: Executive Director 215 Martin Luther King, Jr. Blvd., Room LL110 P.O. Box 2983
-------------	--

Madison, WI 53701-2983

COPY TO: The City of Madison, Wisconsin  
Attn: City Attorney  
210 Martin Luther King Jr. Blvd., Room 401  
Madison, WI 53703

TO GOODWILL: Goodwill Industries of South Central Wisconsin  
Attention: Executive Director  
1302 Mendota Street  
Madison, WI 53714

163. No Assignment. This Agreement may not be assigned by Goodwill, in whole or in part, without the express prior written approval of the CDA.

174. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision.

185. Amendments, Changes and Modifications. Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified, altered or terminated by the CDA or Goodwill except by written amendment approved and executed by the CDA and Goodwill.

19. 16. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

20. 17. Wisconsin Law. This Agreement shall be deemed to have been made in the State of Wisconsin and its validity, construction, performance, breach and operation shall be governed by the laws of the State of Wisconsin.

21. 18. Compliance with Laws. Goodwill shall comply with, and will cause the Project to be in compliance with, all applicable laws, ordinances, permits, orders, regulations or agreements to which Goodwill and the Project are subject.

219. Loan Satisfaction. The Note shall be cancelled, the Loan shall be forgiven and the CDA shall execute a Mortgage satisfaction upon repayment of the Loan in full or completion of the Project on or before January 1, 2013 shall be executed provided Goodwill has continuously maintained the Property as affordable housing for a disabled population until June 1, 2025.

Formatted: Indent: First line: 0.4", No bullets or numbering, Tab stops: Not at 0.4"

Formatted: Indent: First line: 0.4", No bullets or numbering, Tab stops: Not at 0.4"

Formatted: Indent: First line: 0.4", No bullets or numbering, Tab stops: Not at 0.4"



The parties hereto have caused this Loan Agreement to be duly executed as of the date written above.

**GOODWILL INDUSTRIES OF SOUTH CENTRAL  
WISCONSIN, INC.**

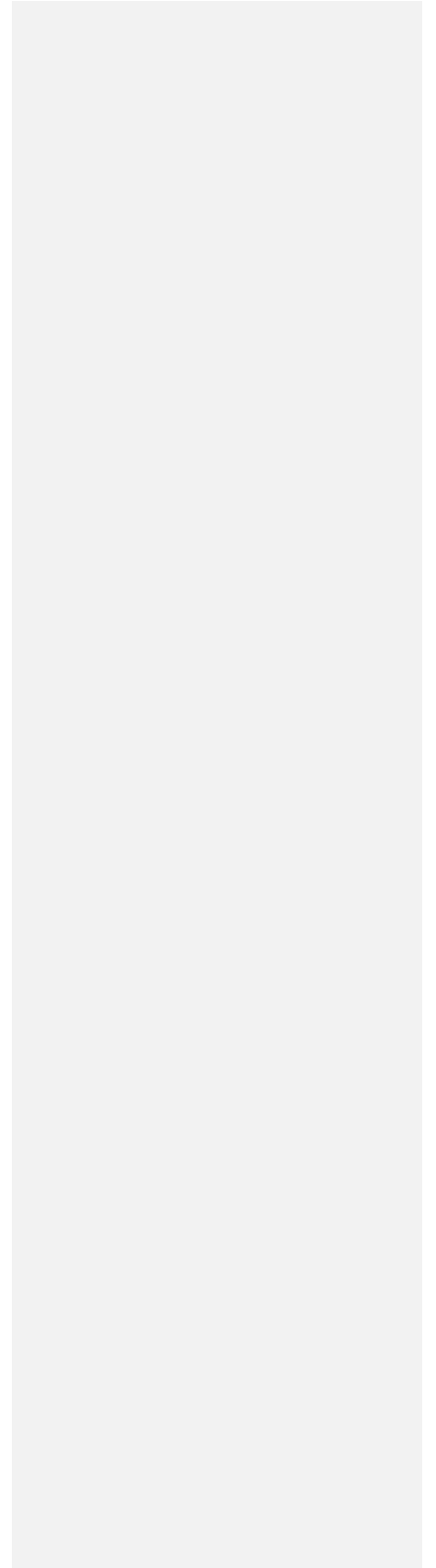
By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

By: \_\_\_\_\_  
\_\_\_\_\_, Chair

**COMMUNITY DEVELOPMENT  
AUTHORITY OF THE CITY OF  
MADISON**  
a Wisconsin redevelopment authority

By: \_\_\_\_\_  
Stuart Levitan, Chair

By: \_\_\_\_\_  
Mark A. Olinger, Executive Director



**EXHIBIT A**

**Legal Description of Property**

Lot One (1), Certified Survey Map No. 9713, as recorded with the Dane County Register of Deeds in Volume 56, Page 93 of Certified Surety Maps.

**Address of Property**

4829 Anniversary Lane, Madison, Wisconsin

Parcel No. 251-0810-272-0327-3

**EXHIBIT B**

~~Section 39.05 Assurances~~ HOME Loan Documents

**PROJECT NAME:** Goodwill Industry Acquisition 4829 Anniversary Lane

**CFDA:** 14.239

### **LOAN AGREEMENT**

**THIS LOAN AGREEMENT** (the "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2009, by and between GOODWILL INDUSTRIES OF SOUTH CENTRAL WISCONSIN, INC, a Wisconsin nonstock corporation ("Borrower"), whose principal business office is located at 1302 Mendota Street, Madison, WI 53714 and THE CITY OF MADISON, a Wisconsin municipal corporation (the "City") whose business address for matters related to this Agreement is at its Community Development Block Grant Office, 215 Martin Luther King Jr. Blvd., Suite 280, Madison, Wisconsin 53703.

### **WITNESSETH:**

**WHEREAS**, the City is a "Participating Jurisdiction" under the Federal HOME Investment Partnerships Program (the "HOME Program") as described in 24 CFR Part 92 (the "Regulations"); and

**WHEREAS**, the Borrower will acquire real estate in the City of Madison (the "Property"), which will be operated as affordable rental housing for clients of Goodwill Industries of South Central Wisconsin, Inc. as required by this Agreement and the Regulations (the "Project");

**WHEREAS**, the City has agreed to partially finance the Project with the proceeds of a loan of HOME funds (the "Loan") in the amount of \$200,000.00. Of this amount, 9%, or \$15,000, will be provided as a development fee and the remainder will be provided in the form of a loan. The Loan will be evidenced by a Promissory Note (the "Note") from the Borrower to the City, dated as of the date of each disbursement for a Property, and secured by a Real Estate Mortgage (the "Mortgage") from the Borrower to the City for each Property; of this amount, and

**WHEREAS**, the City and Borrower are to enter into a Land Use Restriction Agreement (the "Land Use Restriction") for each Property providing for certain restrictions on the use of each Property; and

**WHEREAS**, as an inducement to the City to provide the Loan to Borrower, Borrower is willing to enter into this Agreement;

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Use of Funds.** Borrower shall apply up to \$200,000 for the purchase of land at 4829 Anniversary Lane. The Loan proceeds are to be applied as shown in the budget attached hereto as Attachment A which is incorporated herein by reference. Borrower shall complete the acquisition and construct an 8 unit building on or before December 31, 2012. Borrower shall provide all funds in addition to the proceeds of the Loan which may be necessary or convenient to complete the Project.

2. Other Documents. The terms of the Notes, Mortgages and Land Use Restrictions (together, with this Agreement, the “Loan Agreements”), are hereby incorporated herein by reference, and noncompliance with any term or condition of any of them shall be deemed a default hereunder.
3. The Loan.
  - (a) Subject to the terms and conditions of this Agreement, the Mortgage executed in connection herewith, the Note given to evidence the Loan, Land Use Restriction Agreement to be executed in connection herewith and such other documents related to this transaction, the City agrees to loan Borrower the sum of Two Hundred Thousand Dollars (\$200,000) for the purpose of acquiring the Property.
  - (b) Prior to the City releasing the Loan funds, the Borrower shall:
    - (1) Execute a Mortgage, Note and a Land Use Restriction Agreement for the Property, each in a form acceptable to the City;
    - (2) Deliver to the City before the closing on the Property being acquired, a standard ALTA commitment (rev. 10/17/92) for a loan policy of title insurance in the amount of the HOME assistance for such Property, which will be subject only to municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, and taxes levied in the year of closing; and
    - (3) Provide evidence of insurance as required by the Mortgage.
  - (c) The Land Use Restrictions Agreement shall be recorded on the Property before any other documents creating an encumbrance upon the site, including the Mortgage and documents evidencing the first mortgage or construction loan to Borrower. Recording fees shall be paid by Borrower.
4. Project Requirements. The Borrower shall comply with the HOME Project requirements set forth in 24 CFR Part 92, Subpart F (Project Requirements), as applicable to the Project and the HOME Units, as that term is defined in the Land Use Restrictions. Four (4) units are designated as HOME units. The HOME Units are designated as floating units and must meet the requirements of 24 CFR 92.252(j) for the HOME assisted units. The Project shall be operated as “affordable housing” as defined in 24 CFR 92.252 (Rental Housing) for HOME assisted units. The period of affordability for units acquired with HOME funds is 15 years or as determined by HOME regulations.
  - (a) The Borrower shall report to the City those sources of support which are recognized as being a form of matching contribution, as set forth in Sec. 92.220 of the Regulations.
  - (b) Environmental review and clearance must be obtained from the CDBG Office prior to release of funds and prior to committing any funds for the Project. The Borrower shall request an environmental review of any Property to be assisted with HOME funds.
  - (c) The Borrower will comply with the following:
    - (1) Shall provide the CDBG office with a complete project pro-forma for review and approval prior to releasing any funds. The pro-forma shall include a projected

revenue and expense sheet for the Property, including a statement of revenue source, a site pro-forma for projected rent and operating costs, a detail of the projected final rent cost to tenants, and projected rehabilitation costs.

- (2) Submit the Inspection Request Form Attachment C a least 20 business days prior to date of occupancy. The Borrower shall not occupy any of the units until the units have passed inspection by an inspector under contract to the City of Madison CDBG Office.
- (3) Shall, prior to renting any units, submit to the CDBG Office for review and approval an Affirmative Marketing plan for the project, a Tenant Selection plan and the lease form for the HOME units. See HOME Investment Partnerships Program Final Rule 24 CFR 92.253 Tenant and Participant Protections for guidance on the Tenant Selection plan and the lease form; see 24 CFR 92.351 for guidance on the Affirmative Marketing plan.
- (4) Shall utilize the Loan to assist in the acquisition of Property to be used as permanent rental housing for seven previously homeless households with mental illness and one resident manager.
- (5) Shall assure that the housing is accessible under Federal Regulations at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covers multifamily dwellings, as defined at 24 CFR part 100.201, and must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619). Shall comply with all state and federal laws regarding accessibility including the Wisconsin Open Housing Law which outlines requirements for rehab of existing housing with three or more units. Borrower shall confirm with the CDBG Office the need for any accessibility modifications once the existing buildings have been selected.
- (6) Shall ensure all assisted units are in conformance with 24 CFR 92.251 Property Standards that states that housing acquired and/or rehabilitated must meet and maintain the property according to all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances.
- (7) Shall submit Project Completion Report Attachment B parts A & B and a copy of the closing statement within two weeks of the closing and shall submit Project Completion Report Attachment B part C as soon as all the units are occupied.
- (8) During the period of affordability, shall submit tenant information to the CDBG Office by January 1st of each year for review and approval using the Household Characteristics part of Attachment B and the HOME unit lease form. Shall verify the tenant incomes in conformance with 24 CFR 92.203(a)(1)(b)(1), (c), (d) and 92.252 (h). Tenant income for HOME assisted units shall not exceed 80% Area Median Income.
- (9) Shall assure that following the period of affordability the rents on the HOME assisted Units shall not exceed HOME rent levels for a unit of that size, until such time as the HOME loan is fully repaid; or unless the tenants are being supported by other Federal assistance such that they do not pay more than 30% of their income for rent of the HOME assisted unit.
- (10) The CDBG Commission encourages improvements that lead to lower, long-term utility costs for occupants. Improvements to the unit shall include the following:

- a. Compliance with health and safety standards such as direct vent hot water units when individual hot water heating units are provided within the assisted unit,
  - b. Protection from radon gas,
  - c. A passive solar-slab ventilation system when sub-grade areas are exposed during construction or rehabilitation, and
  - d. Within the assisted unit, features that help achieve a performance standard or energy conservation equal to 115% of the performance required by state building codes.
- (11) Shall assure that any pass through funds for acquisition of a property by an LLC include all requirements as contained in the Loan Agreements.
- (d) The Borrower shall submit to the City:
- 1) Non Federal Financial Reports and Audits:
    - a. Contractors expending \$500,000 or more in Federal funds, from all sources, in a fiscal year shall submit the following to the CDBG Office within nine months of the end of its fiscal year:
      - i. A single or program audit conducted in accordance with the requirements of the Government Auditing Standards and OMB A-133 “Audits of Institutions of Higher Education and Other Non-Profit Institution,” which shall include:
        - \* A schedule of all revenues and expenditures by program and revenue source, that reconciles costs for the contract period, including a bridging schedule if the contract year and the Contractors fiscal year do not coincide. NOTE: This schedule should break out the revenues and expenses by funding source and identify the exact amount of CDBG Office funds expended for a program; other revenue should not be combined within a program description of expenses.
        - \* A schedule of all real property assets; including an itemized list of all debt against each property and the terms of that debt.
        - \* The CDBG Office Schedule of Findings and Questioned Costs. See Attachment D.
      - ii. A copy of the management letter received from the auditor and the agency response to the management letter.
    - b. Contractors expending less than \$500,000 in Federal funds, from all sources, in a fiscal year shall submit the following:

For an agency which has an annual certified audit completed:

      - i. A copy of their annual certified audit, within 30 days of completion: which shall include the following schedules:
        - \* Report on the Internal Control structure.
        - \* Report on compliance with Laws, Regulations, Contracts and Grants. The City of Madison requires that the auditor plan the compliance audit

such that OMB Circular A-122 is considered material to the financial statements taken as a whole. The auditor will determine:

- \* Whether direct and indirect cost allocation plans are reasonable and acceptable.
- \* That costs are necessary and reasonable and were allocated according to the cost allocation plan.
- \* That the costs charged to the contract are based on actual costs incurred and are supported by accounting records and documents.
- \* A schedule of all revenues and expenditures by program and revenue source, that reconciles costs for the contract period, including a bridging schedule if the contract year and the Contractors fiscal year do not coincide. NOTE: This schedule should break out the revenues and expenses by funding source and identify the exact amount of CDBG Office funds expended for a program; other revenue should not be combined within a program description of expenses.
- \* A schedule of all real property assets; including an itemized list of all debt against each property and the terms of that debt.
- \* The CDBG Office Schedule of Findings and Questioned Costs. See Attachment D.

- ii. A copy of the management letter received from the auditor, and the agency response to that letter.

Contractors which do not have annual audits completed may be requested by the CDBG Office to have an audit completed at CDBG Office expense.

UNDER NO CIRCUMSTANCES WILL THE CDBG OFFICE REIMBURSE A FUNDED AGENCY FOR ANY COSTS RELATED TO AN AUDIT UNLESS THE AGENCY IS BEING AUDITED IN ACCORD WITH THE SINGLE AUDIT ACT AND OMB CIRCULAR A-133.

- (e) Borrower will comply with the provisions of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 3535 (d), 4821 and 4851, and its implementing regulations in 24 C.F.R. 35 as well as State and local laws regarding lead paint.

City of Madison MGO 7.49	Applies whenever exterior painting or remodeling is being done to <u>any property</u> built before 1978.	Establishes standards for paint removal and safe work conditions.
State of Wisconsin Code HFS 163	Applies to any person performing, supervising or offering to perform or supervise a lead-based paint activity involving housing or a child-occupied facility constructed prior to 1978 (unless the property is occupied by the elderly or the disabled or is a zero-bedroom	Requires certification of all inspectors, supervisors and workers. Establishes work practice standards.



	dwelling unit.)	
Federal Lead Paint Regulation 24 CFR, Part 35	Applies to any HUD-CPD funded activity with requirements as listed below based on type of activity.	

(a) Summary of the Federal Regulations as implemented by HUD on September 15, 2000:

OPTION	
Presume lead & use safe work practices on all surfaces being disturbed	<p><u>&lt; \$5,000 per unit rehabilitation &amp; pre-1978 housing</u></p> <ul style="list-style-type: none"> <li>▪ Test paint on surfaces to be disturbed using a certified lead paint tester.</li> <li>▪ Repair surfaces with LBP disturbed during rehabilitation.</li> <li>▪ Safe work practices &amp; clearance of work site, unless rehabilitation did not disturb painted surfaces of a total area of: <ul style="list-style-type: none"> <li>Exterior &gt; 20 ft<sup>2</sup></li> <li>Interior &gt; 2 ft<sup>2</sup> in any one interior room or space</li> <li>&gt;10% total surface area of interior or exterior component.</li> </ul> </li> <li>▪ Notification: <ol style="list-style-type: none"> <li>1. Pamphlet – “<i>Protect Your Family from Lead in Your Home</i>”;</li> <li>2. Disclosure of available information or knowledge regarding presence of lead-based paint;</li> <li>3. Disclosure of test results within 15 days of receiving report or a disclosure of a presumption of lead;</li> <li>4. Notice of hazard reduction activities within 15 days after reduction activities are complete (including clearance results).</li> </ol> </li> <li>▪ Ongoing maintenance every 2 years required for HOME-assisted rehabilitation only.</li> </ul>
OPTION	
Presume lead & perform standard treatments (including paint repair, cover w/polyurethane, plastic, etc., soil)	<p><u>\$5,000 - \$25,000 per unit rehabilitation &amp; pre-1978</u></p> <ul style="list-style-type: none"> <li>▪ Full risk assessment on unit receiving assistance <u>and</u> related common areas <u>and</u> exterior painted surfaces (includes paint testing, dust &amp; soil sampling &amp; visual evaluation) using a certified risk assessor.</li> <li>▪ Interim controls performed on identified hazards (includes paint repair, enclosing or coating chewable surfaces, covering with polyurethane, plastic, etc., and bare soil).</li> <li>▪ Safe work practices, unless rehabilitation did not disturb painted surfaces of a total area of: <ul style="list-style-type: none"> <li>Exterior &gt; 20 ft<sup>2</sup></li> <li>Interior &gt; 2 ft<sup>2</sup> in any one interior room or space</li> <li>&gt;10% total surface area of interior or exterior component.</li> </ul> </li> <li>▪ Clearance on unit, related common areas &amp; exterior painted surfaces.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Notification: <ol style="list-style-type: none"> <li>1. Pamphlet – <i>“Protect Your Family from Lead in Your Home”</i>;</li> <li>2. Disclosure of available information or knowledge regarding presence of lead-based paint;</li> <li>3. Disclosure of test results within 15 days of receiving report or a disclosure of a presumption of lead;</li> <li>4. Notice of hazard reduction activities within 15 days after reduction activities are complete (including clearance results).</li> </ol> </li> <li>▪ Ongoing maintenance every 2 years required for HOME-assisted rehabilitation only.</li> </ul>
<p>Presume lead &amp; abate all applicable surfaces (deteriorated/ chewable &amp; any surface to be disturbed)</p>	<p><u>&gt;\$25,000 per unit rehabilitation &amp; pre-1978</u></p> <ul style="list-style-type: none"> <li>▪ Risk assessment on unit that is assisted <u>and</u> related common areas <u>and</u> exterior painted surfaces (includes paint testing, dust &amp; soil sampling &amp; visual evaluation) using a certified assessor.</li> <li>▪ Abate all interior &amp; exterior identified hazards that have been disturbed. Remove &amp; replace or encapsulate.</li> <li>▪ Interim controls (includes paint repair, enclosing or coating chewable surfaces, covering w/polyurethane, plastic, etc., and soils) performed on identified hazards on exterior that are not disturbed by rehabilitation.</li> <li>▪ Safe work practices, unless rehabilitation did not disturb painted surfaces of a total area of: <ul style="list-style-type: none"> <li>Exterior &gt; 20 ft<sup>2</sup></li> <li>Interior &gt; 2 ft<sup>2</sup> in any one interior room or space</li> <li>&gt;10% total surface area of interior or exterior component.</li> </ul> </li> <li>▪ Clearance on unit, related common areas &amp; exterior painted surfaces.</li> <li>▪ Notification: <ol style="list-style-type: none"> <li>1. Pamphlet – <i>“Protect Your Family from Lead in Your Home”</i>;</li> <li>2. Disclosure of available information or knowledge regarding presence of lead-based paint;</li> <li>3. Disclosure of test results within 15 days of receiving report or a disclosure of a presumption of lead;</li> <li>4. Notice of hazard reduction activities within 15 days after reduction activities are complete (including clearance results).</li> </ol> </li> <li>▪ Ongoing maintenance every 2 years required for HOME-assisted rehabilitation only.</li> </ul>
<p>OPTION</p>	
<p>Perform paint testing &amp; repair</p>	<p><u>Unit Acquisition, Support Services, Operations &amp; pre-1978</u></p> <ul style="list-style-type: none"> <li>▪ Visual assessment of all painted surfaces in unit <u>and</u> related common areas <u>and</u> exterior painted surfaces to identify deteriorated paint (assessor does not need to be certified).</li> <li>▪ Paint stabilization of deteriorated lead paint (repair defective surface, remove loose paint &amp; apply new paint).</li> <li>▪ Safe work practices, unless rehabilitation did not disturb painted</li> </ul>

	<p>surfaces of a total area of:  Exterior &gt; 20 ft<sup>2</sup>  Interior &gt; 2 ft<sup>2</sup> in any one interior room or space  &gt;10% total surface area of interior or exterior component.</p> <ul style="list-style-type: none"> <li>▪ Clearance on unit, related common areas &amp; exterior painted surfaces.</li> <li>▪ Notifications: <ol style="list-style-type: none"> <li>1. Pamphlet – “<i>Protect Your Family from Lead in Your Home</i>”;</li> <li>2. Disclosure of available information or knowledge regarding presence of lead-based paint;</li> <li>3. Disclosure of test results within 15 days of receiving report or a disclosure of a presumption of lead;</li> <li>4. Notice of hazard reduction activities within 15 days after reduction activities are complete (including clearance results).</li> </ol> </li> <li>▪ Ongoing maintenance every 2 years.</li> </ul>
--	---

NOTE: Safe work practices must be completed by a State certified worker. All clearance must be done by a State certified inspector.

(b) The State of Wisconsin Department of Health and Family Services (DHFS) adopted rules to reduce lead paint hazards. A summary of the major State requirements affecting CDBG projects is as follows:

1. All lead inspectors, project designers, risk assessors, workers and supervisors must be accredited by DHFS.
2. A person certified as a supervisor of lead hazard reduction must be on the site at all times when work designed to reduce lead-based paint hazards is being performed and must have her/his certification card on the premises.
3. All workers must be individually certified and have their certification cards on the premises.
4. The supervisor of the lead hazard reduction work must notify the Wisconsin DHFS a minimum of 10 days prior to commencing the work.

The Contractor shall conform to any local rules, including MGO 7.49, which establishes standards for paint removal and safety procedures.

**MGO 7.49  
STANDARDS FOR EXTERIOR PAINTING AND REMODELING**

(1) Scope.

Owners of buildings and structures built before 1978 shall paint or remodel or cause to be painted or remodeled any painted exterior surface of such buildings or structures in conformity with the standards set forth in this section. These standards also apply if the age of the building or structure cannot be established by the owner to the satisfaction of the Department of Public Health.

- (a) Painting or remodeling includes but is not limited to work involving construction, alteration, repair, painting, paint removal or decorating.
  - (b) A painted exterior surface means an exterior surface covered with paint or other surface coating material.
  - (c) An exterior surface may include but is not limited to walls; windows, window assemblies and trim; soffit; fascia; doors, door assemblies and trim; porch and balcony floors and ceilings; column, handrails, and guardrails; and foundations.
- (2) Standards for Paint Removal Methods.
- (a) The following methods shall not be used to remove paint or other surface coating materials without the use of adequate engineering controls:
    - 1. Open flame burning;
    - 2. Power tool cleaning including but not limited to machine sanding or machined grinding;
    - 3. Open-air abrasive blasting or stripping using sand, steel grit, steel shot, aluminum oxide, water or other abrasive media.
  - (b) The methods listed in Subdivision (a) above may be used only with adequate engineering controls to the extent feasible to reduce public exposure to lead. Adequate engineering controls include but are not limited to vacuum attachments equipped with high efficiency particulate accumulator (HEPA) filters, partial containment structures, total containment structures under negative pressure or other method approved by the Director or Department of Public Health.
- (3) Safety Procedures.
- (a) All windows, doors, HVAC intake vents and other entry ways into the building or structure shall be kept closed, or sealed if necessary, while work is being performed.
  - (b) Plastic sheeting shall be used to prevent accumulation of dust and debris on the soil, vegetation or other surfaces adjacent to the work area. At a minimum, plastic sheeting shall be securely attached to the building or structure and extend the length of the work area.
  - (c) All visible dust and debris in and around the work area and all waste work materials such as tape, plastic sheeting, mop heads, cleaning cloths, sponges, disposable clothing, filters and other disposable work materials must be cleaned up at the end of each work day during the entire painting or remodeling project. The dust, debris and disposable work materials must be placed in double 4 mil or single 6 mil plastic bags.

(d) Waste generated during the project shall be disposed of in conformance with all applicable local, state and federal laws and regulations. Waste shall be transported and disposed of in such a manner as to prevent lead from becoming airborne.

(4) Warning Notice.

At least two warning signs shall be conspicuously posted adjacent to the work area. The signs shall be posted at the beginning of the project and remain posted until the project has been completed. The signs shall measure at least eleven (11) inches by eight (8) inches and display the following wording:

**Caution – Paint Removal Work Area  
Danger to Children and Pregnant Women**

(5) Exemption.

Persons are exempt from this ordinance if there is no lead-bearing paint present on the surfaces to be painted or remodeled or if there is no lead-bearing paint disturbed by the painting or remodeling process. Lead-bearing paint means any paint or other surface coating material containing more than 0.06% lead by weight, or showing a lead concentration of more than 0.7 milligrams of lead per square centimeter (0.7 mg/cm<sup>2</sup>) of surface area. This determination must be made prior to removing or disturbing the paint by a laboratory certified to do lead analysis through the Environmental Lead Laboratory Accreditation Program. Paint chip samples must be collected according to instructions provided by the accredited laboratory. Acceptable paint chip samples must include all layers of paint and omit any surface material such as wood, masonry, etc. A Finding of no lead-bearing paint must be supported with written documentation showing who performed the testing specifying the company or lab name and address and technician name, the date of testing, the test method used, the location and type of surface tested and the test result for each sample.

(6) Penalties.

Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000) and each day or fraction of a day on which any provision of this ordinance is violated shall be deemed a separate offense. (Sec. 7.49 Cr. by Ord. 10,886, 4-14-94)

(f) Borrower shall comply with all the requirements of 24 CFR 570.502; 24 CFR part 570.610; the applicable portions of 24 CFR Part 84; OMB Circular A-110, "Uniform Administrative Requirements"; OMB Circular A-122, "Cost Principles for Nonprofit Organizations"; and OMB Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations" and its implementing regulations. In addition, Borrower will comply with the following CDBG Office requirements.

(1) Procurement shall be made by one of the following methods and must be approved by the CDBG Office.

a. Estimate Process

Comparable estimates are obtained from at least two qualified sources. The lowest estimate is selected. This process can only be used for services, supplies or other property costing in the aggregate not more than \$100,000.

b. Competitive Sealed Bids

Sealed bids are solicited and publicly opened. Selection is based on low price and compliance with Affirmative Action Requirements.

c. Competitive Negotiation:

Selection criteria are defined prior to solicitation of bids. The selection criteria must include price but are not limited to price.

Value engineering, a process where the general contractor is selected before the project design is complete, may be used in conjunction with either a sealed bid or competitive negotiation process. Subcontractors are selected through a competitive process and a fixed maximum price is set prior to the start of construction. Value Engineering is allowed only for very complex and high priced projects.

5. Property Standards. The Borrower shall ensure that the Property is maintained in compliance with 24 CFR Part 92.251. To maintain the Property as attractive, decent and safe living environment, the Borrower shall vigorously and consistently enforce such provisions in a timely manner.
6. Affirmative Marketing. The Borrower shall comply with the City's affirmative marketing procedures and requirements adopted pursuant to 24 CFR Section 92.351 with respect to the HOME Units. These require the Borrower to adopt an affirmative marketing plan which must be (i) approved by the CDBG Office, and (ii) provide for affirmative marketing of the HOME Units in accordance with the approved plan.
7. Other Program Requirements. The Borrower shall carry out its responsibilities hereunder in compliance with all federal laws and regulations described in 24 CFR Part 92 Subpart H, except for the City's responsibilities for environmental review in 24 CFR Section 92.352 and the intergovernmental review process in 24 CFR Section 92.357.
8. Requests for Disbursements of Funds. The Borrower shall not request reimbursement of Loan proceeds until such funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.
9. Records and Reports. The Borrower shall, without charge to the City, maintain such records and shall make such reports to the City related to the Project as the City may reasonably require from time to time during the term of this Agreement. Borrower shall, without charge to the City, make such records available for inspection and copying by the City, and shall make the Property available to the City for inspection, at any time during normal business hours and upon reasonable advance notice from the City to the Borrower of the City's wish to make any such inspection.

10. Enforcement. The Loan Agreements specify certain remedies available to the City for enforcement of this Agreement. If at any time the City believes an event of default has occurred under any of the Loan Agreements, the City may give written notice thereof to the Borrower. The Borrower shall have 30 days following receipt of such notice to cure any such event of default before the City may declare default (which the City may only do if the event of default is not cured or waived) under any of the Loan Agreements and proceed to exercise any of the City's remedies thereunder. Among other remedies, the City may declare the Loan to be immediately due and payable in full and may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation, to obtain injunctive relief, to compel specific performance or to recover monetary damages, together with the costs and expenses of any proceeding for the collection thereof, including reasonable attorney's fees, caused by such violation, or the City may take any other action available to remedy the violation.

Nothing in this Agreement shall be construed to in any way affect or control the City's exercise of its police power. No delay by the City in instituting or prosecuting any remedy shall operate as a waiver of the City's right to do so or to pursue other remedies. Borrower shall not be deemed to be in default if the default is a result of unforeseeable causes beyond Borrower's control and without its fault or negligence, including, but not limited to acts of God, the public enemy or the federal government, fires, floods, epidemics, quarantine restrictions, strikes, embargoes or unusually severe weather or delays of subcontractors due to such causes.

11. Duration of the Agreement. Provided there is no default hereunder, this agreement shall terminate and the Loan shall be forgiven on the 15<sup>th</sup> anniversary of the date the Borrower acquires the Property. Notwithstanding the foregoing, the first sentence of Section 4 and Section 7 and the following words in Section 6, "and requirements adopted pursuant to 24 CFR Section 92.351 with respect to the HOME units," shall terminate and be of no further force and effect upon the expiration of the Period of Affordability for the Property. The Period of Affordability shall terminate on the appropriate anniversary of the date the Borrower completes the acquisition of the property, per the terms and requirements of 24 CFR 92.252 (Rental Housing), based upon the amount of HOME funds the City has invested in the Property. Prepayment of the Loan prior to the expiration of the Period of Affordability shall not relieve the Borrower of the application of Sections 4, 5, 6, and 7 of this Agreement, except as provided in the Land Use Restrictions.
12. Articles of Agreement. The following Articles of Agreement are required to be set forth herein under Section 3.58, Madison General Ordinances. For purposes of this section, the word "contractor" shall mean the Borrower.

#### ARTICLE I

The contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex or national origin and that the employer shall provide harassment-free- work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and

selection for training including apprenticeship insofar as it is within the control of the contractor. The contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses of the contract.

**ARTICLE II**

The contractor shall in all solicitations or advertisements for employees placed by or on behalf of the contractor state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex or national origin.

**ARTICLE III**

The contractor shall send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or workers representative of the contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

**ARTICLE IV**

(This article applies only to non-public works contracts.)

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison including the contract compliance requirements. The contractor warrants and certifies that, of the following two paragraphs, paragraph A or B is true (check one):

- A. It has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this contract, it will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by the City of Madison ordinances or within thirty (30) days after the effective date of this contract, it will complete a model affirmative action plan approved by the Madison Common Council.

**ARTICLE V**

(This article applies only to public works contracts.)

The contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the contract compliance requirements. The contractor agrees to submit the model affirmative action plan



for public works contractors in a form approved by the Director of Affirmative Action.

#### **ARTICLE VI**

The contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

#### **ARTICLE VII**

In the event of the contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action Provisions of this contract or Sections 3.23 and 3.58 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

1. Cancel, terminate or suspend this contract in whole or in part.
2. Declare the contractor ineligible for further City contracts until the Affirmative Action requirements are met.
3. Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the non-complying subcontractor.

#### **ARTICLE VIII**

(This article applies to public works contracts only.)

The contractor shall include the above provisions of this contract in every subcontract so that such provisions will be binding upon each subcontractor. The contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

#### **ARTICLE IX**

The contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE, and WBE, shall be substituted for the term "small business" in this article.)

13. Non-Discrimination. For the purposes of this Section, Contractor shall mean Borrower. In the performance of the services under this Agreement the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, familial status, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex or national origin.

It will comply with the City of Madison MGO 32.12(13) prohibiting any person receiving City financial assistance for the development, redevelopment, or rehabilitation of a rental housing project to refuse to lease or otherwise make unavailable housing solely because the applicant for the housing is a direct recipient of Federal, State, or local government housing subsidies. This is applicable during the period of the term of City financial assistance.

14. Non-Discrimination on Basis of Disability. The Contractor assures and certifies that it will comply with the provisions of MGO 3.72, “Non-discrimination based on Disability in City facilities and City-Assisted Programs and Activities” and to ensure that any subcontractor who performs any part of this agreement complies with such provisions where applicable. The primary non-discrimination provisions of this ordinance, contained in 3.72(5) through (9), require that:
- A. No otherwise qualified individuals with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving City assistance.
  - B. Each program or activity receiving City assistance shall be operated so that the program or activity, when viewed in its entirety, is readily accessible to and usable by persons with disabilities.
  - C. The contractor shall take appropriate steps to ensure effective, accessible communication with applicants for services, beneficiaries and members of the public.
  - D. The contractor shall post notices in an accessible format describing the applicable provision of MGO 3.72.
  - E. The Contractor agrees to comply with the City Affirmative Action Department in its requests regarding compliance with MGO 3.72, including filing an Accessibility Plan.
15. Applicable Laws. Borrower shall at all times comply with and cause the Project to be in compliance with, all federal, state, county and city laws and regulations which are applicable to the Project or applicable to Borrower as recipient of HOME funds for the Project. Borrower shall independently determine which such laws and regulations are applicable to the Project or Borrower, and is not, and shall not, rely upon the City, or the City’s officers, officials, employees or agents, in making any such determination. The specific references to particular statutes and regulations referenced in this Agreement mean those which are in effect on the date hereof and do not include any amendments thereto which may be subsequently enacted unless specifically required by the City. A copy of 24 CFR Part 92 as it exists on the date hereof has been made available to the Borrower.
16. Sign/Easements/ CDBG Logo. Borrower shall provide and erect a sign on the Property during any rehab of the Project which credits the City’s HOME Program with financing a

portion of the Project. Borrower shall not allow any structure (other than paving and signage) to encroach upon any easement across the Property without the prior written consent of the City. Borrower shall credit the City of Madison HOME Program, and will include the CDBG Office logo, in all its documents, publicity newsletters, brochures or site signs regarding the funded activities.

17. No Third Party Rights. Nothing in the Loan Agreement or any other agreement between Borrower and the City, and no act by the Borrower or City, shall be deemed or construed by the Borrower or City or any other person or entity to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture or any association or relationship involving the City.
18. Representations. Borrower represents and warrants to the City as of the date hereof that the Borrower is a Wisconsin non-stock corporation generally exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code, is in good standing under the laws of the State of Wisconsin, and has all requisite power, licenses and authority necessary to conduct its business, including operating the Project, and that the Loan Agreements constitute the legal, valid and binding obligations of Borrower, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally. The Borrower shall maintain its existence and will not dissolve, assign or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another business entity or permit one or more business entities to consolidate with or merge into it or suffer, cause or permit any modification of its equity structure without the express written approval of the City.
19. Conflicts of Interest. No one who is an employee, agent, consultant, officer, or elected official or appointed official of the City or Borrower which are receiving HOME funds, and who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This provision shall be in addition to the requirements of Section 3.47 of the Madison General Ordinances.
20. Indemnification. Borrower shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, its officers, officials, agents and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Borrower or its tenants, agents, contractors, subcontractors, invitees or employees in the performance of this Agreement, whether caused by or contributed to by the City or its agenda or employees.

The Borrower agrees that in order to protect itself and the City under the indemnification agreement set forth in the paragraph above, it will at all times during the term of this Agreement, keep in force and effect, comprehensive general liability insurance, including, but not limited to contractual liability, personal injury, bodily injury and property damage, and auto liability insurance coverage, issued by a company or companies authorized to do business in the State of Wisconsin, with liability coverage

provided for therein in the amount of \$1,000,000 combined single limits. The coverage afforded shall apply as primary with the City named as additional insured. The insurer shall give thirty (30) days advance written notice of cancellation, non-renewal, or material change during the terms of this agreement. Upon execution of this Agreement, the Borrower shall furnish the City's Risk Manager with a Certificate of Insurance and, upon request, certified copies of the requested insurance policies.

21. Assignment. Borrower's obligations under the Loan Agreements may not be assigned without the prior written consent of the City.
22. Junior Lenders. Borrower shall not create, suffer or permit any mortgage other than mortgages granted in favor of HUD or WHEDA, lien, charge or encumbrance to attach or be recorded or filed against the Property, whether such lien is superior or inferior to the lien of the City, without the City's prior written approval.
23. Living Wage. (Applicable to contracts in excess of \$5,000.) Borrower agrees to pay all employees employed by the Borrower in performance of this Agreement, whether on a full-time or part-time basis, a wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances. The minimum hourly wage as of January 2009 is \$11.21 per hour for persons covered by the ordinance. M.G.O. requires the Contractor to post a notice of the minimum living wage rates and the phone number of the City's Affirmative Action Office, and provide a copy of the ordinance to any person employed by the Contractor in the performance of the service contract. For further information on the City's living wage requirements, see <http://www.ci.madison.wi.us/comp/livewage/lw-index.htm>.
24. Due on Sale. Upon the sale, change in use, or other transfer of the Property (except as provided in Section 20 hereof), the Loan shall be immediately due and payable as provided in the Note(s).
25. Limitation on Disbursement. Notwithstanding any other provision contained in any of the Loan Agreements, the City shall be under no obligation to disburse to Borrower more than \$200,000 in HOME proceeds.
26. Notices. All notices to be given under the terms of this contract shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

FOR THE CITY: Sue Wallinger, Program Manager  
CDBG Office, Room 280  
215 Martin Luther King Jr. Blvd.  
Madison, WI 53703

FOR THE  
CONTRACTOR: Barbara Leslie, President and CEO  
Goodwill Industries for South Central Wisconsin, Inc.  
1302 Mendota Street  
Madison, WI 53814

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of \_\_\_\_\_, 2009

GOODWILL INDUSTRIES OF SOUTH CENTRAL WISCONSIN, INC.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF MADISON  
A Municipal Corporation

By: \_\_\_\_\_

David J. Cieslewicz, Mayor

Attest: \_\_\_\_\_

Maribeth Witzel-Behl, City Clerk

Approved as to Form:

Countersigned:

\_\_\_\_\_  
Michael P. May, City Attorney

\_\_\_\_\_  
Dean Brassler, City Comptroller

Countersigned:

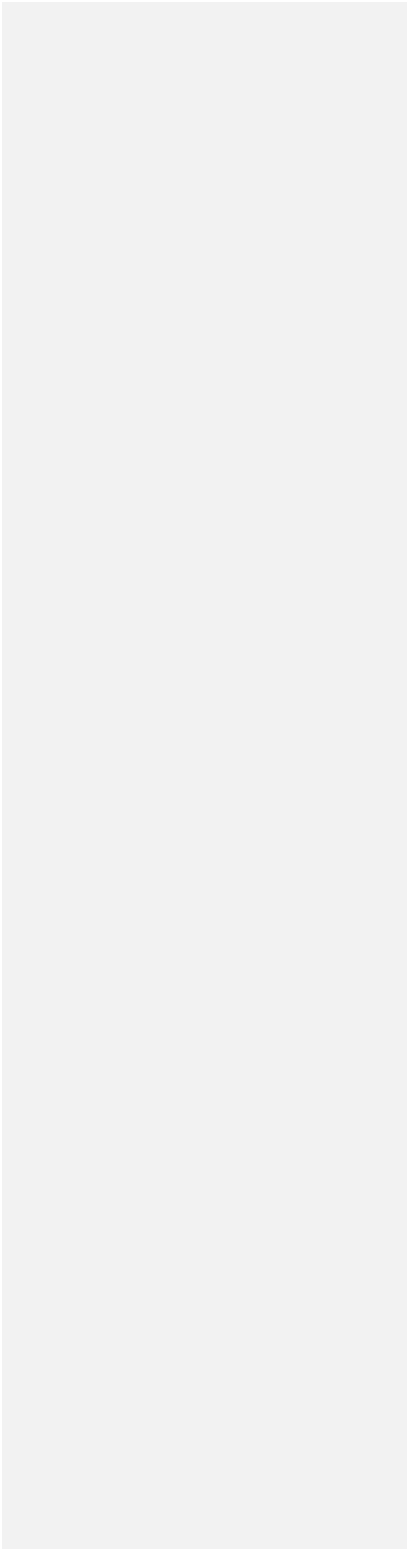
Countersigned:

---

Bill Clingan, Division Director

---

Eric T. Veum, Risk Manager



**Attachment A**

**BUDGET**

**Goodwill Industries of South Central Wisconsin, Inc.**

	<b>Current Request</b>	<b>Requested to Date</b>	<b>Budget Amount</b>
<b>Capital Costs:</b> Acquisition costs			\$185,000
<b>Development Fee:</b> Closing and related costs			\$15,000
<b>TOTAL</b>			<b>\$200,000</b>

Borrower certifies that a commitment for title insurance and evidence of insurance have been submitted to the CDBG Office with/or prior to this request for funds, and that a copy of the closing statement will be forwarded to the CDBG Office within two weeks of the closing.

Borrower certifies that all persons paid in whole or part through this contract have been paid in accord with the City of Madison Living Wage requirements.

\_\_\_\_\_  
Signature of President/CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
CDBG Grants Administrator

\_\_\_\_\_  
Date

**LEGAL DESCRIPTION**

**Property Address:** 4829 Anniversary Lane, Madison, WI

**Parcel No.:** 251-0810-272-0327-3

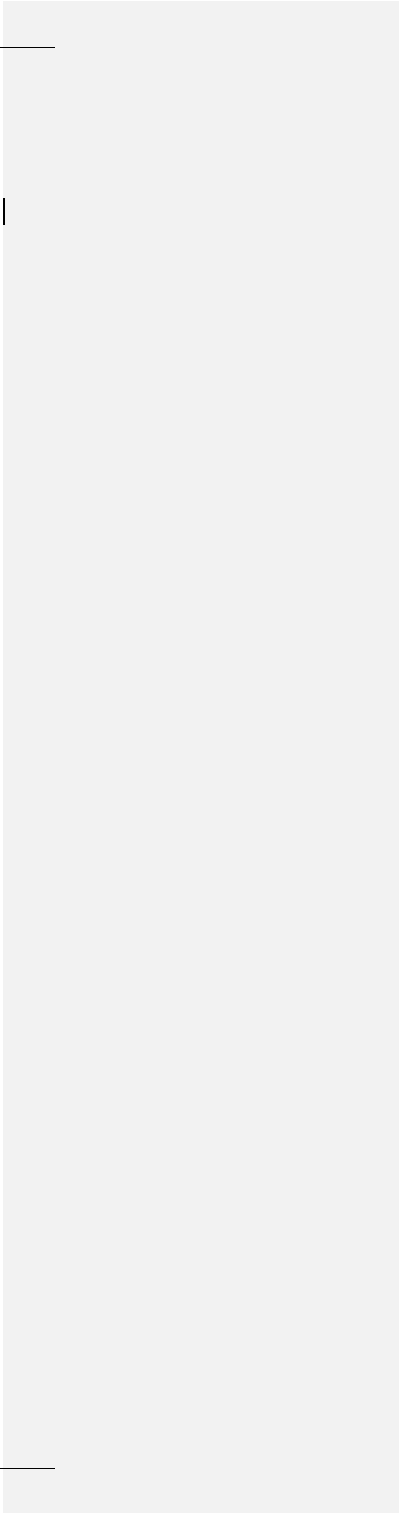
**Legal Description:** Lot 1, Certified Survey Map 9713, recorded in Vol 56 of Certified Survey Maps, page 93, as #3222614, in the City of Madison, Dane County, Wisconsin.



---

**Attachment C**

Rental Completion Report  
HOME Program  
Attached



**U.S. Department of Housing and  
Urban Development** IDIS

Office of Community Planning and Development

Activity Number: 0497000

**Madison CD Office Activity Report D**  
*Improvement of Rental Housing*

**Administrative Information** (to be completed by CD Office staff)

Project Number: <b>D_R_010</b>		Project Name: <b>Goodwill Acquisition 4829 Anniversary Lane</b>		Agency: <b>Goodwill Industries of South Central WI, Inc.</b>	
Is this a CHDO Activity? (if yes, complete the following two items)		CHDO acting as:		CHDO Tax ID Number:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> (1) Owner <input type="checkbox"/> (2) Sponsor <input type="checkbox"/> (3) Developer			
Objective:			Outcome:		
<input type="checkbox"/> (1) Create suitable living environment			<input type="checkbox"/> (1) Availability / accessibility		
<input checked="" type="checkbox"/> (2) Provide decent affordable housing			<input checked="" type="checkbox"/> (2) Affordability		
<input type="checkbox"/> (3) Create economic opportunities			<input type="checkbox"/> (3) Sustainability		
Activity Location: (check all that apply)				Will this activity be carried out by a faith-based organization?	
<input type="checkbox"/> (1) CDBG Strategy Area		<input type="checkbox"/> (4) Historic preservation area		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<input type="checkbox"/> (2) Local target area		<input type="checkbox"/> (5) Brownfield redevelopment area			
<input type="checkbox"/> (3) Presidentially declared major disaster area		<input type="checkbox"/> (6) Conversion of nonresidential to residential use			
Estimated Funding Amounts from ALL Sources for this Activity: (please indicate all that apply)					
<input type="checkbox"/> CDBG (SC01) \$		<input checked="" type="checkbox"/> HOME (SC01) \$ 200,000			
<input type="checkbox"/> CDBG PI (SC02) \$		<input type="checkbox"/> HOME PI (SC02) \$			
<input type="checkbox"/> Other source (specify): \$		<input type="checkbox"/> Other source (specify): \$			
<b>TOTAL estimated funding for this activity: \$</b>					
Check the Appropriate Box:		Name of Participant:		Participant Tax ID Number:	
<input checked="" type="checkbox"/> Original Submission <input type="checkbox"/> Change Owner's Address		<b>City of Madison</b>		<b>39-6005507</b>	
<input type="checkbox"/> Ownership Transfer <input type="checkbox"/> Revision				<b>Project Manager:</b>	
				<b>Sue Wallinger</b>	

Name and Phone Number of person completing this form:

**Sue Wallinger, City of Madison CD Office, 215 Martin Luther King, Jr. Blvd., Room 280, Madison, WI 53703, (608) 267-0740**

**Set-Up Information**

Type of Activity:					
<input type="checkbox"/> (1) Rehab Only		<input type="checkbox"/> (2) New Construction Only		<input checked="" type="checkbox"/> (3) Acquisition Only	
		<input type="checkbox"/> (4) Acquisition & Rehab		<input type="checkbox"/> (5) Acquisition & New Construction	
Property Address: <b>4829 Anniversary Lane</b>		City: <b>Madison</b>	State: <b>WI</b>	Zip Code: <b>53714</b>	County Code: <b>025 - Dane</b>
				Part of a Multi-Address Activity? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Owner / Developer Type:					
<input type="checkbox"/> (1) Individual		<input type="checkbox"/> (2) Partnership		<input type="checkbox"/> (3) Corporation	
		<input checked="" type="checkbox"/> (4) Not-for-Profit		<input type="checkbox"/> (5) Publicly Owned	
				<input type="checkbox"/> (6) Other	
Owner / Developer's Name: <b>Goodwill Industries of South Central WI, Inc.</b>					
Owner / Developer's Address: <b>1302 Mendota Street</b>		City: <b>Madison</b>	State: <b>WI</b>	Zip Code: <b>53714</b>	

**Completion Information**

*If this is a multi-address activity, please make copies of this form so that cost and beneficiary information is reported for each address.*

Property Type:			
<input type="checkbox"/> (1) Condominium		<input type="checkbox"/> (2) Cooperative	
<input type="checkbox"/> (3) SRO		<input type="checkbox"/> (4) Apartment	
		<input type="checkbox"/> (5) Other	
FHA Insured?		Mixed Use?	
<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		Mixed Income?	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		Period of Affordability: <b>15 years</b>	

Unit Information	TOTAL	HOME-assisted units, if any
ALL completed units.....	.....	.....
Of the units completed, the number		
- meeting <b>Energy Star</b> standards .....	.....	<input type="checkbox"/> N/A
- that are <b>504-accessible</b> .....	.....	<input type="checkbox"/> N/A
- made <b>lead safe</b> (24 CFR Part 35, <i>rehab activities only</i> ) .....	.....	<input type="checkbox"/> N/A
- designated for persons with <b>HIV/AIDS</b> .....	.....	<input type="checkbox"/> N/A
Of those, the number for <b>chronically homeless</b> .....	.....	<input type="checkbox"/> N/A
- designated for the <b>homeless</b> .....	.....	<input type="checkbox"/> N/A
Of those, the number for <b>chronically homeless</b> .....	.....	<input type="checkbox"/> N/A

**Homeless** is defined as (1) an individual or family who lacks fixed, regular, and adequate nighttime residence; or (2) an individual or family who has a primary nighttime residence that is: (a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), (b) an institution that provides a temporary residence for individuals intended to be institutionalized, or (c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

A **chronically homeless** person is defined as an unaccompanied homeless individual with a disabling condition who has either: (1) been continuously homeless for a year or more, or (2) has had at least four episodes of homelessness in the past three years. A **disabling condition** is defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability. For the purpose of determining chronically homelessness, a homeless person is an unaccompanied individual sleeping in a place not meant for human habitation or in an emergency homeless shelter.

**Energy Star** applies to substantial rehabilitation activities, and is a system for achieving and verifying a level of building performance with respect to energy efficiency. The performance level is certified by third party contractors. See [www.energystar.gov](http://www.energystar.gov) for more information.

The **Section 504** (of the Rehabilitation Act of 1973) regulations define an **accessible** dwelling unit as a unit that is located on an accessible route and can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 is considered accessible.

Costs				
<b>1. HOME Funds</b>		<b>HOME (SC01)</b>	<b>HOME PI (SC02 Program Income)</b>	<b>TOTAL (SC01 + SC02)</b>
a. Amortized Loan		\$	\$	\$
b. Grant / Developer's Fee		\$	\$	\$
c. Deferred Payment Loan (DPL)		\$	\$	\$
d. Other:		\$	\$	\$
e. CHDO Loan		\$	\$	\$
<b>Total HOME Funds this address [ a. + b. + c. + d. + e. ]</b>				<b>\$</b>
<b>2. Public Funds</b>				<b>TOTAL</b>
a. Other Federal Funds				
(1) CDBG Funds	\$ CDBG (SC01) + \$	CDBG PI (SC02 Program Income) =	\$	
(2) Section 108 Loan Guarantee			\$	
(3) ESG Funds			\$	
(4) Other:			\$	
Total Other Federal Funds [ (1) + (2) + (3) + (4) ]				\$
b. State / Local Funds (specify):				\$
c. Tax Exempt Bond Proceeds				\$
<b>Total Public Funds this address [ a. + b. + c. ]</b>				<b>\$</b>
<b>3. Private Funds</b>				<b>TOTAL</b>
a. Private Loans (specify):				\$
b. Owner Cash Contribution				\$
c. Private Grants (specify):				\$
<b>Total Private Funds this address [ a. + b. + c. ]</b>				<b>\$</b>
<b>4. Low-Income Housing Tax Credit Proceeds</b>				<b>\$</b>
<b>TOTAL ACTIVITY COSTS THIS ADDRESS [ 1. + 2. + 3. + 4. ]</b>				<b>\$</b>

**Household Characteristics** (refer to codes below where applicable)



Attachment D

**Inspection Request**

Date: \_\_\_\_\_

Address \_\_\_\_\_

Year Build \_\_\_\_\_

Buyer \_\_\_\_\_

Contact for inspection:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

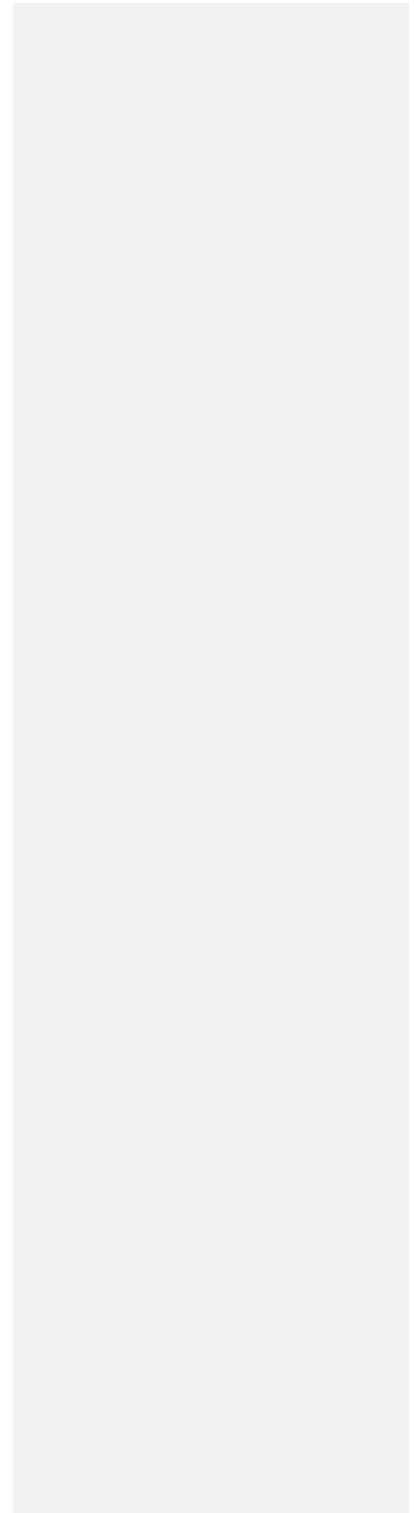
Anticipated Occupancy

Date: \_\_\_\_\_

Inspection Costs: (to be paid by CDBG Office)

	<b>Contract Price</b>	<b>Check Inspections Requested</b>	<b>Actual Cost</b>
Minimum Housing Code	\$130		
Home Inspection & Minimum Housing Code	\$275		
Lead-based Paint Inspection & Stabilization Plan	\$275		
Visual Clearance for lead and/or Min. Housing Code	\$75		
Clearance for lead and/or Min. Housing Code (dust wipes)	\$150		
		<b>TOTAL:</b>	

Agency: \_\_\_\_\_



CDBG OFFICE REQUIRED  
Schedule of Findings and Questioned Costs  
For Year Ended \_\_\_\_\_

Name of Agency \_\_\_\_\_

Summary of Auditor's Results

1. Was a Single Audit required?

Yes  No

What dollar threshold was used to distinguish between Type A and Type B programs as defined by the Single Audit? (If applicable.)

\$ \_\_\_\_\_

Yes  No  (If Yes, describe.)

2. Type of auditor's report issued?

Yes  No  (If Yes, describe.)

3. Internal control over financial reporting:

Yes  No  (If Yes, describe.)

a. Were material weakness(s) identified?

Yes  No  (If Yes, describe.)

b. Were reportable condition(s) identified not considered to be material weaknesses?

Yes  No  (If Yes, describe.)

c. Was noncompliance material to the financial statements noted?

Yes  No  (If Yes, describe.)

4. Internal control over major programs:

Yes  No  (If Yes, describe.)

a. Were material weakness(s) identified?

Yes  No  (If Yes, describe.)

b. Were reportable conditions(s) identified not considered to be material weaknesses?

Yes  No  (If Yes, describe.)

5. Was the indirect cost allocation plan reasonable and acceptable per OMB-A122?

Yes  No  (If Yes, describe.)

6. Were the actual costs reasonable and allocated appropriately per OMB-A122?

Yes  No  (If Yes, describe.)

7. Were the costs allocated to the CDBG Office contracts based on costs incurred, and are they supported by records and documents?

8. Were any audit findings disclosed that are required to be reported in accordance with Circular A-133, Section .510(a)? (If A-133 Audit conducted, include CFDA No. and amount.)

9. Include an identification of all Federal Revenue Sources and dollar amounts by program. (Include State of WI pass-through funds.)

10. List Any Financial Statement Findings.

11. List Any Federal and State Award Findings and Questioned Costs

Yes  No  (If Yes, describe.)

12. Does the auditor have substantial doubt as to the auditee's ability to continue as a going concern?

Yes  No  (If Yes, describe.)

13. Does the audit report identify any additional audit issues related to the Agency's CDBG Office grants/contracts?

Yes  No  (If Yes, describe.)

14. Does the audit include the schedule of revenues and expenditures by program and revenue source?

Yes  No  (If Yes, describe.)

15. Does the audit include the schedule of CDBG Office funds expended by program?

Yes  No  (If Yes, describe.)

16. Does the audit include the schedule of real property assets and the debt recorded against each property?

Yes  No  (If Yes, describe.)

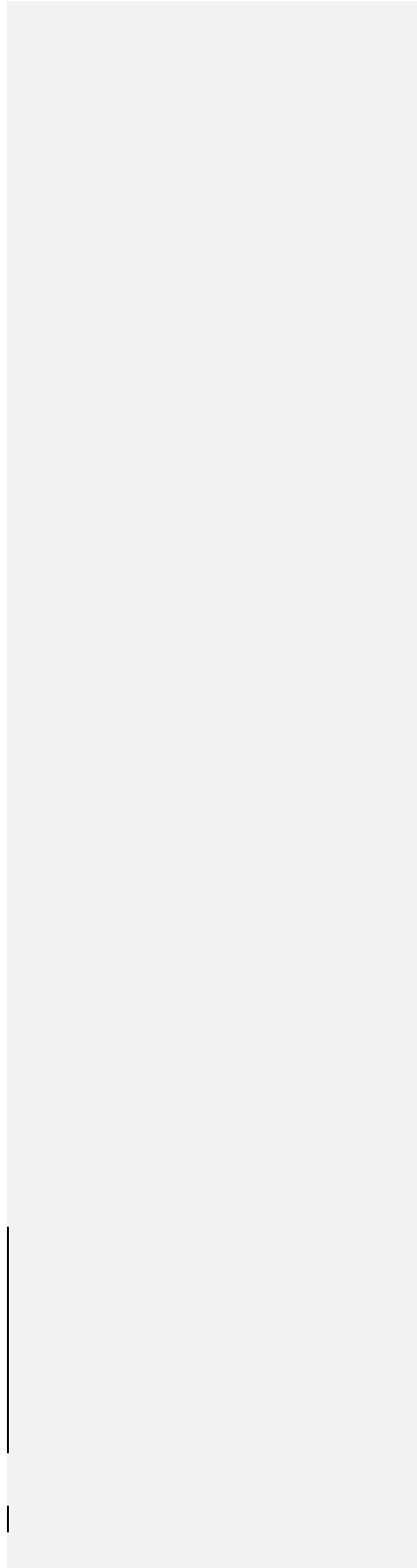
17. Was a Management Letter or other document conveying audit comments issued as a result of this audit?

Name and Signature of Partner \_\_\_\_\_

Date of Report \_\_\_\_\_

Attachment F

**HOME Program Regulations**



**LAND USE RESTRICTION AGREEMENT**

**THIS LAND USE RESTRICTION AGREEMENT** the (“Agreement”) is made and entered into as of the (Date) day of (Date of Request), 2009, by and between Goodwill Industries of South Central Wisconsin, Inc., a Wisconsin nonprofit corporation, and its successors and assigns (“Owner”), as Owner of the Property, in favor and for the benefit of the CITY OF MADISON, a Wisconsin municipal corporation, and its successors and assigns (the “City”).

**W I T N E S S E T H :**

**WHEREAS**, Owner owns the real property legally described on Exhibit A which is attached hereto and incorporated by reference (the “Property”), and located at 4829 Anniversary Lane.

RETURN TO:  
CDBG Office  
Room 280, Madison Municipal Building  
215 Martin Luther King Jr., Blvd.  
P.O. Box 2985  
Madison WI 53701-2985

Tax Parcel No.: 081027203273

**WHEREAS**, certain of the expenses to be incurred in purchasing the Property as residential housing are to be financed from funds loaned by the City to the Owner (the “Loan”) under the Federal Home Investment Partnerships Act, 42 U.S.C. 12701 *et seq.*, as it exists on the date hereof (the “Statutes”), and under the regulations set forth in 24 Code of Federal Regulations Part 92, as they exist on the date hereof (“Regulations”); and

**WHEREAS**, as a condition of the Loan, the City has required the Owner to restrict the use of the Property as hereinafter described (the “Restrictions”) and the Owner is willing to do so:

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby covenants and agrees on behalf of itself as Owner of the Property and its successors, assigns, heirs, grantees and lessees, as follows:

1. The Restrictions set forth herein shall be applicable to 4 units in the Property (the “HOME Units”). The HOME Units are designated as floating units and shall meet the requirements of 24 CFR 92.254.
2. Owner shall at all time comply with the requirements of the Statutes and Regulations with respect to the Property, including, but not limited to, the affordable housing requirements set forth in 24 CFR Section 92.252. All words and phrases used herein which are defined in the Statutes or Regulations shall have the meanings set forth in the Statutes or Regulations.
3. The Restrictions shall run with the land, shall be appurtenant to the Property and shall be binding upon all future owners of the Property during the term of this Agreement. This Agreement shall become effective on the date hereof. Unless sooner terminated or amended in a written document signed by the City and the Owner, this Agreement shall continue in full force and effect until the 15<sup>th</sup> anniversary of the date the Owner closes on the property. Notwithstanding the foregoing, this Agreement



shall terminate as provided in 24 CFR Section 92.252 (e) upon foreclosure or transfer in lieu of foreclosure.

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

By: \_\_\_\_\_

Please print: \_\_\_\_\_

By: \_\_\_\_\_

Please print: \_\_\_\_\_

STATE OF WISCONSIN)

:SS

COUNTY OF DANE)

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2009, the above named, \_\_\_\_\_, to me known to be the \_\_\_\_\_, and to me known to be the person who executed the foregoing instrument and acknowledge the same.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires \_\_\_\_\_

STATE OF WISCONSIN)

:SS

COUNTY OF DANE)

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2009, the above named, \_\_\_\_\_, to me known to be the \_\_\_\_\_, and to me known to be the person who executed the foregoing instrument and acknowledge the same.

[SEAL]

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires \_\_\_\_\_

This instrument was drafted by the CDBG Office. After recording, it should be returned to Sue Wallinger, Community Development Division, Community Development Block Grant Office, Madison Municipal Building, Room 280, 215 Martin Luther King, Jr. Boulevard, P.O. Box 2985, Madison, Wisconsin 53701-2985.

**EXHIBIT A**  
**LEGAL DESCRIPTION**

4829 Anniversary Lane, Madison, WI

Certified Survey Map No. 9713 As Recorded in Dane County Register of Deeds in VOL 56 Page 93 of  
Certified Surveys, Lot 1.

081027203273

## AGENCY PROMISSORY NOTE

**BORROWER NAME:** Goodwill Industries of South Central Wisconsin, Inc.

**AMOUNT OF LOAN:** \$200,000

**PLACE:** 4829 Anniversary Lane  
MADISON, WISCONSIN

**DATE:**

**FOR VALUE RECEIVED**, the Borrower promises to pay to the order of the CITY OF MADISON, a Wisconsin municipal corporation, at its offices located at 210 Martin Luther King Jr. Boulevard, Madison, Wisconsin, 53703, the sum of Two Hundred Thousand Dollars (\$200,000), immediately upon the earliest of the sale, transfer, or change or discontinuance in the permitted use of the Property (except as permitted under the terms of the Agreement) located at 4829 Anniversary Lane, Madison, Wisconsin (the "Property") as described in Exhibit A. In the event of a foreclosure the amount due and payable shall be the net proceeds, if any, from the foreclosure sale.

**THIS NOTE** is secured by a Loan Agreement or a Memorandum for Purchase of Services dated \_\_\_\_\_, (the "Agreement") between the Borrower and the City, and by a Mortgage given by the Borrower to the City of even date (the "Mortgage").

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

**FOLLOWING** all applicable notice and cure periods provided in the Agreement, this Note, including the entire balance of principal, together with late charges, shall become immediately due and payable to the City without notice or demand upon the occurrence of any of the following:

- a. If the payment due under this Note is not paid when due;
- b. If the Borrower shall default in any of the covenants, agreements, provisions, terms or conditions of the Loan Agreements, which provisions are incorporated herein by reference, and the default is not cured within the time period provided in the Loan Agreements;
- c. Title to, or equitable ownership in, the Property is transferred to any party other than transfers to a spouse that result from marriage, divorce or death of a spouse
- d. If Borrower permits or allows any use of the Property other than as provided in the Agreement.

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

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

The "Loan Contracts" are this Note, the Real Estate Mortgage from Borrower to the City ("Mortgage") which explicitly secures this Note, and the Loan Agreement or Memorandum of Agreement for Purchase of Services, each executed by the Borrower and the City in connection with the loan evidenced by this Note ("Loan").

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

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

- (1) any action or failure to act by Borrower which results in an obligation of the City to repay the U.S. Department of Housing and Urban Development funds applied by the City to finance the Loan;
- (2) the fraud or intentional written material misrepresentation by Borrower in connection with the application for or creation of the Loan or any request by Borrower for any action or consent by the City in Connection with the Loan; or
- (3) subject to the rights of any holder of a superior lien on the Property, failure of Borrower to:
  - (i) pay to the City, upon demand after the occurrence of any event of default which is not timely cured, all Property rents and tenant security deposits to which the City is entitled under the Loan Contracts;
  - (ii) apply all Property insurance proceeds and condemnation proceeds as required by the Loan Contracts; or
  - (iii) apply Property rents, first to the payment of reasonable Property operating expenses (including property management fee and taxes) and amounts payable to, or at the direction of, and holder of superior lien on the Property, and then the amounts payable under the Loan Contracts.

Notwithstanding the foregoing, Borrower will not be personally liable: (A) to the extent that Borrower lacks the legal right to direct the disbursement of any funds because of a bankruptcy, receivership or similar judicial proceedings; or (B) with respect to rents that have been applied: (aa) as required or permitted by any holder of a superior lien on the Property or by the Loan Contracts prior to the occurrence of an event of default; or (bb) for purpose unrelated to the Property in any calendar year, if Borrower has paid for all Property operating expenses and required Property debt service for that calendar year.

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

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

**NOTICE TO BORROWER**

- A. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.**
- B. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENTS YOU SIGN.**
- C. YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS NOTE.**

Signed and sealed as of the \_\_\_\_ day of \_\_\_\_\_, 2009 at Madison, Wisconsin.

By: \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**President & CEO**

EXHIBIT A

ADDRESS : 4829 Anniversary Lane, Madison, WI

LEGAL DESCRIPTION: Certified Survey Map No. 9713 As Recorded in  
Dane County Register of Deeds in VOL 56 Page 93 of Certified Surveys, Lot 1.

PARCEL #: 081027203273

**EXHIBIT C**  
Form of Legal Opinion

