

**GRANT AGREEMENT BETWEEN
PARTNERS FOR COMMUNITY DEVELOPMENT, INC. AND
GATEWAY APARTMENTS, LLC AND
THE CITY OF SHEBOYGAN**

THIS GRANT AGREEMENT (“Agreement”) is entered into by and between the City of Sheboygan, a Wisconsin municipal corporation with a mailing address of 828 Center Ave, Sheboygan, WI 53081 (“City”), Partners for Community Development, Inc., a Wisconsin Non-Stock Corporation with its principal office at 1407 S 13th Street, Sheboygan, WI 53081 (“Partners”), and Gateway Apartments, LLC, a Wisconsin limited liability company, with its principal office at 1033 N. Mayfair Rd., Suite 300, Wauwatosa, WI 53226 (“Owner”).

RECITALS

Owner intends to acquire four parcels of real property on the northeast corner of Erie Avenue and N. 13th St. in the City of Sheboygan more particularly described in Exhibit A attached hereto (the “Property”). Owner will construct a 44-unit low-income housing tax credit project on the Property (the “Project”). City, Owner, and Partners (individually, a “Party” and collectively, the “Parties”) agree that the Property is an appropriate location for the Project.

City has received State and Local Fiscal Recovery Funds (“ARPA Funds”) from the United States Department of the Treasury (“Treasury”) pursuant to section 602 of the Social Security Act, as amended by section 9901 of the American Rescue Plan Act of 2021 (the “Act”), and regulations set forth in 31 CFR Part 35 (“ARPA Regulations”). (The Act, the ARPA Regulations, and the Award Conditions (as defined herein) are collectively referred to herein as the “ARPA Requirements.”)

The City desires to make available a portion of the ARPA Funds in the amount of \$3,600,000 (the “Subaward A”) for use in connection with the development and construction of the Project in accordance with the ARPA Requirements.

Partners is a nonprofit corporation whose purpose, in part, is to foster the development of affordable housing such as the Project. Owner desires to assist Partners in the furtherance of its charitable purposes and has requested Partners to participate in the development of the Project.

The City will grant the proceeds of Subaward A to Partners pursuant to the terms of this Agreement conditioned upon Partners loaning the proceeds of the Subaward to Owner for Owner’s use in connection with the construction and development of the Project.

THEREFORE, in consideration of the mutual covenants contained in this document, the parties hereto agree as follows:

Article I – Obligations of the City and Partners

- A) Partners shall make a loan in the amount of the Subaward to Owner (the “Partners

Loan”). The Partners Loan shall be funded with the proceeds of the Subaward. Notwithstanding the foregoing, Partners shall not be required to loan any funds to Owner to the extent it does not receive such funds from the City. The Partners Loan shall be secured by a mortgage on the Property. Partners shall comply with all Program Requirements applicable to Partners.

B) The City shall deposit the Subaward A into a construction escrow account with a Title Company mutually agreeable to the Parties (“Title Company”) pursuant to that certain Development Agreement between City, Partners, and Owner dated as of _____, 2024 (the “Development Agreement”). The proceeds of the Subaward A shall be disbursed by Title Company to Owner or its contractors based on applications for payment submitted by Owner to pay for the costs of developing and constructing the Project.

C) The Subaward A is being provided to Partners as a grant. The City agrees and acknowledges that the Subaward A shall not be repayable except as required pursuant to Article IV of this Agreement in connection with a default by Owner or Partners in the performance of its obligations under this Agreement.

Article II – Obligations of Owner

A) Owner will commence construction of the Project no later than August 1, 2024 and will achieve substantial completion of the Project within eighteen (18) months thereafter in accordance with the terms of the Development Agreement. The issuance of a certificate of occupancy for the Project shall be conclusive evidence of substantial completion of the Project by Owner. Owner shall construct and operate the Project in compliance with all applicable laws and shall otherwise abide by the terms of the Development Agreement.

B) Owner shall operate the Project as affordable housing in accordance with the requirements of the Land Use Restriction Agreement for Low Income Housing Tax Credit relating to the Project by and between the Wisconsin Housing and Economic Development Authority and Owner (the “Extended Use Agreement”) for so long as the Extended Use Agreement is in effect.

C) Partners and Owner shall use the Subaward A in compliance with the Program Requirements, including, without limitation, the Terms and Conditions for Contracts Funded with Federal Grants Subject to the Uniform Guidance attached hereto as Appendix A (the “Award Conditions”). Owner shall keep such records regarding the Project and use of the proceeds of the Subaward A that are required to demonstrate compliance with the requirements of the Program Requirements. City, Partners, and Owner shall cooperate with each other in connection with all reporting requirements required pursuant to the Program Requirements.

Article III - Approvals

Prior to the commencement of construction, the Owner shall secure a building permit for the Project. The Owner shall also secure all necessary permits and the approval of any other necessary state or federal regulatory agencies.

Article IV – Default

In the event Owner or Partners fails to comply with the terms of this Agreement, and such default continues for a period of 60 days after notice to Owner and Partners from City, it shall be an “Event of Default” of this Agreement and Owner or Partners shall immediately pay City that portion of the proceeds of the Subaward A which may be recaptured from City by Treasury. Any cure of a default by an Investor Member of Owner shall be deemed a cure of such a default by Owner.

Article V - Notices

Any written notice or demand hereunder from any party to another party shall be in writing and shall be served by (a) personal delivery, (b) certified mail, return receipt requested or (c) overnight courier such as Federal Express, United Parcel Service or Express Mail at the following addresses, or such other addresses designated by the parties from time to time pursuant to a notice delivered in accordance with the terms of this Article:

If to City:

City Clerk
City of Sheboygan
828 Center Ave.
Sheboygan, WI 53081

With a copy to:

City Attorney
City of Sheboygan
828 Center Avenue, Suite 210
Sheboygan, WI 53081

If to Partners:

Partners for Community Development
1407 S. 13th St.
Sheboygan WI 53081
Attn: Executive Director

If to Owner:

Gateway Apartments, LLC
c/o KG Development Group LLC
1033 N Mayfair Rd, Suite 300
Wauwatosa WI 53226
Attn: Anthony Kazee

With a copy to Investor Member:

CREA Erie Street Apartments, LLC
30 South Meridian Street, Suite 400
Indianapolis, IN 46204

And a copy to:

Nixon Peabody LLP
799 9th Street NW, Suite 500
Washington, DC 20001
Attn: Matthew Mullen

Article VI - Ordinances

The City and Owner agree to follow all applicable City ordinances and regulations with regard to their respective obligations set forth herein.

Article VII - Binding Effect; Assignments

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, personal representatives, corporate authorities, administrators, successors and assigns; any assignments are subject to prior written approval of the City.

Article VIII - Time

Time shall be of the essence as it pertains to the construction of the Project.

Article IX - Amendment

This Agreement sets forth all the promises, incentives, agreements, conditions and understandings between the parties hereto relative to the subject matter thereof, and there are no other promises, agreements, conditions or understandings, either oral or written, expressed or implied, between them. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by the City, Owner, and Partners.

Article X - Severability

If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Article XI - Waiver

No party to this Agreement shall be excused from complying with any of the terms and

conditions of this Agreement by any failure of the other party upon one or more occasion to insist upon or seek compliance with any such terms and conditions.

Article XII - Force Majeure

If performance of any covenant to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party, which circumstances may include, but are not limited to, acts of God, war, acts of civil disobedience, harsh weather, strikes or similar acts, the time for such performance shall be extended by the amount of time of such delay.

Article XIII - Governing Law

This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. Owner shall at all times observe and comply with all federal, state and local laws, regulations and ordinances which are in effect, as of the date hereof, which may affect the conduct of the work on the Project to be accomplished under this Agreement.

Article XIV - Miscellaneous

A) Under no circumstances shall any alderperson, council member, officer, official, director, attorney, employee or agent of the City or any director, officer, member or manager of Partners, or Owner have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

B) This Agreement is intended solely for the benefit of Owner, Partners, and the City, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the City in connection therewith. Without limiting the foregoing, no approvals given pursuant to this Agreement by PARTNERS, Owner or the City, or any person acting on behalf of any of them, shall be available for use by any contractor or other person in any dispute relating to construction of the Project.

C) This Agreement does not create the relationship of principal and agent, or of Partnership, joint venture, or of any association or relationship among the Owner, Partners, and City (or between any two of them).

D) This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which counterparts collectively shall constitute one instrument representing the agreement among the parties. Facsimile signatures and digitally-scanned signatures shall constitute originals for all purposes.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have entered into and executed this Agreement as of the date fully executed by the parties, as indicated below.

CITY OF SHEBOYGAN

BY: _____
Ryan Sorenson, Mayor Date

ATTEST: _____
Meredith DeBruin, City Clerk Date

PARTNERS FOR COMMUNITY DEVELOPMENT, INC.

BY: _____
Karin Kirchmeier, Executive Director Date

GATEWAY APARTMENTS, LLC

By: GATEWAY APARTMENTS MM, LLC, Managing Member

By: KG DEVELOPMENT GROUP LLC, Member

BY: _____
Anthony Kazee, Member Date

This document is authorized by and in accordance with Res. No. _____-24-25.

EXHIBIT A

Seller: URBAN GATEWAY LLC | Robert Heimerl & Jeffry Henning, Members

Buyer: Gateway Apartments, LLC

Property: Northeast Corner of Erie Ave and North 13th Street in Sheboygan

Parcels:

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59281204560

59281204570

59281204580

APPENDIX A

CITY OF SHEBOYGAN

TERMS AND CONDITIONS FOR CONTRACTS FUNDED WITH FEDERAL GRANTS SUBJECT TO THE UNIFORM GUIDANCE

In the event of a conflict between the below terms and conditions and the terms of the main body of the Contract or any exhibit or appendix, these federally required contract terms shall govern.

Background and Purpose

The American Rescue Plan Act (“ARPA”) was passed in March 2021. ARPA provided \$65 billion in recovery funds for cities across the country. The City of Sheboygan (the “City”) received an allocation of recovery funds (the “ARPA funds”), and has approved the use of a portion of its ARPA funds to provide aid for affordable housing projects. In order to receive the ARPA funds, the City agreed to certain obligations.

Broadly speaking, the City is required to comply with all applicable federal statutes, regulations, and executive orders, and to “provide for such compliance by other parties in any agreements it enters into with other parties relating to [the ARPA funds].”

The purpose of these Terms and Conditions to address Developer’s compliance with all applicable federal statutes, regulations, and executive orders.

1. **Developer’s Obligations.** As a condition of receiving ARPA funds from the City as part of aid for affordable housing projects, Developer agrees to comply with all applicable federal statutes, regulations, and executive orders. Developer shall disclose in writing to the City any potential conflict of interest affecting the Payment in accordance with 2 C.F.R. § 200.112. Developer shall provide any information necessary to the City in order for the City to comply with its reporting obligations related to the ARPA funds.

2. **Compliance with Statutes and Regulations.** In addition to the specific provisions in these Terms and Conditions, statutes and regulations prohibiting discrimination applicable to this contract may include, without limitation:

a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance

b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability

c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance

d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance

e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state or local governments or instrumentalities or agencies thereto

Federal regulations applicable to this contract may include, without limitation:

a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), other than such provisions as Treasury may determine are inapplicable and subject to such exceptions as may be otherwise provided by Treasury

b. Universal Identifier and System for Award Management (SAM) (2 C.F.R. Part 25) (including the award term set forth in Appendix A to 2 C.F.R. Part 25)

c. Reporting Subaward and Executive Compensation Information (2 C.F.R. Part 170) (including the award term set forth in Appendix A to 2 C.F.R. Part 170)

d. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) (2 C.F.R. Part 180) (including the requirement to include a term or condition in all lower tier covered transactions)

e. Recipient Integrity and Performance Matters

f. Governmentwide Requirements for Drug-Free Workplace (31 C.F.R. Part 20)

g. New Restrictions on Lobbying (31 C.F.R. Part 21)

h. Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations

i. Generally Applicable Federal Environmental Laws and Regulations

3. **Title VI Assurances.** In addition to the obligations listed above, as a condition of receiving the Payment, the Developer agrees to:

a. Ensure its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

b. Acknowledge that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English Proficiency (LEP). The Developer understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, the Developer shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. The Developer understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Developer’s programs, services, and activities.

c. Consider the need for language services for LEP persons when the Developer develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

d. Acknowledge that compliance with the Assurances is binding upon the Developer and the Developer's successors, transferees, and assignees for the period in which federal financial assistance is provided.

e. Require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with the Assurances in this Title VI Assurances section.

f. Comply with, and include in any contract subject to Title VI and its regulations as follows:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §

2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

4. **Amendment Permitted.** This list of Federally Required Contract terms may be amended by City in the event that the applicable federal grant providing funding for this Agreement contains additional required terms.

5. **Debarment and Suspension.** Developer represents and warrants that, as of the execution of this Contract, neither Developer nor any subcontractor or sub-consultant performing work under this Contract (at any tier) is included on the federally debarred bidder's list listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." If at any point during Contract's term Developer or any subcontractor or sub-consultant performing work at any tier is included on the federally debarred bidder's list, Developer shall notify City immediately. Developer's completed Vendor Debarment Certification is attached hereto and incorporated herein.

6. **Record Retention.** Developer certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Developer further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of five (5) years after it receives City notice that City has submitted final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed. Unless Developer is functioning as a sub-recipient of grant funding, rather than as a contractor, this requirement is in addition to, and not in place of, City's public records retention requirements set forth elsewhere herein. In the event of conflict between local and federal retention periods, the longer retention requirement shall control.

7. **Procurement of Recovered Materials (Applies Only if the Work Involves the use of Materials).** Pursuant to 2 CFR §200.323, Developer represents and warrants that in its performance under the Contract, Developer shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

8. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** If this is a contract or sub-grant in excess of \$150,000, Developer must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations must be reported to the City and Developer understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

9. **Energy Efficiency.** Developer certifies that it will comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

10. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Developer certifies that:

10.1. No federal appropriated funds have been paid or will be paid, by or on behalf of Developer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

10.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Developer shall request from City and provide, completed, to City the "Disclosure Form to Report Lobbying," in accordance with its instructions as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).

10.3. Developer shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

10.4. Developer's completed Byrd Anti-Lobbying Certification is attached hereto and incorporated herein.

11. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (Applies Only to Funding Over \$100,000, When Laborers or Mechanics are Used).** Developer must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Developer must compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

12. **Right to Inventions Made Under a Contract or Agreement.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.

13. **Federal Government is Not a Party.** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to City, Developer, or any other party pertaining to any matter resulting from the Contract.

14. **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** If this is a "prime construction contract," in its performance under the Contract, Developer shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Developer is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Developer is required to pay wages not less than once a week. **Note: this paragraph is not applicable to contracts paid for solely with ARPA SLFRF moneys.**

15. **Copeland "Anti-Kickback" Act (40 U.S.C. 3145).** If this is a "prime construction contract" in excess of \$2,000, Developer shall, in its performance of the contract, comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that Developer is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

16. **Equal Employment Opportunity.** Developer shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

17. **Termination for Convenience.** If this Contract is for an amount in excess of \$10,000 and it lacks a termination for convenience clause, the following applies: City may terminate this Contract at any time for any reason by giving at least thirty (30) days' notice in writing from City to Developer. If Developer is terminated for convenience by City, Developer will be paid for services actually performed or commodity actually provided.

18. **Termination for Cause.** If this Contract is for an amount in excess of \$10,000 and it lacks a termination for cause clause, the following applies: If Developer shall fail to fulfill in timely and proper manner any of its obligations or violate any of the provisions of this Contract; City shall have the right to terminate this Contract. City shall notify Developer of its intent to terminate, by giving Developer prior written notice at least five (5) business days before the effective date of the termination, identifying the alleged deficiencies in Developer's performance, and shall give Developer thirty (30) days to cure such deficiencies prior to termination. In such event, all deliverables completed by Developer as of the date of termination shall, at the option of City, become property of City. Notwithstanding the above, Developer shall not be relieved of liability to City for damages sustained by City by virtue of any breach of the Contract, and City shall retain its remedies under law.

19. **Executive Order 13202- Preservation of Open Competition and Government Neutrality Towards Contractors' Labor Relations on Federal and Federally Funded Construction Contracts.** These requirements apply to recipients and sub-recipients of awards and cooperative agreements and to any manager of a construction project acting on their behalf. These individuals or employees of one of these organizations must ensure that the bid specifications, project agreements, and other controlling documents do not: (a) require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or (b) otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories, or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s). Contractors or subcontractors are not prohibited from voluntarily entering into agreements with one or more labor organizations.

20. **Domestic Preferences for Procurements.** Pursuant to 2 CFR §200.322, as appropriate, and to the extent consistent with law, Developer should, to the greatest extent practicable under this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts and purchase orders for work or products under this Contract.

21. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** Developer shall not use funds under this Contract to purchase, or enter into subcontracts to purchase, any equipment, services, or systems that use telecommunications equipment or services as a substantial or essential component of a system that is subject to 2 CFR § 200.216 (generally, video surveillance or telecommunication equipment produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company, their subsidiaries or affiliates, or any entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by the government of a foreign country). In the event Developer identifies covered telecommunications equipment or services that constitute a substantial or essential component of any system, or as critical technology as part of any system that is subject to 2 CFR § 200.216, during Contract performance, Developer shall alert City as soon as possible and shall provide information on any measures taken to prevent recurrence.

22. **Prohibitions on Discrimination.** Developer agrees to comply with the following as applicable:

22.1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

22.2. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

22.3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

22.4. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

22.5. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state or local governments or instrumentalities or agencies thereto.

22.6. Title IX of the Education Amendments of 1972 (Title IX), (20 U.S.C. 1681 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 28, which prohibits discrimination on the basis of sex in any federally funded education program or activity

23. **Financial and Program Management** As subrecipient of federal funds, Developer is required to comply with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, other than such provisions as Treasury may determine are inapplicable to this Agreement and subject to such exceptions as may be otherwise provided by Treasury.

23.1. Financial Management: Developer shall maintain records and financial documents sufficient to show compliance with section 603(c) of ARPA, Treasury's regulations implementing that section, and guidance issued by Treasury. Developer shall grant the Treasury Office of Inspector General and the Government Accountability Office or their authorized representatives, the right of access to these records in order to conduct audits or other investigations. Financial records, supporting documents, statistical records and all other records pertinent to the services purchased pursuant to this Agreement shall be retained for a period of five (5) years after all of the City's funds have been expended or returned to the Treasury Department, whichever is later.

23.2. Audit Requirements. Developer agrees to provide all reports requested by the City including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested. Financial and service reports shall be provided according to a schedule (when applicable) or upon request. Developers who expend more than \$750,000 in federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F.

23.3 Recipient Integrity and Performance Matters. Developer agrees to provide any information requested by the City in order to comply with 2 CFR Appendix XII to Part 200

23.4 SAM.gov Requirements. Developer is required to comply with 2 CFR Part 25 (System for Award Management ("SAM")) and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information) unless exempted pursuant to 2 CFR § 25.110.

24. **Drug-Free Workplace.** Developer acknowledges that as a subrecipient of federal funds, it is subject to 31 CFR Part 20 (Governmentwide Requirements for Drug-Free Workplace)

25. **Relocation Assistance.** Where an agreement or project requires the relocation of persons or such person's personal property, Developer is advised that 42 USC 4601-4655 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) may apply.

26. **Incorporation of Required Clauses and Conditions.** To the extent any applicable federal statute, regulation, or executive order requires any clause or condition to be included or incorporated into this Agreement between the City of Sheboygan and the Developer, and that term or condition has not been expressly included or incorporated, it is included or incorporated by reference. To the extent the Developer is required, by this Agreement or by any applicable federal statute, regulation, or executive order, to include or incorporate any clause or condition into any subsequent agreement, the Developer agrees to ensure that the required term is included.

27. **Hatch Act.** No personnel employed under this Agreement, shall be in any way or to any extent, engaged in the conduct of political activities in violation of 5 U.S.C. Ch. 15.

28. **Encouragement to Developer Regarding Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the City encourages its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving and to establish workplace safety policies to decrease accidents caused by distracted drivers.

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for Subaward A at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. Ch. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

GATEWAY APARTMENTS, LLC

By: GATEWAY APARTMENTS MM, LLC, Managing Member

By: KG Development Group LLC, Member

BY _____
Anthony Kazee, Member

Date: _____

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for Subaward A at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. Ch. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Partners for Community Development, Inc.

BY _____
Karin Kirchmeier, Executive Director

Date: _____

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Federal Executive Order 12549 requires that all contractors receiving individual awards, using federal funds and all subrecipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from doing business with the Federal Government. By signing below, the undersigned certifies that its organization and its principals are not debarred. Failure to comply or attempts to edit this language may disqualify your bid. Information on debarment is available at the following websites: www.sam.gov and <https://acquisition.gov/far/index.html>.

Your signature certifies that neither you nor your principal is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

GATEWAY APARTMENTS, LLC

By: GATEWAY APARTMENTS MM, LLC, Managing Member

By: KG Development Group LLC, Member

BY _____
Anthony Kazee, Member

Date: _____

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Partners for Community Development, Inc.

BY _____
Karin Kirchmeier, Executive Director

Date: _____

APPENDIX B

INSTRUCTIONS FOR EXECUTING LEGAL DOCUMENT

CORPORATION INSTRUCTIONS

If the party signing the legal document is a **CORPORATION**, the signatories on the document must be parties authorized to sign by the corporation (typically the manager, agent or secretary) and the following certificate should be executed and returned to the City of Sheboygan:

I, _____ (*print name*), certify that I am the _____ (*title*) of _____ (*business name*), a corporation in good standing in the State of _____, and that I have duly signed the foregoing document for and on behalf of the business by authority of its governing body, within the scope of its corporate powers.

Signature

Date

(*Corporate Seal*)

If the document is not signed by the secretary, manager or agent authorized to sign on behalf of the corporation, the certificate should be executed by some other officer of the corporation under the corporate seal. Alternatively, in lieu of the foregoing certificate, there must be attached to the legal document copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

LIMITED LIABILITY COMPANY INSTRUCTIONS

If the party signing the legal document is a **LIMITED LIABILITY COMPANY**, unless the LLC filed a Statement of Nonapplicability with the Wisconsin Department of Financial Institutions (“DFI”) before 12/31/22, the signatories on the document must be persons authorized to legally bind an LLC via a Statement of Authority filed with the DFI (Form 501), as required by Wis. Stat. § 183.0302.

As such, person(s) signing on behalf of the LLC must attach a copy of the filed and approved Statement of Authority or Statement of Nonapplicability.

PARTNERSHIP INSTRUCTIONS

If the party signing the legal document is operating as a **PARTNERSHIP**, each partner must sign the document.

EXCEPTION: If each partner does not sign the document, attached to the document must be a duly authenticated power of attorney evidencing the signer’s (signers’) authority to sign such document for and on behalf of the partnership.

INDIVIDUAL INSTRUCTIONS

If the party signing the legal document is an **INDIVIDUAL** or **INDIVIDUALS**, the trade name, if applicable, must be indicated in the document and such individual(s) must each sign the document.

EXCEPTION: If signed by someone other than the individual(s) entering into the agreement, there must be attached to the document a duly authenticated power of attorney evidencing the signers’ authority on behalf of the individual(s).

APPENDIX C
City of Sheboygan Insurance
Requirements

It is hereby agreed and understood that the insurance required by the City of Sheboygan is primary coverage and that any insurance or self-insurance maintained by the City of Sheboygan, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss. All insurance shall be in full force for the duration of the Agreement unless otherwise specified.

1. INSURANCE REQUIREMENTS — MINIMUM REQUIRED LIABILITY LIMITS.
 - a. Commercial General Liability:
 - i. Each Occurrence: \$1,000,000
 - ii. Personal Injury: \$1,000,000
 - iii. General Aggregate: \$2,000,000
 - iv. Medical Expense: \$5,000/any one person
 - v. Products–Completed Operations (to remain in full force and effect for two years after the completion of the work or the termination/expiration of the contract, whichever is later): IF APPLICABLE, aggregate of \$2,000,000
 - vi. Fire Damage: IF APPLICABLE, \$50,000/any one fire
 - b. Automobile Liability: Must have coverage at least as broad as Insurance Services Office Business Automobile Form, with minimum limits of \$1,000,000 combined single limit per accident for Bodily Injury and Property Damage, provided on a Symbol #1– “Any Auto” basis.
 - c. Workers’ Compensation and Employers Liability Insurance: As required by the State of Wisconsin, must have sufficient limits to meet underlying Umbrella Liability insurance requirements. IF APPLICABLE for the work, coverage must include Maritime (Jones Act) or Longshoremen’s and Harbor Workers Act coverage.
 - d. Umbrella Liability: Coverage at least as broad as the underlying Commercial General Liability, Automobile Liability and Employers Liability, with a minimum limit of \$2,000,000 each occurrence and \$2,000,000 aggregate, and a maximum self-insured retention of \$10,000.
 - e. Aircraft/Watercraft Liability: IF APPLICABLE, Aircraft and Watercraft Liability insurance must be in force with a limit of \$3,000,000 per occurrence for Bodily Injury and Property Damage including Passenger liability and including liability for any slung cargo.
 - f. Builder’s Risk/Installation Floater/Contractor’s Equipment or Property: The City of Sheboygan will not assume responsibility for loss, including loss of use, for damage to property, materials, tools, equipment, and items of a similar nature which are being either used in the work being performed by the contractor or its subcontractors or are to be built, installed, or erected by the contractor or its subcontractors.
2. INSURANCE REQUIREMENTS FOR SUBCONTRACTORS. All subcontractors shall be required to obtain Commercial General Liability, Automobile Liability, Workers’ Compensation and Employers Liability as broad and with the same limits as those required per Contractor requirements, excluding Umbrella Liability, contained in Section 1 above.

3. MISCELLANEOUS

- a. All insurance must be primary and non-contributory to any insurance or self-insurance carried by City of Sheboygan.
- b. Insurers must have an A.M. Best rating of no less than A- and a Financial Size Category of no less than Class VI, and be authorized as an admitted insurance company in the state of Wisconsin.
- c. The City of Sheboygan and its officers, council members, agents, employees and volunteers must be named as additional insured.
- d. Certificates of Insurance acceptable to the City of Sheboygan must be submitted concurrently with the execution of the contract. These certificates must contain a provision that coverage afforded under the policies will not be canceled or non-renewed until at least thirty (30) calendar days' prior written notice has been given to the City of Sheboygan.