



Housing Authority OF THE CITY OF MILWAUKEE

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is entered into by and between the Housing Authority of the City of Milwaukee, (hereinafter referred to as “HACM” or “Employer”), and **HAROLD INCE, JR.** (hereinafter referred to as “Employee” or “Executive”).

In consideration of the mutual covenants and agreements contained herein, the parties agree as follows.

Section 1: EMPLOYMENT OF SECRETARY/EXECUTIVE DIRECTOR

1.1 Employment. HACM hereby employs Employee to serve as the Secretary-Executive Director of HACM according to the terms and conditions of this Agreement for a period of 36 months commencing on _____ (“Start Date”) and ending on _____. This Agreement shall automatically terminate on _____, unless the Agreement is renewed, in whole or in part, by mutual written consent of the parties.

The Board of Commissioners of HACM (“the Board”) retains sole discretion on behalf of HACM as it relates to this Agreement and Employee’s employment, including as it relates to decisions to extend, alter and/or to modify the Agreement.

To the extent any provision of the HACM Employee Handbook conflicts with this Agreement, the terms of this Agreement shall control.

1.2 Duties. Employee shall serve under the direction of the Board and shall report directly to the Board.

As Secretary-Executive Director, Employee shall and agrees to faithfully perform all duties associated with this position, including but not limited to the following:

- (a) Any and all duties and responsibilities set forth in the Job Description attached as Exhibit A to this Agreement, as described in HACM’s bylaws or other corporate documents, and as may be set forth in any applicable statute, rule, law, resolution, court order, or regulation;
- (b) Any and all duties, responsibilities and directives as may be assigned by the Board;
- (c) Ensuring HACM’s compliance with all applicable federal, state and local laws and regulations, including HUD requirements; and
- (d) Safeguarding the interests, welfare, assets and finances of HACM.

Duties, obligations and responsibilities are subject to change at the sole discretion of the Board. Employee shall comply with all Board directives.

Employee acknowledges that he owes a fiduciary duty to HACM and shall exercise the highest degree of honesty, loyalty, good faith and care in the performance of all duties. Employee shall serve HACM faithfully, diligently, competently, and to the best of Employee's ability. Employee agrees to devote full working time, energy, and attention to the business of HACM and to the promotion of the interests of HACM throughout the term of this Agreement.

HACM reserves the right, and nothing in this Agreement shall limit HACM's authority, in its sole discretion, to place Employee on paid administrative leave upon reasonable cause or reasonable suspicion that Employee has engaged in misconduct, breach of duty, breach of this Agreement, violated internal policies or applicable regulations or otherwise poses a risk to HACM, with or without active job duties, upon written notice from the Board. . Placement of Employee on administrative leave or removal of duties shall not constitute termination of this Agreement and shall not constitute Good Reason as further defined herein.

1.3 Conflicts of Interest. In addition to the obligations set forth herein, Employee promises and covenants to comply with HACM's current and any future policies related to Conflicts of Interest and Professional Ethics, as contained in HACM's Employee Handbook (the "Handbook") or otherwise.

Employee represents and warrants that Employee is not currently engaging in and shall not engage in any activity, investment or business relationship that creates, or could reasonably be expected to create a conflict of interest or perceived conflict of interest with HACM and/or its affiliates/related entities/subsidiaries.

During the term of this Agreement, unless Employee obtains prior written consent of the Board, Employee shall not render employment or consulting services to or for any person, firm, corporation, or other entity or organization in exchange for compensation, regardless of the form in which the compensation is paid and regardless of whether it is paid directly or indirectly to Employee.

During the term of this Agreement, Employee shall devote substantially all of Employee's business time, attention, skill, and efforts to the faithful performance of duties hereunder, including activities and services related to the organization, operation and management of HACM and its affiliates/related entities/subsidiaries and participation in community, professional and civic events. However, with written approval of the Board, Employee may serve, or continue to serve and hold other offices or positions in companies or organizations, which, in the Board's judgment, will not present any conflict of interest with Employee's obligations to HACM or materially affect the performance of Executive's duties pursuant to this Agreement.

Employee agrees to immediately disclose to the Board any actual, potential or perceived conflict of interest that may arise after the execution of this Agreement. Employee acknowledges that the Board and/or HACM staff may report the same to the Department of Housing and Urban Development. The Board, in its sole discretion, will determine whether a conflict exists and what, if any, action is necessary.

1.4 Introductory Period. Notwithstanding any other term in this Agreement, the first six months of Employee's employment ("Introductory Period") shall be considered an evaluation period. During the Introductory Period, Employee or HACM may terminate this Agreement, with or

without cause or Good Reason, upon 30 days written notice to the other party. Employee agrees and understands that if either party provides written notice pursuant to this provision within the Introductory Period, Employee will not be entitled to any severance, continued Base Salary, bonus or additional compensation or payments beyond Base Salary for the 30-day notice period (including but not limited to any accrued and unused sick time or vacation time), unless otherwise expressly provided in this Agreement or required by law.

HACM shall have the unilateral right, in the sole discretion of the Board, to extend the Introductory Period for up to an additional six months by providing written notice to Employee prior to the expiration of the original Introductory Period. During any extended Introductory Period, all terms of this section shall remain in full force and effect, including but not limited to the right of either party to terminate the Agreement upon 30 days written notice.

1.5 Performance Review. The Board shall be responsible for evaluation of Employee's performance. The Board will develop performance goals, process and metrics for such review. The Board shall conduct an annual review of Employee's performance and compensation, generally in or near April of each year. In addition, other performance reviews and/or meetings may occur as needed in the discretion of the Board.

Section 2: COMPENSATION AND BENEFITS

2.1 Salary. In consideration of Employee's performance of the obligations under this Agreement, HACM shall pay to Employee an annual salary of **\$220,000**, subject to applicable taxes and withholdings, and payable in accordance with HACM's regular payroll practices ("Base Salary"). Employee's Base Salary shall be subject to annual review by the Board, generally in or near April of each year. Any additional increases shall be at the Board's discretion and based on performance metrics established in the annual review.

Employee shall not be eligible for and shall not accrue or accumulate compensatory time, flex time or overtime for hours worked.

2.2 Bonus Employee may be eligible for annual discretionary bonus compensation as determined by HACM in the sole and absolute discretion of the Board, up to and not to exceed 10% of Employee's Base Salary. Any such bonus plan or program, performance incentive or additional compensation shall be established by the Board in writing within 60 days of the Start Date and is subject to modification by and may be discontinued by the Board at any time. Employee understands that no bonus plan or program, incentive compensation or additional compensation is guaranteed under this Agreement. Employee has no right under this Agreement to eligibility for any such bonus plan or program, performance incentive or additional compensation until such plan or program is formally established and approved by the Board in writing, to include performance metrics and timelines that determine bonus eligibility and payout (examples may include the following: HUD recovery progress, vacancy reduction, rent collection improvement, financial stability benchmarks, organizational performance, financial targets, compliance metrics, and achievement of mutually agreed strategic goals). Bonus payments, if any, shall be made within 90 days following the end of the fiscal year in which the performance was measured.

The Board retains unilateral authority to determine eligibility, performance criteria, amount, conditions and timing of any such plans, programs or payments, and may modify or eliminate any

such plans, programs or payments at any time, with or without notice. If any such bonus is awarded to Employee, it shall not create an expectation or right to any future bonus payments.

2.3 Insurance Benefits. Employee shall be eligible to participate in the employee benefit plans offered by HACM to its employees, subject to the terms of those plans and in accordance with HACM's standing policies and procedures, including but not limited to health and dental insurance, disability insurance, employee-funded deferred compensation plan, and group life insurance benefits. Employee shall be provided with the same benefits as provided to other HACM employees, unless otherwise modified in writing by or on behalf of the Board. Employee agrees and understands that Employee must satisfy the eligibility and contribution requirements for any such plans.

2.4 Pension and Retirement Plans. Employee acknowledges that, as of the date of this Agreement, HACM does not sponsor, maintain or contribute to any pension plan, retirement plan, or similar employer-funded deferred compensation plan for the benefit of its employees.

Employee further acknowledges that no promise or representation has been made regarding the establishment of any such plan in the future. HACM has not made, and Employee has not relied on, any oral or written promise or representation regarding the implementation or future establishment of any pension plan, retirement plan, or similar employer-funded deferred compensation plan.

Nothing in this Agreement shall be construed to obligate HACM to adopt, maintain or contribute to any pension plan, retirement plan or similar employer-funded deferred compensation plan. Any future adoption and implementation of any such plan will be within the sole discretion of the Board.

Employee agrees that any future rights to pension, retirement or employer-funded deferred compensation benefits, if any, shall arise solely under such future plan or document adopted by HACM.

Until such time as HACM establishes and Employee is eligible for participation in a pension plan, retirement plan, or similar employer-funded deferred compensation plan, HACM shall pay Employee additional compensation equal to 7% of Employee's Base Salary, to be paid on a monthly basis in an amount equal to one-twelfth (1/12th) of 7% of Employee's Base Salary on a monthly basis only for months during which Employee is employed during the full month, and to be paid to Employee on the first regular payroll date of the following month. If HACM establishes and makes available to Employee a pension plan, retirement plan, or similar employer-funded deferred compensation plan, this additional compensation shall automatically cease on the effective date of Employee's eligibility for such plan (regardless of when and how any such rights shall vest), unless otherwise approved in writing by the Board. The additional compensation under this provision shall not be considered a retirement contribution, employer-funded deferred compensation or vested benefit and shall not create any entitlement to a pension, retirement benefit or post-employment compensation.

2.5 Vacation and Sick Leave. Employee shall be entitled to 20 days of paid vacation and 12 days of paid sick leave per year, available to Employee on the Start Date. Vacation and sick leave accrual and entitlement shall renew each year on Employee's anniversary date

Vacation leave may be used by Employee at times approved by the Board, subject to operational needs.

Employee may carryover accrued and unused vacation days, up to a maximum of 10 days.

Employee may carryover accrued and unused sick leave, with a maximum accumulation of 60 days. Employee is not entitled to the Sick Leave Incentive Program as set forth in the Employee Handbook.

Upon termination of employment for any reason: Employee shall be entitled to payment for any accrued and unused vacation days, up to a maximum of 5 days; and Employee shall not be entitled to payment for any accrued and unused sick days.

The Board may, in its discretion, grant additional leave, with or without pay, at such time or times and upon such terms and conditions as determined by the Board.

2.6 Reimbursement of Business Expenses. Employee shall be entitled to reimbursement for all reasonable business expenses incurred while performing obligations under this Agreement, including but not limited to all reasonable business travel expenses incurred while acting at the request of or in the service of HACM. Employee agrees and understands that expense reimbursement requests must be submitted in accordance with HACM's policies and procedures and/or as otherwise directed by the Board.

2.7 Professional Development and Associations. Employee agrees to attend appropriate professional meetings, courses and conferences at the local, state, and national level (hereinafter collectively referred to as "conferences"). HACM agrees to pay for or reimburse Employee for the reasonable cost of registration, attendance and travel associated with such conferences, up to \$20,000.00 per year and up to a maximum of fifteen days per year, unless otherwise approved in writing by the Board.

HACM also agrees to pay dues and fees associated with Employee's membership in such professional organizations, subject to written approval from the Board, that are reasonably necessary and/or beneficial to Employee's service to HACM under this Agreement.

Section 3: EMPLOYMENT TERMINATION

3.1 Termination Because of Death. Employee's employment and this Agreement shall terminate automatically at the Employee's death. If Employee dies during the term of this Agreement, the Employer, the Employee's spouse, or, if there is no surviving spouse, their estate, shall receive any sums due to Employee and reimbursement of expenses through the date their death occurred, subject to applicable law.

3.2 Termination by HACM with Cause. During the term of this Agreement, except as it relates to the Introductory Period or as otherwise set forth herein, Employer may terminate Employee's employment for cause, which shall be determined by the Board. For purposes of this Agreement, "cause" may include, but is not necessarily limited to the following:

- (a) an act of fraud or personal dishonesty in performing or related to Employee's duties on behalf of HACM and/or its affiliates/related entities;

- (b) conduct that, in the judgment of the Board, may cause economic damage to and/or injury to the reputation of HACM and/or its affiliates/related entities and/or which may impair HACM's standing in the community or the ability of HACM to carry out its mission;
- (c) breach of fiduciary duty, including but not limited to breach involving personal profit;
- (d) failure or inability to fully perform duties and fulfill obligations under this Agreement;
- (e) subject to applicable law, violation of any law, rule or regulation (other than minor or routine traffic violations or similar offenses) that may reflect adversely on the reputation of HACM and/or its affiliates/related entities, including but not limited to violation of laws involving moral turpitude, fraud or dishonesty;
- (f) a material breach by the Executive of any provision of this Agreement and/or HACM's policies, practices or procedures.

Employee acknowledges that termination under this provision does not require HACM to provide advance written notice and/or an opportunity to cure or correct and that any such optional cure period provided to Employee by the Board may be revoked at any time during such cure period without notice.

Employee agrees and understands that if Employee is terminated for cause, Employee will not be entitled to any compensation or payments other than sums due to Employee for time worked and/or expense reimbursements, subject to applicable law.

3.3 Termination by HACM Without Cause. After Employee's successful completion of the Introductory Period, HACM may terminate this Agreement at any time without cause and without advance notice. If Employee is terminated without cause after successful completion of the Introductory Period, HACM shall pay Employee an amount equal to two month's salary, provided that Employee executes a Separation Agreement and Release in a form written by and approved by HACM ("the Release"), with all other benefits ceasing on the termination date, subject to applicable law. If Employee does not execute the Release, no amounts will be due and owing to Employee, other than as may be required by applicable law.

3.4 Termination by Employee for Good Reason. Except as it relates to the Introductory Period, Employee may only terminate this Agreement during the term of employment for Good Reason. For purposes of this Agreement, "Good Reason" is defined as follows: material diminution of the Employee's authority, duties, or responsibilities; or action or inaction that constitutes a material breach by Employer under this Agreement.

If Employee wishes to terminate employment during the term of this Agreement for "Good Reason," Employee must provide the Board with a minimum of 90 days written notice of intent to terminate under this provision, to include a description of the Good Reason. Upon receipt of such notice, HACM (a) may accept the notice as a resignation, to be effective immediately or at any time during the 90-day notice period, subject to the sole discretion of the Board; or (b) shall have 30 days thereafter to remedy the condition(s) constituting Good Reason as alleged by Employee, and if remedied, advise Employee of the remedy.

If employment is terminated pursuant to this provision, Employee shall only receive compensation for time worked and expense reimbursement to which the Executive is entitled through the date on which termination becomes effective.

Section 4: MISCELLANEOUS

4.1 Vehicle for Business Use. HACM shall provide Employee with use of a HACM-owned fleet vehicle for business use (and limited incidental personal use) during the term of Employee's employment. Employee agrees to comply with any policies and procedures regarding the use, maintenance, and operation of the vehicle. Employee agrees to maintain a valid driver's license and remain insurable at all times. Employee shall be responsible for any fines or penalties resulting from misuse, negligence or violation of law or policy. Employee agrees to promptly report any citation, accident, damage or loss involving a HACM vehicle. Employee agrees to be responsible for and to indemnify HACM for losses arising from or during unauthorized use, gross negligence or willful misconduct.

4.2 Relocation Expenses. HACM shall provide Employee with relocation assistance in an amount not to exceed \$7,500.00, payable as reimbursement for reasonable, necessary and documented relocation expenses actually incurred in connection with Employee's relocation. Reimbursable expenses may include moving, temporary housing, and travel expenses for Employee and Employee's immediate family.

In addition, HACM shall provide or reimburse Employee for temporary housing for Employee and Employee's immediate family, for a period of up to 45 days from the Start Date, not to exceed \$3,500 , provided Employee makes every reasonable effort to secure permanent housing sooner.

Employee agrees to submit appropriate documentation within 60 days of the incurrence of such expenses.

4.3 Successors and Assigns.

(a) This Agreement shall be binding upon and inure to the benefit of Employee and Employee's spouse, agents, attorneys, legal and personal representatives, executors, administrators, heirs, beneficiaries, successors, and assigns.

(b) Without written consent of the other party, no party shall assign, transfer, or delegate this Agreement or any rights or obligations under this Agreement, except as expressly provided herein.

4.4 Arbitration. Except for any claim for injunctive relief, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitration panel shall be final and binding upon the parties and judgment upon the award rendered by the arbitration panel may be entered by any court having jurisdiction. Employer and Executive agree that they will seek to enforce any arbitration award in the Circuit Court of Milwaukee County. The Employer and the Executive agree to share equally the fees and expenses associated with the arbitration proceedings. Executive must initial here: _____

4.5 Governing Law and Construction. The terms of this Agreement shall not be construed for or against any party on the grounds that such party or its attorneys drafted any portion thereof. Any questions concerning this Agreement shall be determined and governed by the terms of this Agreement and the laws of the State of Wisconsin.

4.6 Entire Agreement. This Agreement sets forth the entire agreement between the parties and completely supersedes any prior agreements, oral statements and/or understandings. In entering into this Agreement, Employee acknowledges that Employee has not relied on any oral or written representations by any HACM representative other than those explicitly set forth in this Agreement.

4.7 Severability. Notwithstanding any provision of this Agreement, nothing herein is intended to require or permit either party to act in violation of any applicable law. If there is a conflict between any provision of this Agreement and any statute, regulation, or judicial precedent, the latter shall control, and the provision will be deemed modified to the minimum extent necessary to comply with such law. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void/voidable, or otherwise unenforceable, the remainder of this Agreement shall continue in full force and effect to the extent permitted by law unless clearly contrary to the intentions of the parties or if doing so would result in an injustice.

4.8 Captions and Counterparts. The captions in this Agreement are solely for convenience. The captions do not define, limit, or describe the scope or intent of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. A facsimile, digital or electronic signature or signed copy of this Agreement may be relied upon as an original.

4.9 Amendment and Waiver. This Agreement may not be amended, released, discharged, abandoned, changed, or modified in any manner, except in writing signed by each of the parties hereto. The failure of any party hereto to enforce at any time any of the provisions of this Agreement shall not be construed to be a waiver of any such provision, nor affect the validity of this Agreement or any part thereof or the right of any party thereafter to enforce each and every such provision. No waiver or any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. Nothing in this Agreement shall be construed to waive any privilege, right of recovery, cause of action, defense, remedy, category of damages, or immunity to which HACM is entitled under common law, or federal, state, or local law; waiver of any of the foregoing may only be accomplished in writing by an individual with the authority to bind HACM.

4.10 Confidentiality. In the course and scope of employment, Employee will have access to confidential and sensitive information. Employee agrees to maintain the strict confidentiality of confidential or sensitive HACM information and documents, subject to applicable laws, rules and regulations related to open records and otherwise.

4.11 Public Records Law. Employee understands that HACM is bound by the Wisconsin Public Records Law, Wis. Stat. §19.21, et. seq. Pursuant to Wis. Stat. §19.36(3), HACM may be obligated to produce, to a 3rd party, the records of Employee that are “produced or collected” by Employee under this Agreement (“Records”). Employee is further directed to Wis. Stat. §19.21, et. seq., for the statutory definition of Records subject to disclosure under this paragraph, and Employee acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Employee is obligated to: (1) retain Records for 7 years from the date of the Record’s creation, and (2) timely produce such Records to HACM if, in HACM’s determination, HACM is required to produce the Records to a 3rd party in response to a public records request. Employee’s failure to retain and timely produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Employee must defend and hold HACM harmless from liability due such breach.

4.12 Survival. Sections 4.3, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, and any other section(s) which by its/their meaning is/are implied to survive termination shall continue in force and effect following the termination or expiration of this Contract.

In entering into this Agreement, each party expressly states that it has fully read this Agreement and fully understands its terms. Each Party has had the opportunity to confer with independent legal counsel and enters into this Agreement knowingly and voluntarily.

Dated: _____

By: _____
HAROLD INCE, JR.

Dated: _____

By: _____
Authorized Representative of The Housing Authority
of the City of Milwaukee