

CO-DEVELOPER AND REPRESENTATION AGREEMENT

**BETWEEN
THE HOUSING AUTHORITY OF THE CITY OF MILWAUKEE
AND
TRAVAUX, INC.**

**Rental Assistance Demonstration (RAD) Conversion Projects and other future HACM
Projects**

THIS AGREEMENT, entered into as of the 1st day of March , 2019, by and between the Housing Authority of the City of Milwaukee, a public body, corporate and politic, created and existing under the laws of the state of Wisconsin (the "AUTHORITY") AND Travaux, Inc., a Wisconsin non-stock corporation and instrumentality of the Authority ("Travaux");

WITNESSETH THAT:

WHEREAS, the AUTHORITY has all the power necessary or convenient to carry out and effectuate the purposes and provisions of ss.66.1201 to 66.1211 Stats.; and

WHEREAS, the AUTHORITY, acting together with various Affiliates, is undertaking the redevelopment of it Public Housing Projects in Milwaukee, Wisconsin under the Rental Assistance Demonstration (RAD) conversion program and is planning to develop future housing projects; and

WHEREAS, the AUTHORITY and Travaux desire to enter into this Agreement in order to set forth the terms and conditions upon which Travaux will agree to serve as Co-developer and Representative in conjunction with the implementation of projects mentioned above, acting on its own behalf or through an affiliated entity in which it holds an ownership interest or for which the AUTHORITY or an Affiliate serves as managing member; and

WHEREAS, the AUTHORITY and Travaux have previously entered into a "Cooperation Agreement" Contract for Receipt and Furnishing of Services, Materials and Equipment between the Housing Authority of the City of Milwaukee and Travaux dated as of February 21, 2018, pursuant to which they share certain services, facilities, equipment and expertise; and

WHEREAS, the AUTHORITY and Travaux enter into this Agreement in order to further their shared mission and to promote the exercise of the AUTHORITY'S statutory powers.

NOW, THEREFORE, in consideration for the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually agree as follows:

1. Definitions. In addition to the words and terms defined elsewhere in this Agreement, the following words and terms, where used in this Agreement, shall have the following meanings:

Affiliate means an instrumentality of the Authority or a limited liability company in which the Authority holds an ownership interest and serves as managing member.

City means the City of Milwaukee, Wisconsin.

Project means any current Public Housing project owned by HACM and any future HACM development projects.

Owner means the person or entity which holds fee title to a lot or lots upon which any Project is situated.

Work means the actions necessary to rehabilitate, construct and complete current and future Projects.

2. Engagement of Co-Developer and Representative.

The AUTHORITY hereby engages Travaux and Travaux hereby accepts the engagement from the AUTHORITY to assist with the development of HACM projects by acting as the Co-Developer and Representative in connection with the Work and, in connection therewith, to provide the services required to rehabilitate and construct such current and future Projects, upon the written request of the AUTHORITY or the respective Owner of any such Projects. As Co-Developer and Representative, Travaux will, as necessary for each Project:

- (a) Assist Owner in obtaining local and state building permits for the Work, including coordinating necessary meetings with the City;
- (b) Assist in determining the overall budget, which will include hard and soft costs, contingencies for the design and construction, and operations and maintenance

of the Work, reviewing estimates of construction costs and negotiating a guaranteed maximum price with the construction manager;

- (c) Assist with monitoring the costs of each Project and provide periodic reports regarding same to Owner;
- (d) Assist with administering procedures for construction of the Work, including payment procedures, change order procedures, construction contracting format, schedule development and organizational and decision-making hierarchy;
- (e) Upon request, provide Owner with periodic communications regarding the progress each phase of the Work, including the performance of Architect's and the construction manager's respective services with respect to the project schedule;
- (f) Assist the Owner in working with Architect and the construction Manager in their preparation of a value engineering/constructability analysis and review and comment on any value engineering and/or redesign recommended by Architect and/or the construction manager;
- (g) Assist in developing a project schedule, including reviewing the Architect's and the construction manager's proposed schedules, further refining the scheduling for development, design, construction, start-up and anticipated operation and management of the Work;
- (h) Review with Owner, Architect and the construction manager plans and specifications;
- (i) Assist Owner in the review and pre-qualification of construction bidders;
- (j) Assist in the review of the construction manager's procedures for bidding procurement packages and in reviewing bids with Owner;

- (k) Assist Owner in reviewing and negotiating the agreement and general conditions with the construction manager for the Work;
- (l) Assist in review, negotiation and approval of change orders by the construction manager and its subcontractors, consultants or vendors or changes in the scope of Architect's services;
- (m) Assist in administering periodic job meetings;
- (n) Assist with monitoring the construction manager's substantial and final completion procedures and assist Owner in the review of punchlists for the construction manager's work, and identify and incorporate any other items of non-conforming or incomplete work not listed;
- (o) Assist in the resolution and completion of outstanding punchlist work items with the construction manager;
- (p) Assist the Owner and the construction manager to maximize savings that may be cost-effectively obtained in materials due to the tax-exempt status of any Owner, as may be applicable;
- (q) Assist in the review of applications for payment, certificates of substantial completion and certificates of final completion;
- (r) Assist in the review and comment on the construction manager's program for start-up, testing and balancing of mechanical and electrical systems; and
- (s) Generally perform the duties expected of an owner's representative for projects of similar scope as the Work.

3. Representative's Fees. For serving as Representative, Travaux shall be paid up to 75% of the Developer's fee that the Authority will earn on each Project.

4. The AUTHORITY acknowledges that Travaux does not have and shall not have any authority to make any binding decisions on behalf of the AUTHORITY related in any way to the Work. Travaux's role shall be limited to advising and making recommendations to The AUTHORITY in connection with the design and construction of the Work. Notwithstanding the foregoing, the AUTHORITY and Travaux may agree to the designation of Travaux employees to act as the AUTHORITY's agent to make such binding decisions.

5. The AUTHORITY acknowledges that the services and work product provided by consultants and contractors retained directly by the AUTHORITY (the "Consultants") are the responsibility of such Consultants and that Travaux does not warrant or guarantee their performance. Similarly, the AUTHORITY acknowledges that Travaux does not warrant or guarantee the work product or other aspects of performance of those retained by the AUTHORITY to perform the architectural and/or engineering designs and the construction of any Projects. The provisions of this paragraph do not abrogate or lessen Travaux's obligation to use the standard of care with respect to the selection and oversight of Consultants and the design and construction as commensurate with the highest levels of the industry.

6. Travaux shall continuously maintain throughout the term of this Agreement comprehensive general liability insurance in the amounts and with the limits set forth on the insurance certificate. The AUTHORITY shall, during the course of the Work, maintain, or cause to be maintained, Builder's Risk or other appropriate insurance with appropriate coverage.

7. Travaux shall indemnify and hold the AUTHORITY, its respective officers, directors, agents and employees, harmless from and against any and all claims, costs, damages, expenses, fees, fines, liabilities, losses and suits including, without limitation, attorneys' fees arising out of or resulting from Travaux's negligence, intentional misconduct or failure to comply with the terms of this Agreement. The foregoing obligations shall survive the termination or expiration of this Agreement.

8. Travaux may not assign any of its rights, title or interest in and to this Agreement without the prior written consent of the AUTHORITY, which shall not be unreasonably withheld, conditioned or delayed.

9. This Agreement may be amended only in writing signed by all of the parties hereto and shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Travaux and the AUTHORITY have caused this Agreement to be executed in their respective names as of the date set forth above.

Travaux, Inc.

By:

Antonio M. Perez
President

**HOUSING AUTHORITY OF THE CITY
OF MILWAUKEE**

By:

Mark A. Wagner
Chair

By:

Antonio M. Perez
Secretary-Executive Director

TOG Revision
2/15/2018