City of Highland Park

ORDINANCE NO. ___________

TAX EXEMPTION ORDINANCE

ADOPTED: *[insert date of adoption]*

An Ordinance to provide for a service charge in lieu of taxes for housing projects for low income persons and families to be financed with a federally-aided or Authority-aided Mortgage Loan or an advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401, *et seq*) (the "Act").

THE CITY OF HIGHLAND PARK ORDAINS:

SECTION 1. This Ordinance shall be known and cited as the "City of Highland Park Tax Exemption Ordinance - Gabrielle Apartments & Townhomes"

SECTION 2. Preamble.

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low-income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons and families of low income is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* property taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below), subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, plans to develop, own and operate a housing project identified as Gabrielle Apartments & Townhomes on certain properties (see below) principally located at 14201 2nd Avenue in the City of Highland Park to serve persons and families of low income and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

The properties located in the City of Highland Park, Wayne County, MI, are described for tax purposes as follows:

Land in the City of Highland Park, Wayne County, Michigan described as:

Part of Park Lots 6, 7 & 8 of l/4 Section 5 of the Ten Thousand Acre Tract, as recorded in the plat of the subdivision into park lots of l/4 Sections 4, 5, 44, 45, 55, 56, 57 and 58 in the Ten Thousand Acre Tract, as recorded in Liber 34 of deeds on Page 332, Wayne County Records lying between the Easterly line of Third Avenue, 60 feet wide and the Westerly line of Second Avenue as proposed to be widened from 60 feet to 80 feet wide, and part of lots 33 thru 54, both inclusive, the adjacent public alley on the Northerly sides of Landsberg's Subdivision of Park Lot 5, 1/4 section 5, Ten Thousand Acre Tract, Village of Highland Park, Wayne County, Michigan as recorded in Liber 23 of Plats on Page 17 of Wayne County Records and being more particularly described as:

Commencing at the point of intersection of the Southerly line of fractional Section 14, T, 1 S., R, 11 E., said line being also the Northerly line of the TTAT, and the Easterly line of Hamilton Ave, 100 feet wide, said point of intersection being also the Southwesterly corner of Assessor's Highland Park Plat No. 1, of part of fractional Sections 13 and 14, T. 1 S., R. 11 E., City of Highland Park, Wayne county, Michigan as recorded in Liber 66 of plats on Page 24 of Wayne County Records and proceeding thence along said northerly line of the TTAT, N, 64°00’001’E., 896.04 feet; thence along the Easterly line of Third Avenue, 60 feet wide, S. 26°04’50"E, 206.02 feet to the point of beginning; thence N, 63°46' 2B"E. 680.13 feet along the Southerly boundary of Detroit Terminal Railroad property; thence along the Westerly line of proposed Second Avenue 80 feet wide, S, 26°04'50"E, 50.00 feet thence the following three courses and distances along land owned by the City of Detroit Public Lighting Commission, S. 63°46'28"W, 95.50 feet and S. 26°04’50” E, 102.25 feet and N. 63°46’28” W, 95.50 feet; thence along said proposed Westerly line of widened Second Avenue S. 26°04'50"E. 320.31 feet and S. 27°39’07" E. 365.51 feet; thence along the Northerly line of proposed Oakman-Manchester Connector S. 63°37'55"W. 690.16 feet; thence along the Easterly line of Third Ave. N. 26"04'50"W. 839.66 feet to the point of beginning. Containing 12. 915 acres and subject to easements and restrictions of record.

SECTION 3. **<u>Definitions</u>**.

A. <u>Authority</u> means the Michigan State Housing Development Authority.

B. <u>Annual Shelter Rents</u> means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

C. LIHTC Program means the Low-Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

D. Persons and Families of Low Income means persons and families eligible to move into a housing project.

E. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

F. Sponsor means Gabrielle 2026 MHT Limited Dividend Housing Association, LLC and any entity that receives or assumes a Mortgage Loan.

G. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

SECTION 4. Class of Housing Projects.

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Gabrielle Apartments & Townhomes is within the eligible class of housing projects set forth in this Section 4.

SECTION 5. Establishment of Annual Service Charge.

The housing project identified as Gabrielle Apartments & Townhomes and the properties on which it is or will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to develop and operate the housing project, the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. The annual service charge shall be equal to 6% of the Annual Shelter Rents actually collected by the housing project during each operating year.

SECTION 6. Contractual Effect of Ordinance.

Notwithstanding the provisions of section 15a(7) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

SECTION 7. Limitation on the Payment of Annual Service Charge.

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt, but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

SECTION 8. Payment of Service Charge.

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid in the same manner and at the same time as general property taxes are payable to the City ~~on or before __________ of the following year~~. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

SECTION 9. Duration.

So long as the housing project remains subject to income and use restrictions under Section 42 of the LIHTC program and a Mortgage Loan remains outstanding and unpaid, this Ordinance shall remain in effect and shall not terminate~~, initially~~ for a term of twenty (20) years~~, and then renewing automatically for additional periods of twenty (20) years~~.

It is further the intent of the Parties that in the event the housing project is sold, transferred, or refinanced by the Sponsor or a related entity of the Sponsor, this Ordinance shall remain in full force and effect and without further action by the Sponsor or the City to otherwise change, alter or amend this Ordinance.

SECTION 10. Severability.

The various sections and provisions of this Ordinance shall be deemed to be severable and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

SECTION 11. Inconsistent Ordinances.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 12. **Effective Date**.

This Ordinance shall become effective on *[insert effective date]* , as provided in the City Charter.

CITY CLERK