

WORKFORCE RENTAL HOUSING RESTRICTIVE COVENANT

This Workforce Housing Restrictive Covenant (“Restrictive Covenant”) is made by and between the City of Grand Rapids (“City”) and [Owner Name] (“Owner”) and is effective as of [redacted], 20 [redacted].

RECITALS:

A. Owner has site control of certain real property in the City of Grand Rapids, Kent County, Michigan, and more particularly described by the legal description in Exhibit A (the “Property”), which is attached hereto and incorporated by reference into this Covenant.

B. Owner has offered to [construct OR rehabilitate] one or more buildings located on the Property to provide [insert number] units of workforce housing (the “Project”) and has applied to the City for a workforce housing exemption from *ad valorem* property taxes under Section 15a of the State Housing Development Authority Act, being Public Act 346 of 1966, as amended (the “Act”). For purposes of real property tax exemption under the Act, the maximum total number of workforce housing units within the Project is [insert number] and may not be increased.

C. In consideration of Owner’s offer to undertake the Project, the City has agreed to exempt the Project from all *ad valorem* property taxes and to accept in lieu thereof a payment in lieu of taxes (the “PILOT”). The payment will consist of an [annual service charge OR annual service charge and an Affordable Housing Fund contribution] (the “PILOT fee”) for a period of fifteen (15) years as provided in Article 5 of Chapter 9 of Title I of the Grand Rapids City Code, Ordinance No. 2024 – 43 (the “PILOT Ordinance”).

NOW, THEREFORE, in consideration of the Owner’s commitment to [construct OR rehabilitate] the Project and the City’s acceptance of the PILOT fee in lieu of all *ad valorem* property taxes for all workforce housing units in the Project, Owner and the City hereby covenant as follows:

1. **Definitions.** Except as further defined herein, all words and phrases used in this Restrictive Covenant have the same meaning as defined in Article 5 of Chapter 9 of Title I of the Grand Rapids City Code, Ordinance No. 2024 – 43.

2. **Eligible Rehabilitation.** To qualify for a workforce housing property tax exemption under the Act, the Project must receive eligible rehabilitation which shall be verified through the City’s building permit process. Eligible rehabilitation is defined as a scope of work that requires at least one of the following three building permit types: Remodel/Renovation, New or Addition, or Re-roof or Re-side. After rehabilitation work is completed, it must receive a final, approved inspection by a City Building Inspector. If the rehabilitation work is not inspected, approved, and finalized, it will not constitute eligible rehabilitation and the Project will be in default.

3. **Workforce Housing Covenant.** The Project will, upon completion of the proposed **construction OR eligible rehabilitation**, constitute workforce housing with rents reasonably affordable to households consisting of an individual or family and all occupants residing in the unit whose total income is not greater than the specified area median income (AMI) limit, as published by the Michigan State Housing Development Authority (the “Authority”) for the Low Income Housing Tax Credit program, based on United States Department of Housing and Urban Development (HUD) data, adjusted for family size. All of the Project units will be rented, or available for rental, on a continuous basis throughout the term of this Restrictive Covenant.

4. **Term of Exemption.** The exemption from *ad valorem* property taxes approved by the City shall remain in effect in accordance with the PILOT Ordinance and this Restrictive Covenant restricting use of the Project to workforce housing for a period of fifteen (15) years, or so long as the Project is used for workforce housing, whichever is less. The Project shall be exempt from all *ad valorem* property taxes as of December 31 of the year in which all of the following has occurred:

- a) Owner submitted all required documents to the Authority, and Owner or Authority provided the *certified notification of exemption* to the City Assessor before November 1 of the year preceding the first tax year the exemption is to be in effect.
- b) **New construction OR eligible rehabilitation** has commenced as evidenced by the City’s issuance of an acceptable building permit, provided this work has commenced within one (1) year of the Authority’s certification of exemption, and
- c) This Restrictive Covenant has been signed and recorded with the Kent County Register of Deeds.

Owner may work with the Authority to obtain the *certified notification of exemption* for the City Assessor at any time after this Restrictive Covenant has been recorded and **new construction OR eligible rehabilitation** has commenced and may choose to coordinate the submission of the *certified notification of exemption* with the completion of **construction OR eligible rehabilitation**. The exemption shall automatically terminate at the end of the 15-year term, upon sale of the Property to any party other than Owner, or upon the foreclosure or the giving of a deed in lieu of foreclosure for the Property, whichever occurs first.

5. **PILOT Fee.** **[insert number]** units in the Project will be rented to households with incomes that fall within various income tiers according to the chart below. The PILOT fee paid in lieu of *ad valorem* property taxes shall be the **percentages or percent** of annual shelter rent listed in the chart below. All PILOT units shall be leased to tenants that each have a total household income no greater than 120% of AMI. After initial occupancy, units in lower tiers may “float” up to a higher AMI tier once per calendar year, as reported on annual compliance reports, if the tenant’s household income increases above the maximum AMI of the current tier. The PILOT fee will increase for the unit accordingly. Units may not “float” down to a lower tier due to a decrease in tenant household income, but units may be reset at a lower tier due to unit turnover if the new tenant(’s)(s’) household income is in a lower tier than the previous tenant(’s)(s’). If a tenant’s household income exceeds 120% of AMI, as reported in annual compliance reports, the unit will be out of compliance and Owner will be charged the equivalent of *ad valorem* taxes for the unit until a future annual compliance report evidences household income that does not exceed 120% of AMI. In the event that additional rental units are added to the Project in the future through a new construction addition, or in the event that existing market rate units are converted to workforce housing, the additional units will not receive exemption from *ad valorem* property taxes under the current PILOT.

Area Median Income (AMI)	>100% - ≤ 120%	>80% - ≤ 100%	>60% - ≤ 80%	≤ 60%
Service Charge	5%	3%	2%	1%
Affordable Housing Fund Contribution	5%	5%	4%	3%
Service Charge without Affordable Housing Fund Contribution	10%	8%	6%	4%

6. **Additional Amount.** In addition to the PILOT fee paid in lieu of *ad valorem* property taxes, the “additional amount” will be charged if Kent County opts out of the PILOT pursuant to the Act. “Additional amount” is defined as the amount equal to the difference between the millage rate levied for operating purposes by Kent County multiplied by the current taxable value of the housing project less the amount of the PILOT fee paid by the Owner that is to be distributed to Kent County.

7. **Rental Rates.** Owner has agreed to charge the tenants of Project units no more than the applicable maximum rental rates listed in the last column of the chart in Exhibit B. These maximum rental rates shall be valid for a term no less than one year from the date this Restrictive Covenant is recorded with the Register of Deeds. After this initial one year time period, rental rates may be increased up to four percent (4%) per year but may not exceed the applicable rent limit published by the Authority. Owner agrees to limit rent rate increases to no more than 4% per year for the entire 15-year exemption period. At no time may rental rates plus the applicable utility allowance from the Authority’s utility schedule for Region C plus all rent subsidies (i.e. Project-Based Voucher Payments, Section 8 payments, and Tenant-Based Rental Assistance payments) exceed the rent limit published annually by the Authority, based on HUD data, adjusted by number of bedrooms in the unit and AMI level.

$$\frac{\text{Tenant-paid Rent}}{\text{Rent}} + \frac{\text{Utility Allowance}}{\text{Allowance}} + \frac{\text{Rent Subsidies}}{\text{Subsidies}} \leq \frac{\text{AMI Rent Limit on Authority's Chart}}{\text{Authority's Chart}}$$

Common charges for optional privileges (i.e. monthly pet fee, garage fee, etc.) may be charged in addition to the rent as long as they are reasonable when compared to local industry standards. These additional fees are also subject to the annual 4% increase limit.

8. **Owner to Demonstrate Compliance.** Owner must obtain a valid Rental Certificate of Compliance once new construction or eligible rehabilitation is complete. Additionally, Owner shall ensure the rental units are kept in compliance with the City’s Property Maintenance Code which includes maintaining a valid Rental Certificate of Compliance. Additionally, Owner agrees to provide annual compliance reports, in form and substance acceptable to the City, no later than May 30 of every year following occupancy to affirm continued eligibility for the tax exemption. Annual compliance reports shall include tenant household income information by unit, rent revenue for the Project units, total operating expense attributable to the Project units, and utilities for Project units paid by the Owner and will report on the prior calendar year. As such, Owner will complete annual Tenant Income Reports for all Project units to verify gross household income as outlined in **Section 9**. Each rental unit shall be occupied by income-eligible tenants for at least nine (9) months per calendar year. Units that are not occupied by income-eligible tenants for at least 9 months, whether due to vacancy or tenants being over-income, shall be assessed the equivalent of *ad valorem* taxes. The 9-month minimum occupancy rule shall not apply to the first calendar year when initial occupancy under the PILOT begins for a new construction project or for an eligible rehabilitation

project that required existing tenants to relocate. Additionally, Owner agrees to provide audited financial statements OR audited financial statements, third-party prepared financial statements, or internally-prepared financial statements, certified by the owner, verifying rent revenue to the City Assessor's Office annually by August 1. Notwithstanding the above, upon request, Owner agrees to provide the City with any additional documentation the City deems necessary to verify compliance with this Restrictive Covenant and its PILOT Ordinance.

9. **Annual Tenant Income Reports.** Tenant Income Reports shall be completed for each PILOT unit annually and shall be based on income source documents collected by the Owner on, or within 60 days preceeding, the anniversary of the tenant's initial 12-month lease. If a tenant has resided in their unit for less than 12 months of the calendar year being reported on, the income report shall be based on income source documents collected prior to lease up. Source documents may include, but are not limited to, tax returns, pay stubs, benefits statements, completed verification of employment forms, etc. Income source documentation must be stored securely and retained by Owner for five (5) years from date of receipt. Tenant Income Reports shall be submitted for the calendar year prior to the year the PILOT is to begin if units were occupied during that year (for rehab) OR year tenant occupancy begins (for new construction). The City reserves the right to audit income source documents to ensure annual income calculations and reporting are accurate.

10. **No Violation.** Owner agrees that it will not knowingly take or permit any action that would result in a violation of the requirements of this Restrictive Covenant or the PILOT Ordinance which is incorporated herein as if it were a part of this Restrictive Covenant. Further, Owner agrees to take any required action, including the amendment of this Restrictive Covenant, as may be necessary, in the determination of the City or the Authority, to comply with the PILOT Ordinance and the Act. If the City determines that the Project is not in compliance with the requirements of this Restrictive Covenant, the Project shall be in default, and the City shall notify Owner in writing. Default status lasting thirty (30) days or more may result in termination of the exemption which would subject the property to immediate *ad valorem* taxation. Any PILOT fee payment or portion of payment remaining unpaid as of the due date shall bear interest at 1% per month and shall require payment of a 3% penalty fee. Failure to pay the full balance by December 31 of the year the PILOT invoice was issued will result in termination of the exemption and will subject the property to immediate *ad valorem* taxation for the tax year in which the PILOT fee was fully or partially unpaid and for all future tax years. The collection of past due payments shall otherwise be in accordance with the provisions of Chapter 211 of the General Property Tax Act, Act 206 of 1893, as amended; MCL 211.44 et seq.

11. **Transfer of Ownership.** Owner will, prior to a sale or other voluntary transfer of ownership of the Project or any part thereof, notify the City in writing. The PILOT is not transferable to the new owner. If Owner chooses to sell, the units will revert back to the *ad valorem* property tax roll upon date of sale. The City will discharge the Restrictive Covenant within 45 days of receiving evidence of the completed sale.

12. **Enforceability.** This Restrictive Covenant is enforceable in any court in the State of Michigan having jurisdiction thereof, by the City, and to the extent required by the PILOT Ordinance, by any individuals who are tenants of the Project whether prospective, present, or former.

13. **Covenant Running with the Land; Binding Effect.** This Restrictive Covenant shall constitute and be enforced as a covenant running with the land under Michigan law and shall be binding on all successors or assigns of Owner or the City and any future owner or operator of the Project for the full 15-year exemption period unless terminated due to sale of the Property to any party other than Owner or due to foreclosure or the giving of a deed in lieu of foreclosure.

14. **Miscellaneous.** In the event of any conflict between the terms of this Restrictive Covenant and the requirements of the PILOT Ordinance, the requirements of the PILOT Ordinance shall prevail. This Restrictive Covenant may only be amended, modified, or discharged if done in writing signed by both Owner and the City and recorded with the Register of Deeds or by operation of law. The invalidity of any clause or provision of this Restrictive Covenant shall not affect the validity of the remaining portions thereof.

15. **Statement of Authenticity.** Owner hereby affirms that they will comply with all aspects of this Restrictive Covenant, the PILOT Ordinance, and the Act and that all information reported in connection with the PILOT is accurate and truthful to the best knowledge of Owner. Submission of knowingly fraudulent information within the PILOT application or within any annual compliance report constitutes violation of the City's PILOT Ordinance and may result in termination of the tax exemption.

IN WITNESS WHEREOF, Owner has executed this Restrictive Covenant as of the date first written above.

[Signature Page To Follow]

CITY OF GRAND RAPIDS, a Michigan municipal corporation,

By: _____
Connie M. Bohatch
Its: Senior Managing Director of Community Services

STATE OF MICHIGAN)
) ss
COUNTY OF KENT)

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by
Connie M. Bohatch, Senior Managing Director of Community Services at the City of Grand Rapids, a
Michigan municipal corporation.

Notary Public, Kent County, MI
Acting in Kent County, MI
My Commission Expires: _____

OWNER
[Owner Name]

By: _____
Its:

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, _____ by
_____, _____ of _____, a
_____.

Notary Public, _____ County, _____
Acting in _____ County, _____
My Commission Expires: _____

DRAFT

DRAFTED BY AND RETURN TO:

Community Development Department
City of Grand Rapids, City Hall
300 Monroe Avenue NW Suite 460
Grand Rapids, Michigan 49503

EXHIBIT A

Legal Description, Parcel Number, Common Address of Property

Legal Description:

Parcel Number:

Common Address:

DRAFT

EXHIBIT B

Maximum Rental Rates for first 12 Months

Unit Type by Number of Bedrooms	AMI of Tenant in Unit	Maximum Rent Plus Utility Allowance	Utility Allowance as per MSHDA Chart	Maximum Initial Rent that can be charged to Tenant
0	>100% - ≤ 120%	\$	\$	\$
0	>80% - ≤ 100%	\$	\$	\$
0	>60% - ≤ 80%	\$1,490	\$	\$
0	≤ 60%	\$1,117	\$	\$
1	>100% - ≤ 120%	\$	\$	\$
1	>80% - ≤ 100%	\$	\$	\$
1	>60% - ≤ 80%	\$1,597	\$	\$
1	≤ 60%	\$1,197	\$	\$
2	>100% - ≤ 120%	\$	\$	\$
2	>80% - ≤ 100%	\$	\$	\$
2	>60% - ≤ 80%	\$1,916	\$	\$
2	≤ 60%	\$1,437	\$	\$
3	>100% - ≤ 120%	\$	\$	\$
3	>80% - ≤ 100%	\$	\$	\$
3	>60% - ≤ 80%	\$2,214	\$	\$
3	≤ 60%	\$1,660	\$	\$