

**AFFORDABLE HOUSING FUND GRANT AGREEMENT
BETWEEN THE CITY OF ANN ARBOR,
THE ANN ARBOR HOUSING COMMISSION, AND
THE ANN ARBOR HOUSING DEVELOPMENT CORPORATION**

This Affordable Housing Fund Grant Agreement (“Agreement”), is entered between the City of Ann Arbor, a Michigan municipal corporation, whose address is 301 E. Huron Street, Ann Arbor, Michigan 48103 (“City”), the Ann Arbor Housing Commission, a Michigan public body corporate, with offices at 2000 S. Industrial Hwy., Michigan 48104 (the “Commission”) and the Ann Arbor Housing Development Corporation, a Michigan non-profit corporation (“AAHDC” or “Grantee”) (individually “Party” and collectively the “Parties”).

WHEREAS, The Ann Arbor Affordable Housing Fund (“AAAHF” or the “Fund”) Guidelines were adopted by Ann Arbor City Council in April, 1991. The AAAHF was established for the creation and preservation of long-term affordable housing for households with incomes at or below 60% of the City's Area Median Income (AMI) as defined by U.S. Department of Housing and Urban Development (HUD) or successor government department or agency that determines area median income. Further, the Fund is established to improve housing conditions for City of Ann Arbor residents, with priority given to those whose income is at or below 30% of the median household income.

WHEREAS, It is the goal of the City to provide a full range of housing opportunities to all its residents. It is the intent of the City to administer the Fund in a flexible manner to best meet the housing needs of the City. The AAAHF is established to provide financial support in the form of loans, grants or other forms of financial assistance to organizations or projects that create or preserve long term affordable housing.

WHEREAS, the Ann Arbor Housing Development Corporation (AAHDC), a Michigan non-profit corporation, whose sole member is the Commission, was formed with the stated purpose of relieving a shortage of decent, safe and sanitary housing for persons of low income in the City of Ann Arbor and to engage in or assist in the development, financing or operation of such low-income housing as an instrumentality of the Commission.

The Parties agree as follows:

GRANT. City agrees to grant Four Million Dollars and no cents (\$4,000,000.00) from the Fund to the AAHDC for the purposes outlined herein (“Grant”). The source of the Grant is from private developers’ “in lieu” contributions made to the City on prior local developments.

DURATION. The duration of this Agreement shall be seven (7) years from the date of execution (Term).

USE OF GRANT. Grantee shall administer use of the Grant for the purpose of developing the property located at 350 S 5th in the City of Ann Arbor as Affordable Housing (the Project). Details of the Project are attached as Attachment A.

All uses of the Grant shall be consistent with the AAAHF Guidelines promulgated by City Council, as amended and approved on May 5, 2025, attached hereto as Attachment B.

DISBURSEMENT.

The full Grant amount will be disbursed to Grantee within a reasonable time after approval and execution of this Agreement.

AFFORDABILITY PERIOD.

The minimum affordability period for the Project is: a permanent deed restriction.

Affordable housing millage funds will be used for the Project. Any Project using Affordable Housing Millage Funds requires a deed restriction ensuring permanent affordability.

It is the responsibility of the AAHDC to ensure that all AAAHF funded developments execute appropriate loan, grant and affordability agreements consistent with the AAAHF Guidelines. The Commission and AAHDC agree that such loans, grants and affordability agreements shall be binding on their successors, successors in interest and assigns, to the fullest extent permitted by law and equity, for the benefit, in favor of, and enforceable by, the City, its successors, successors in interest and assigns. If a property is entirely restricted to households at 60% AMI or less, the restriction will apply to all units of the property. If the property is a mixed-income property, the restriction will designate the specific units, number of units, or percent of units that must be occupied by households at 60% AMI or less. If an occupied property is acquired, the restriction will include language that existing occupants will not be displaced, and vacant units will be occupied by households at 60% AMI or less to meet the number or percent of units that are designated for households at 60% AMI or less. The restriction will include language that the income restriction applies to the initial occupancy of the household and does not require eviction of a household whose income later exceeds 60% AMI. If applicable, the restriction will include language that acknowledges the existence of any other property-specific federal, state or local regulations governing household income, age, or other regulations. The specific language of the restriction shall be administratively approved by the City prior to recording.

AMENDMENTS. This Agreement may be amended only by a written agreement executed by the Parties.

GRANTEE CORPORATE STRUCTURE. The terms of this Agreement are contingent upon the Grantee maintaining its corporate structure, effective at the time of execution of this Agreement, whereby the Commission is its sole member and the corporation's stated purpose remains to engage in or assist in the development, financing or operation of such low-income housing as an instrumentality of the Commission. Any change in corporate membership or purpose shall render this Agreement void and unenforceable.

INDEMNIFICATION.

Grantee hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement ("Claims"), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Grantee or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

Grantee's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Grantee's duty to defend and indemnify City shall arise even if City is the only Party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

Grantee will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this

indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Grantee under the terms of this indemnification obligation. The Grantee shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

REPORTS, MONITORING AND EVALUATION. Grantee agrees to cooperate fully with the City to evaluate and monitor the requirements and performance of the work and the developments funded in whole or part by the Grant. Grantee agrees to provide such information and reports, oral or written, as may reasonably be required or requested during the completion of construction work and for five additional years on matters relating to the use of the Grant, performance, compliance and evaluation of the use of the Grant. The Commission shall be responsible for all public-facing reports published on the City's website, per city council directive, if any.

FINANCES, AUDITS, AND INSPECTIONS. The Commission shall supply documentation of Grant expenditures to the City upon request. The Commission and Grantee agree to securely maintain records regarding the expenditures of AAAHF funds for a period of five years after completion of the work for which the funds are used. Grantee shall permit examination of these records by the City upon request. The City may, at a reasonable time after giving reasonable notice, cause an audit of the records of the Grantee. The Commission agrees to complete and submit to the City annual audited financial statements and a management letter prepared by an independent auditing firm for the Grantee upon request. After giving reasonable notice to the Grantee, the City may review any of the Grantee's internal records, reports or insurance policies pertaining to this Agreement.

NONDISCRIMINATION. Grantee agrees to comply, and to require any subcontractors to comply, with the nondiscrimination provisions of MCL 37.2209 as well as the provisions of the federal Immigration Reform and Control Act of 1986. Grantee further agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and treated during employment in a manner which provides equal employment opportunity.

LIVING WAGE. If a subcontractor of Grantee is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, then the Grantee agrees to require subcontractor's compliance with the living wage provisions of Chapter 23 of the Ann Arbor City Code. Grantee agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

CONFLICT OF INTEREST. No employee, officer or elected or appointed official of the City and no immediate relative (spouse, parent, sibling, or child) of any such person, has or shall have any financial interest in this Agreement. Except for salaries and expenses which may be paid with funds provided under this Agreement, no employee, officer or director of the Commission or Grantee and no immediate relative (spouse, parent, sibling or child) of any such person has or shall have any financial interest in this Agreement.

PROCUREMENT. Grantee and the Commission shall be responsible for procurement, under their own procurement rules and regulations, and in compliance with all state and federal laws and regulations, of all goods and services required for the construction, administration, and maintenance of developments for which Grant funds are used.

SUSPENSION/TERMINATION. If Grantee or the Commission fails to comply with the terms of this Agreement, the City may declare this Agreement suspended or terminated. Thereafter, the City shall have no obligation to provide further funds to the Grantee. The termination shall not relieve the Grantee of its obligations to prepare or preserve its records and to make them available for audit or inspection. The City shall provide reasonable notice to the Grantee indicating the reasons for its actions before suspension or termination.

SEVERABILITY OF PROVISIONS. Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any Party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other Parties or other circumstances.

CHOICE OF LAW AND FORUM. This Agreement shall be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The Parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The Parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

ASSIGNS AND SUCCESSORS. This contract is binding on the City, the Commission and Grantee, their successors and assigns. The Parties agree they will not assign or transfer their interest in this contract without the written consent of the other Parties.

EXTENT OF AGREEMENT. This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Grantee with respect to the subject matter of the Agreement and it supersedes all prior representations, negotiations, agreements or understandings whether written or oral. Neither Party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the Grantee and City.

NO AUTHORITY TO BIND CITY TO CONTRACTS: Grantee lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter.

SIGNATURES: The Parties agree that signatures on this Agreement may be delivered electronically or by facsimile in lieu of a physical signature and agree to treat electronic or facsimile signatures as binding. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

Signatures appear on the following pages.

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance:

By _____
Milton Dohoney Jr., City Administrator

By _____
Marti Praschan, Chief Financial Officer

Approved as to form and content:

By _____
Atleen Kaur, City Attorney

FOR THE ANN ARBOR HOUSING COMMISSION

By: _____
Jennifer Hall
Executive Director

FOR THE ANN ARBOR HOUSING DEVELOPMENT CORPORATION

By: _____
Jennifer Hall
Executive Director, Ann Arbor Housing Commission, Its Sole Member

Attachment A - The Project

The AAHC, through its 501(c)(3), the AAHDC, is developing the previously City-owned parcel at 350 S 5th as affordable housing. When the AAHDC acquired the property from the City, a deed restriction was recorded to ensure that when the property was developed, it would include housing affordable to households at 60% AMI or less, of an unspecified number, because the design of the building was not final at the time.

The AAHC selected Related Midwest through a Request for Proposal (RFP) process, as a co-developer. The project includes a 329,242 square foot 20-story mixed-use building that includes approximately 330 1- and 2-bedroom apartments with tenant community space and staff offices and 6,514 square feet of commercial space. All the residential units will be affordable to households with incomes at or below 80% of Area Median Income (AMI) with an income average of no more than 60% AMI, as restricted by Low Income Housing Tax Credits (LIHTC) and the City's PILOT ordinance. At least 110 of the 330 units (33%) will be targeted at households earning less than 30% of the Area Median Income and will be directly supported by the Ann Arbor Housing Commission ("AAHC") through both project-based rental vouchers and supportive services.

The maximum total local affordable housing millage funding combined with this Grant will not exceed 21% of the total development costs for the initial construction of this affordable housing project. The total number of apartments affordable to households at 60% AMI or less shall be the greater of 100 apartments or 40% of all of the apartments.

The primary source of funding for affordable housing development is the Low-Income Housing Tax Credit (LIHTC) Program. The Internal Revenue Service (IRS) requires the AAHDC to form a limited partnership or limited liability company with an equity investor to finance the development of these properties with LIHTC. The AAHDC will own the land and the AAHDC will execute a long-term ground lease with Fifth Avenue MI Limited Dividend Housing Association, LLC; the limited liability company created for the improvements (buildings). Under IRS regulations, the LDHA LLC is composed of a managing member and an investor member. The AAHDC formed a single-asset entity called AAHDC Fifth Avenue LLC that will be the co-managing member with Related Midwest's single-asset entity called LR Development Company, LLC. The equity investor has not yet been selected.

The current estimated sources and uses (in application process) are:

SOURCES

\$85,692,000	Low Income Housing Tax Credit Equity
\$5,120,000	ITC & 45L Equity (Geothermal Tax Credits)
\$46,415,000	Michigan State Housing Development Authority Mortgage
\$33,000,000	City of Ann Arbor Bond (Affordable Housing Millage)
\$8,000,000	Federal Funds from MSHDA
\$8,727,000	Transformational Brownfield Leveraged Funds

\$12,987,049	Deferred Developer Fee
\$1,250,000	Washtenaw County Brownfield
\$2,175,703	Operating Income Related to Transformational Brownfield
\$500,000	Ann Arbor DDA Affordable Housing Fund
\$4,000,000	City of Ann Arbor Affordable Housing Fund
\$957,087	DTE Rebates
\$1,000,000	Climate Millage
\$2,792,913	AAHDC
\$100	General Partner Contribution
<u>\$212,616,852</u>	<u>TOTAL</u>

USES

\$6,600,000	Land
\$149,038,825	Hard Construction Costs
\$56,978,027	**Soft Costs
<u>\$212,616,852</u>	<u>TOTAL</u>

** Soft costs include financing fees, reserves, furnishings, legal, insurance, permit fees, environmental, title fees, utility fees, appraisal, cost certification, architect, engineer, developer fee, survey, construction loan interest, retail lease related expenses etc.

Following is a chart of the initial units and income targets, as required by the initial funding sources. Future refinancings will not prohibit a change in unit mix and income target mix as long as at least 100 units or 40% of the units are affordable to households at 60% AMI or less.

	<u>AAHC PBV</u>		<u>60% AMI</u>		<u>70% AMI</u>		<u>80% AMI</u>	
	33%		17%		17%		33%	
Unit Type:	1BR	2BR	1BR	2BR	1BR	2BR	1BR	2BR
Count:	73	37	37	18	37	18	73	37
Sq Feet:	638	914	638	914	638	914	638	914
Bedrooms:	1	2	1	2	1	2	1	2
Bathrooms:	1	1	1	1	1	1	1	1

Attachment B

ANN ARBOR AFFORDABLE HOUSING FUND GUIDELINES

PREFACE

The Ann Arbor Affordable Housing Fund was first proposed in the City of Ann Arbor Housing Policy adopted by City Council in July, 1989. The Affordable Housing Fund guidelines were developed by the Community Development Department and approved by the Housing Policy Board in February, 1991 and by the Ann Arbor City Council in April, 1991. Since its inception, the Housing and Human Services Advisory Board (HHSAB) has recommended, and City Council has approved, a range of housing projects with the vast majority targeted for residents with the lowest incomes. In 2025, the Ann Arbor Housing Development Corporation (AAHDC) will take over the administrative role previously performed by the HHSAB and Washtenaw County Office of Community and Economic Development (OCED).

STATEMENT OF PURPOSE

The Ann Arbor Affordable Housing Fund (“the Affordable Housing Fund” or the “Fund”) is established for the creation and preservation of long-term affordable housing for households with incomes at or below 60% of the City’s Area Median Income (AMI) as defined by U.S. Department of Housing and Urban Development (HUD) or successor government department or agency that determines area median income. Further, the Fund is established to improve housing conditions for City of Ann Arbor residents, with priority given to those whose income is at or below 30% of the median household income.

It is the goal of the City to provide a full range of housing opportunities to all its residents. It is the intent of the City to administer the Fund in a flexible manner in order to best meet the housing needs of the City.

The Fund is established to provide financial support in the form of loans, grants or other forms of financial assistance to organizations or projects that create or preserve long term affordable housing.

ESTABLISHMENT OF FUND

The Mayor and City Council established by resolution a special revenue account under the name "Ann Arbor Affordable Housing Fund" with revenues specifically dedicated to the Affordable Housing Fund by City Council, through donations, grants, developer contributions, and general fund allocations from public and private sources. It is the intention of the City Council that the Fund be a dedicated fund in perpetuity for the purposes established in this document. Principal and interest from loan repayments, proceeds from grant repayments, forfeitures, reimbursements, investments, and all other income generated from Fund activities will be deposited into the Fund. Funds repaid to the City from any of the above sources shall be administered subject to applicable federal, state and city requirements. All interest earnings from the account are reinvested and dedicated to the account. All appropriated funds in the Affordable Housing Fund are available for eligible program expenditures.

DISTRIBUTION AND USES OF FUNDS

Funds in the Affordable Housing Fund must be used to meet the housing needs of individuals and families with incomes that do not exceed 60% of the Area Median Income, as defined by HUD, or a successor government department or agency that determines median income.

Eligible uses include acquisition, demolition, new construction, renovation, and related infrastructure to develop affordable housing. In addition, nonprofits may request funding for pre-development feasibility activities and technical assistance.

It is the City's intent that the terms of its loans and grants be established so that projects that set aside units for households at 30% AMI or less receive higher per unit funding and lower interest rates for loans than projects that do not set aside units for households at 30% AMI or less.

Minimum affordability period will vary by and within project type (see Terms and Conditions). Projects which commit to longer than the minimum affordability periods will receive more favorable consideration.

The City of Ann Arbor designates the Ann Arbor Housing Development Corporation, a nonprofit created by the Ann Arbor Housing Commission, as a primary source of recommendations for disbursements of the Fund. The AAHDC will periodically request from City Council an allocation from the Fund for a specified project or projects. The AAHDC will execute a grant agreement with the City related to the AAHDC's administration of each allocation from the Fund. Where possible, the AAHDC will combine available Affordable Housing Millage funds and available Affordable Housing Funds to maximize efficiency for affordable housing developer applications. The AAHDC will follow AAHDC procurement policies. Funding availability, application processes and awards will be published on the City's website at www.a2gov.org/housingcommission.

ELIGIBILITY REQUIREMENTS

OPEN ROLLING APPLICATION FOR PROJECTS UP TO \$250,000

The AAHDC will accept applications on a rolling basis from eligible entities interested in financial support from the Affordable Housing Fund. Applications for projects up to \$250,000 will be reviewed each quarter by the AAHDC. Applicants will be invited to present their projects at a designated AAHDC meeting, and board members will openly deliberate and make funding recommendations to City Council for final approval.

COMPETITIVE SEALED BID PROCESS FOR PROJECTS AND/OR FUNDING OVER \$250,000

When the Fund balance exceeds \$250,000, the AAHDC will issue a public Request for Proposal within 6 months of funding availability. When feasible, RFPs will be timed to align with other affordable housing RFPs such as County HOME funds or MSHDA Low-Income Housing Tax Credits (LIHTC). Applicants will be invited to present their project at a designated AAHDC meeting and board members will openly deliberate and make funding recommendations to City Council for final approval. The AAHDC may utilize consultants to conduct an underwriting and subsidy layering analysis to ensure that projects are not over-subsidized.

Funding may be awarded to non-profit corporations, municipal corporations, for-profit corporations, companies, partnerships, or limited equity cooperatives.

Pre-development grants are available to non-profit affordable housing developers only and cannot exceed \$100,000 per project.

All projects must be decent, safe and sanitary and meet the Housing Quality Standards or similar standards as established by HUD and state and local laws. Affordable Housing Fund dollars can only be used for projects within the City limits.

Financial assistance shall not be awarded from the Affordable Housing Fund to any corporation, partnership, company, or cooperative in default to the City, per Section 14.3(e) of the City Charter or whose subject property is in violation of City Code. Consideration shall be given to projects which propose correction of outstanding Code violations.

TERMS AND CONDITIONS

Affordable Housing Funds can be awarded in any form determined advisable by the AAHDC, subject to approval by the City and compliance with applicable local, state and federal laws and regulations, including but not limited to: low interest loans with terms determined by the "gap financing" needed to make the project feasible; a deferred loan which requires repayment under conditions defined for the project; or other types of financial assistance determined to be appropriate and necessary for the project. In general, the City, through the AAHDC, has flexibility in how to award funds, either as a grant or as a loan.

When funds from the Affordable Housing Fund are awarded for acquisition, construction, or rehabilitation, the owner must sign an enforceable affordability agreement and/or deed restriction relating to the long-term affordability of the unit. Annual income and rent reporting is also required.

The minimum required affordability period will vary based on the type of project and the restrictions on other funds also being used (e.g., use of the Affordable Housing Millage which requires an affordability term in perpetuity):

New Construction projects: 30 years

Rehab projects:

Per Unit Subsidy	Affordability Term
< \$15,000 per unit	5 years
\$15,000 to \$40,000 per unit	10 years
> \$40,000 per unit and/or refinancing of rental project	15 years

Repayments of loans to the City or AAHDC will be deposited into the Affordable Housing Fund and reused for other eligible projects.

ADMINISTRATION OF THE FUND

The AAHDC board reviews applications and makes recommendations to City Council on the allocation of the Affordable Housing Fund. The number of members, tenure of office, duties, manner of calling meetings and other tasks of the AAHDC are stated in the Bylaws approved by the AAHDC.

The City Council makes final decisions on the allocation of all Affordable Housing funds recommended by the AAHDC. Applications will be processed on a quarterly basis with funding recommendations going on the next available AAHDC board meeting agenda. The Ann Arbor Housing Commission provides staff assistance to the AAHDC board. This includes: maintaining the financial and other records of disbursements from the Fund; seeking third-party underwriting review; assisting prospective applicants in the preparation of their applications/proposals; monitoring the use of the monies distributed to applicants to assure ongoing compliance with the purpose of the Fund and the conditions under which the monies were granted or loaned; administering loans; reporting periodically, but not less than every twelve (12) months to the City Council regarding the operation and activity of the Fund. The Fund will be tracked by the source of funds, to segregate funding sources that are eligible to pay for administrative costs and funding sources that are not eligible to pay for administrative costs. Costs directly associated with administering disbursements from the Fund may be reimbursed by the Fund using an eligible funding source where possible.

For a copy of the application form, contact:

The Ann Arbor Housing Commission by calling (734) 794-6720 or downloading the application from www.a2gov.org/housingcommission or emailing: housingcommission@a2gov.org

Adopted by Ann Arbor City Council on:

Last revised: October, 1997

Last revised: November 9, 2006

Last revised: October 20, 2014

Last revised: June 18, 2024

Last revised: May 5, 2025