

ORDINANCE NO. 22-003.  
AN ORDINANCE TO ASSIST TO REHABILITATE  
THE LOW AND MODERATE INCOME HOUSING DEVELOPMENT  
Bellevue Place and Rivervue Apartments

**PAYMENT IN LIEU OF TAXES/TAX EXEMPTION ORDINANCE**

An Ordinance to provide for a service charge in lieu of taxes for a housing project for low-income persons and families to be financed with a 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 VILLAGE OF BELLEVUE ORDAINS:

**SECTION 1. Title.** This Ordinance shall be known and cited as the “Village of Bellevue PILOT Tax Exemption Ordinance-Bellevue Place and Rivervue Apartments.”

**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 Village 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 low-income persons and families is a public necessity, and as the Village 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* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The Village acknowledges that the Sponsor has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (“LIHTC”) Program by the Michigan State Housing Development Authority, to construct and rehabilitate, own and operate a housing project identified as Bellevue Place and Rivervue Apartments on certain property located at:

See attached Exhibit A

in the Village to serve low-income persons and families, and that the Sponsor has offered to pay the Village on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

### **SECTION 3. Definitions.**

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rents (Rents) means the total collections during a calendar year from all occupants of the housing development representing rent, plus any subsidy paid on behalf of the occupant, and plus any occupancy charges. Annual Shelter Rents shall be reduced by charges for gas, electricity, heat or other utilities furnished to the occupants.
- C. LIHTC Program means the LIHTC program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- D. Low Income Persons and Families 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 GL Bellevue Limited Dividend Housing Association Limited Partnership 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 Bellevue Place and Rivervue Apartments is of this class.

### **SECTION 5. Establishment of Annual Service Charge.**

The housing project identified as Bellevue Place and Rivervue Apartments and the property on which it will be located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The Village 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 construct to the specifications as approved by the Village Planning Commission and operate the housing project, the Village agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to Nine (9%) 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 15(a)(5) of the Act to the contrary, a contract between the Village 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. Annual Shelter Rent Reports and Review.**

The Sponsor shall report the annual shelter rent for the housing project to the Village within 45 days of the end of the prior calendar year. The Village shall have the right to inspect the Sponsor's records for the housing project and the right to audit and re-compute any amounts determined to be annual shelter rents.

**SECTION 9. Payment of Service Charge.**

The service charge in lieu of taxes as determined under this section shall be paid on or before the thirtieth day of June, each year (beginning in the first year of the service charge as defined in section 5) based upon Annual Shelter Rents collected during the preceding calendar year from the residential units of the development; the portion of the service charge that is equivalent to the amount that would be equal to what the ad valorem taxes would be on the commercial portion of the development if it were taxed separately shall also be paid each year at this time. Calculations of the Annual Shelter Rents which in the sole opinion of the Village, are sufficiently detailed to document the service charge, as based upon Annual Shelter Rents collected during the preceding calendar year shall be provided with the payment. 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 10. Annual Audit Review.**

Annually the Sponsor shall provide the Village's Assessor with a copy of any independent audit furnished to the Authority that covers the prior year's operation of the housing project within 30 days of the Sponsor's receipt of the Audit. If the audit discloses that the service charge paid in the prior year for the portion of the housing project occupied by qualified persons and families was greater or less than the percent of annual shelter rent to be paid under this Ordinance, the Sponsor shall pay any shortfall or receive a credit against the current years' service charge as appropriate.

**SECTION 11. Compliance and Collection.**

Notwithstanding anything contained herein to the contrary, should the Sponsor fail to pay the final

adjusted service charge in lieu of taxes granted hereunder, or fail to provide the verification of the calculations used to make a payment, the Village may determine that the Sponsor has violated the Ordinance and may then follow the collection procedures pursuant to the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq) in order to collect the service charge.

**SECTION 12. Assignment.**

In the event the Sponsor sells the housing project to a new owner, that new owner shall agree to abide by the terms of this Ordinance. Otherwise, the tax-exempt status of the housing project under the Act shall terminate

**SECTION 13. Duration.**

This Ordinance shall remain in effect for 20 years and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid and the housing project remains subject to income and rent restrictions under the LIHTC Program including the LIHTC Regulatory Agreement.

**SECTION 14. 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 15. 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 16. Financial statements.**

The sponsor shall supply a copy annually of its most recently supplied audited, reviewed, or compiled financial statements to the Village.

**SECTION 17. Effective Date.**

This Ordinance shall become effective on 10 days after publication as provided for in the Village Charter.

**SECTION 17. Automatic Repeal.**

This ordinance shall automatically be repealed should the Sponsor not commence actual site construction within three years from the effective date of this ordinance.

**WE HERBY CERTIFY** that the foregoing ordinance was adopted by the Village Council of the Village of Bellevue, Michigan on September 13, 2022.

Nicole Roberts

Mark Goodrich

**I HEREBY CERTIFY** that the foregoing ordinance was published in the County Journal, a newspaper printed and circulated in the Village of Bellevue, Michigan on September 17, 2022.

Nicole Roberts  
Village Clerk

**Exhibit "A"**  
**Legal Description**

**Land in the Township of Bellevue, County of Eaton, State of Michigan, known as Bellevue Place Apartments described as:**

That part of the Southwest 1/4 of the Northwest 1/4 of Section 27, Town 1 North, Range 6 West, Bellevue Township, Eaton County, Michigan, described as: Commencing at the West 1/4 corner of Section 27, Town 1 North, Range 6 West; thence North 00°19'30" East 954.71 feet on the West line of Section 27; thence South 89°48'53" East, 33.00 feet to the point of beginning, said point being 33 feet East and 376 feet South of the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence South 89°48'53" East, 518.66 feet; thence South 33°05'52" East, 330.14 feet to the Northerly right of way of M-78; thence South 63°28'00" West 407.46 feet on said right of way; thence North 00°19'30" East, 251.53 feet; thence North 89°40'30" West 337.00 feet; thence North 00°19'30" East, 206.75 feet on the East line of the East Street to the point of beginning.

**and**

**Land in the Township of Bellevue, County of Eaton, State of Michigan, known as Rivervue Apartments described as:**

That part of the Northwest 1/4 of Section 27, Town 1 North, Range 6 West, Bellevue Township, Eaton County, Michigan, described as: beginning at a point on the West line of Section 27, 508.76 feet, North 00° 19' 30" East of the West 1/4 corner of said Section 27; thence continuing along said West Section line North 00° 19' 30" East, 239.90 feet; thence South 89° 40' 30" East 370.00 feet; thence South 00° 19' 30" West, 251.53 feet to a point on the Northerly right of way line of State Highway M-78; thence along said highway right of way line South 63° 28' 00" West, 209.62 feet; thence North 00° 19' 30" East, 106.35 feet, thence North 89° 40' 30" West, 183.00 feet to the point of beginning