

SUBSTITUTE ORDINANCE

WHEREAS, by virtue of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois (the “**State**”), the City of Chicago (the “**City**”) is a home rule unit of government and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City has determined that the continuance of a shortage of affordable rental housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, as a home rule unit and pursuant to the Constitution, the City is authorized and empowered to issue multi-family housing revenue obligations for the purpose of financing the cost of the acquisition, construction, rehabilitation, development, and equipping of affordable multi-family housing facilities for low- and moderate-income families located in the City (“**Multi-Family Housing Financing**”); and

WHEREAS, MHL 2 Prairie District Apartments-Wabash LP, an Illinois limited partnership (the “**Borrower**”), the general partner of which is MHL 2 Prairie District Apartments-Wabash GP LLC, an Illinois limited liability company (the “**General Partner**”), of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member (the “**Managing Member**”), of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member (the “**Sole Shareholder**”), intends to acquire, rehabilitate and equip a six-story building located generally at 1801 S. Wabash Avenue in Chicago, Illinois on land more particularly described on **Exhibit E** hereto (the “**Property**”), to contain 100 studios (the “**Units**”) affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space (collectively, the “**Project**”); and

WHEREAS, the Borrower desires to obtain Multi-Family Housing Financing from the City for the purpose of financing the acquisition, rehabilitation and equipping of the Project, as further defined in **Exhibit A**), and to pay a portion of the costs of issuance and other costs incurred in connection therewith; and

WHEREAS, by this ordinance, the City Council of the City (the “**City Council**”) has determined that it is necessary and in the best interests of the City to provide Multi-Family Housing Financing to the Borrower, to pay a portion of the costs of acquiring and rehabilitating the Project, by issuing a series of tax-exempt revenue bonds and using the proceeds of the sale thereof to make an additional loan to the Borrower to finance a portion of the costs of the Project (the “**Borrower Loan**”); and

WHEREAS, by this ordinance, the City Council has determined that it is necessary and in the best interests of the City to borrow money for the purposes set forth above and in evidence of its limited, special obligation to repay that borrowing, to issue its Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the “**Bonds**”); and

WHEREAS, in connection with the issuance of the Bonds, the City Council has determined by this ordinance that it is necessary and in the best interests of the City to enter into (i) a Bond Indenture (the “**Indenture**”) between the City and a trustee (the “**Trustee**”) to be selected by the

Chief Financial Officer (as defined below), providing for the security for and terms and conditions of the Bonds to be issued, (ii) a Loan Agreement (the “**Loan Agreement**”) among the City, the Borrower and the Trustee providing for the use of the proceeds of the Bonds to make a loan to the Borrower, the proceeds of which will finance a portion of the costs of the Project, (iii) a Bond Purchase Agreement among the City, the Borrower and one or more underwriters for the Bonds, or, alternatively, another sale agreement among the City, the Borrower and one or more purchasers of the Bonds (in each case, a “**Bond Purchase Agreement**”) providing for the sale of the Bonds and the preparation and circulation, if necessary, of a preliminary official statement for the Bonds or, alternatively, another type of disclosure document prepared in connection with the offer and sale of the Bonds (in either case, a “**Preliminary Official Statement**”) and a final official statement or alternative disclosure document prepared in connection with the offer and sale of the Bonds (the “**Official Statement**”), and (iv) a Tax Regulatory Agreement and/or a tax certificate (a “**Tax Agreement**”) between the City and the Borrower; and

WHEREAS, the principal and interest on the Bonds will be secured by, among other things, Eligible Funds (as defined in the Indenture), which, in the aggregate, do not exceed the amount set forth in the Indenture; and

WHEREAS, in connection with the issuance of the Bonds and the financing of the Project with the proceeds thereof, the City Council has determined by this ordinance that it is necessary and in the best interests of the City to enter into a Land Use Restriction Agreement between the City and the Borrower (the “**Land Use Restriction Agreement**”); and

WHEREAS, the Bonds and the obligation to pay interest thereon do not now and shall never constitute an indebtedness of or an obligation of the City, the State or any political subdivision thereof, within the purview of any Constitutional limitation or statutory provision, or a charge against the general credit or taxing powers of any of them. No owner of the Bonds shall have the right to compel the taxing power of the City, the State or any political subdivision thereof to pay any principal installment of, prepayment premium, if any, or interest on the Bonds; and

WHEREAS, there has been presented to this meeting of the City Council forms of the following documents in connection with the Bonds:

(a) the form of Indenture, which includes a form of the Bonds to be issued by the City (attached as **Exhibit B** hereto, subject to further changes approved by the Authorized Officer);

(b) the form of Loan Agreement (attached as **Exhibit C** hereto, subject to further changes approved by the Authorized Officer); and

WHEREAS, there has been presented to this meeting of the City Council a form of the Land Use Restriction Agreement (attached as **Exhibit D** hereto, subject to further changes approved by the Authorized Officer) in connection with the issuance of the Bonds;

WHEREAS, the City has certain funds available from a variety of funding sources (“**Multi-Family Program Funds**”) to make loans and grants for the development of multi-family residential housing to increase the number of families served with decent, safe, sanitary and affordable housing and to expand the long-term supply of affordable housing, and such Multi-Family Program Funds are administered by DOH; and

WHEREAS, DOH has preliminarily reviewed and approved the making of a loan to the Borrower in an amount not to exceed \$10,968,816 to be funded from Multi-Family Program Funds (the "**City Loan**") pursuant to the terms and conditions set forth in Exhibit A attached hereto and made a part hereof; and

WHEREAS, the City Council, pursuant to an ordinance enacted on March 6, 1996, and published at pages 16280-16286 of the Journal of Proceedings of the City Council for such date, authorized DOH to provide HOME Investment Partnership Act funds in the amount of \$9,494,170 for the rehabilitation of the Property which presently contains 170 residential dwelling units (the "**Existing Project**"); and

WHEREAS, on June 20, 1996, pursuant to such ordinance, the City made a loan to 18th & Wabash Corp., an Illinois not-for-profit corporation and current owner of the Existing Project (the "**Current Owner**"), in the amount of \$9,494,170 with an interest rate of two percent per annum (the "**Existing City Loan**"); and

WHEREAS, the Existing City Loan is secured by, among other things, that certain Junior Mortgage, Assignment of Rents and Security Agreement dated June 20, 1996 and recorded on June 20, 1996 in the Office of the Recorder of Deeds of Cook County, Illinois as document number 96476437 (the "**Existing City Mortgage**"); and

WHEREAS, as described above as part of the Project, the Borrower plans to acquire the Existing Project from the Current Owner; and

WHEREAS, the Current Owner requested that DOH approve a proposed forgiveness of the Existing City Loan; and

WHEREAS, DOH has agreed to (i) forgive, cancel and discharge the outstanding principal and interest of the Existing City Loan, as well as any defaults, default interest and fees thereto and (ii) release the Existing City Mortgage (collectively, clauses (i) and (ii) shall be herein referred to as the "**Loan Forgiveness**"); and

WHEREAS, the Borrower now desires to obtain financing from various sources including, but not limited to, the Borrower Loan, all such financing as described in **Exhibit A**; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Incorporation of Recitals. The recitals contained in the preambles to this ordinance are hereby incorporated into this ordinance by this reference. All capitalized terms used in this ordinance, unless otherwise defined herein, shall have the meanings ascribed thereto in the Indenture.

SECTION 2. Findings and Determinations. The City Council hereby finds and determines that the delegations of authority that are contained in this ordinance, including the authority to make the specific determinations described herein, are necessary and desirable. Thus, authority is granted to the Chief Financial Officer (the Chief Financial Officer, being referred to herein as the "**Authorized Officer**") to determine to sell the Bonds on such terms as and to the extent such officer determines that such sale or sales is desirable and in the best financial interest of the City. Any such designation and determination by the Authorized Officer shall be signed in writing by the Authorized Officer and filed with the City

Clerk and shall remain in full force and effect for all purposes of this ordinance unless and until revoked, such revocation to be signed in writing by the Authorized Officer and filed with the City Clerk. As used herein, the term "Chief Financial Officer" shall have the meaning given to such term in Section 1-4-090(k) of the Municipal Code of Chicago (the "**Municipal Code**").

SECTION 3. Authorization of Bonds. Upon the approval and availability of the additional financing as shown in **Exhibit A** (the "**Additional Financing**"), the issuance of the Bonds in an aggregate principal amount of not to exceed Thirty Million Dollars (\$30,000,000) is hereby authorized.

The Bonds shall contain a provision that they are issued under authority of this ordinance. The Bonds shall not mature later than 5 years after the date of issuance thereof. The Bonds shall bear interest at a rate or rates not to exceed six percent (6.0%), payable on the interest payment dates as set forth in the Indenture. The Bonds shall be dated, shall be subject to redemption or tender prior to maturity, shall be payable in such places and in such manner and shall have such other details and provisions as prescribed by the Indenture and the form of the Bonds therein.

The provisions for execution, signatures, authentication, payment and prepayment, with respect to the Bonds shall be as set forth in the Indenture and the form of the Bonds therein.

The Authorized Officer is hereby authorized to execute and deliver the Indenture on behalf of the City, such Indenture to be in substantially the form attached hereto as **Exhibit B** and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Indenture attached to this ordinance.

The Authorized Officer is hereby authorized to execute and deliver the Loan Agreement on behalf of the City, such Loan Agreement to be in substantially the form attached hereto as **Exhibit C** and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Loan Agreement attached to this ordinance.

The Authorized Officer is hereby authorized to execute and deliver a Bond Tax Compliance Agreement on behalf of the City, in substantially the form of tax regulatory agreements used in previous issuances of tax-exempt bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the regulations promulgated thereunder, and with such other revisions in text as the Authorized Officer executing the same shall determine are necessary or desirable in connection with the exclusion from gross income for federal income tax purposes of interest on the Bonds. The execution of the Bond Tax Compliance Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council of the terms provided in the Bond Tax Compliance Agreement.

The Authorized Officer is hereby authorized to execute and deliver the Land Use Restriction Agreement on behalf of the City in connection with the issuance of the Bonds, such Land Use Restriction Agreement to be in substantially the form attached hereto as **Exhibit D** and

made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Land Use Restriction Agreement attached to this ordinance.

The City Clerk or Deputy City Clerk is hereby authorized to attest the signature of the Authorized Officer to any document referenced herein and to affix the seal of the City to any such document.

SECTION 4. Security for the Bonds. The Bonds shall be limited obligations of the City, payable solely from (i) all right, title and interest of the City in and to all revenues, derived or to be derived by the City under the terms of the Indenture and the Loan Agreement (other than certain reserved rights of the City); (ii) the proceeds of the Bonds and income from the temporary investment thereof, as provided in the Indenture; and (iii) all funds, monies and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Bonds by the City or by anyone on its behalf. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, such rights, proceeds and investment income are hereby pledged to the extent and for the purposes as provided in the Indenture and are hereby appropriated for the purposes set forth in the Indenture. The Indenture shall set forth such covenants with respect to the application of such rights, proceeds and investment income as shall be deemed necessary by the Authorized Officer in connection with the sale of the Bonds.

SECTION 5. Sale and Delivery of Bonds. The Bonds shall be sold and delivered to, or upon the direction of, one or more underwriters (the "**Underwriters**") to be selected by the Authorized Officer, subject to the terms and conditions of the Bond Purchase Agreement, or, alternatively, are hereby authorized to be sold and delivered directly to one or more investors to be selected by the Authorized Officer subject to the terms and conditions of the Bond Purchase Agreement. The Authorized Officer is authorized to execute and deliver on behalf of the City, with the concurrence of the Chairman of the Committee on Finance of the City Council, the Bond Purchase Agreement in substantially the form of bond purchase agreements used in previous sales of bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the fact that the Bonds may be sold to certain institutional investors at a premium or discount, and with such other revisions in text as the Authorized Officer shall determine are necessary or desirable in connection with the sale of the Bonds. The execution of the Bond Purchase Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council of the terms provided in the Bond Purchase Agreement. The distribution of the Preliminary Official Statement and the Official Statement to prospective purchasers of the Bonds and the use thereof by the Underwriters in connection with the offering and sale of the Bonds are hereby authorized, provided that the City shall not be responsible for the content of the Preliminary Official Statement or the Official Statement except as specifically provided in the Bond Purchase Agreement executed by the Authorized Officer, and provided further that, if the Bonds are sold directly to institutional investors, the City may forgo the use of a Preliminary Official Statement or Official Statement, but only if such institutional investors execute and deliver to the City "sophisticated investor" letters satisfactory to the Authorized Officer. The compensation paid to the Underwriters in connection with the sale of the Bonds shall not exceed one half percent (0.50%) of the aggregate principal purchase price of the

Bonds, exclusive of legal cost in connection therewith. In connection with the offer and delivery of the Bonds, the Authorized Officer, and such other officers of the City as may be necessary, are authorized to execute and deliver such instruments and documents as may be necessary to implement the transaction and to effect the issuance and delivery of the Bonds. Any limitation on the amount of Bonds issued pursuant to this ordinance as set forth herein shall be exclusive of any original issue discount or premium.

SECTION 6. Notification of Sale. Subsequent to the sale of the Bonds, the Authorized Officer shall file in the Office of the City Clerk a Notification of Sale for the Bonds directed to the City Council setting forth (i) the aggregate original principal amount of, sale price, maturity schedule, redemption provisions for and nature of the Bonds sold, (ii) the extent of any tender rights to be granted to the holder of the Bonds, including, without limitation, the right of the holder to tender the Bonds in exchange for one or more mortgage-backed securities held by the Trustee under the Indenture, (iii) the identity of the Trustee, the interest rates on the Bonds, (v) the identity of any underwriters or institutional investors who purchase the Bonds directly from the City or through the Underwriters, and the compensation paid to the Underwriters in connection with such sale. There shall be attached to such notification the final form of the Indenture.

SECTION 7. Use of Proceeds. The proceeds from the sale of the Bonds shall be deposited as provided in the Indenture and used for the purposes set forth in the seventh paragraph of the recitals of this ordinance.

SECTION 8. Additional Authorization. The Mayor, the Authorized Officer, the City Treasurer and, upon the approval and availability of the Additional Financing, the Commissioner (as defined below) is hereby authorized to execute and deliver and the City Clerk and the Deputy City Clerk are each hereby authorized to enter into, execute and deliver such other documents and agreements and perform such other acts as may be necessary or desirable in connection with the Bonds, including, but not limited to, the exercise following the delivery date of the Bonds of any power or authority delegated to such official under this ordinance with respect to the Bonds upon original issuance, but subject to any limitations on or restrictions of such power or authority as herein set forth.

SECTION 9. Proxies. The Mayor and the Authorized Officer may each designate another to act as their respective proxy and to affix their respective signatures to each of the Bonds, whether in temporary or definitive form, and to any other instrument, certificate or document required to be signed by the Mayor or the Authorized Officer pursuant to this ordinance or the Indenture. In each case, each shall send to the City Council written notice of the person so designated by each, such notice stating the name of the person so selected and identifying the instruments, certificates and documents which such person shall be authorized to sign as proxy for the Mayor and the Authorized Officer, respectively. A written signature of the Mayor or the Authorized Officer, respectively, executed by the person so designated underneath, shall be attached to each notice. Each notice, with signatures attached, shall be recorded in the Journal and filed with the City Clerk. When the signature of the Mayor is placed on an instrument, certificate or document at the direction of the Mayor in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Mayor in person. When the signature of the Authorized Officer is so affixed to an instrument, certificate or document at the direction of the Authorized Officer in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Authorized Officer in person.

SECTION 10. Volume Cap. The Bonds are obligations taken into account under Section 146 of the Code in the allocation of the City's volume cap.

SECTION 11. Public Hearing. The City Council directs that the Bonds shall not be issued unless and until the requirements of Section 147(f)(1) of the Code, including particularly the approval requirement following any required public hearing, have been fully satisfied, and that no contract, agreement or commitment to issue the Bonds shall be executed or undertaken prior to satisfaction of the requirements of Section 147(f) unless the performance of said contract, agreement or commitment is expressly conditioned upon the prior satisfaction of such requirements. To the extent that the requirements of Section 147(f)(1) of the Code, including the public hearing, have occurred prior to the date of this ordinance, this ordinance constitutes approval for purposes of Section 147(f) of the Code. All such actions taken prior to the enactment of this ordinance are ratified and confirmed.

SECTION 12. Authorization of Fees and Expenses. The following fees and expenses are hereby authorized in connection with the Bonds: (i) an Issuer Fee in an amount equal to 1.5 percent of the par amount of the Bonds, payable to the City on the date of issuance of the Bonds, (ii) a Bond Legal Reserve Fee in the amount of 0.1 percent of the par amount of the Bonds, payable to the City on the date of issuance of the Bonds (such fee to be used to pay for other legal and other fees incurred by the City in connection with private activity bonds issued by the City), and (iii) a City Administrative Fee in an amount equal to 0.15 percent of the outstanding principal of the Bonds, accruing monthly but payable to the City on a semi-annual basis.

SECTION 13. City Loan Authorization. Upon the approval and availability of the Additional Financing, the Commissioner is hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all acts as shall be necessary or advisable in connection with the implementation of the City Loan. The Commissioner is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the City Loan that do not substantially modify the terms described in **Exhibit A** hereto. Upon the execution and receipt of proper documentation, the Commissioner is hereby authorized to disburse the proceeds of the City Loan to the Borrower.

SECTION 14. Forgiveness of City Loan. The Loan Forgiveness is hereby approved as described above. The Commissioner of Housing (the "**Commissioner**") or a designee of the Commissioner, are each hereby authorized, subject to approval by the Corporation Counsel, to negotiate any and all terms and provisions in connection with the Loan Forgiveness as described herein. The Commissioner, or a designee of the Commissioner, are each hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all acts as shall be necessary or advisable in connection with the Loan Forgiveness.

SECTION 15. Separability. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this ordinance.

SECTION 16. Inconsistent Provisions. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 17. No Impairment. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to render any agreement or instrument authorized hereby voidable at the option of the City or to impair the rights of the owners of the Bonds to receive payment of the principal of, premium, if any, or interest on the Bonds or to impair the security for the Bonds; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision under the Municipal Code. Sections 2-44-080, 2-44-085, 2-44-090, 2-44-100 and 2-44-105 of the Municipal Code shall not apply to the Project or the Property.

SECTION 18. Effective Date. This ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibits "A," "B," "C," "D" and "E" referred to in this ordinance read as follows: