

SUBSTITUTE RESOLUTION NO. RS2025-960

A resolution ~~approving an adjustment to~~ adjust the Mixed-Income PILOT Program as described in Exhibit A, authorized pursuant to Ordinance No. BL2022-1170 ~~program~~.

WHEREAS, increasing demand for affordable rental housing and tight rental market conditions continue to exist in the Metropolitan Government of Nashville and Davidson County ("Metropolitan Government" or "Nashville") area; and

WHEREAS, housing affordability is a primary concern of the citizens of Nashville, as ~~it is~~ it is a major barrier to economic progress for many individuals in Nashville; and

WHEREAS, increasing the supply of housing for low and moderate-income persons supports economic growth and is an important tool in reducing poverty in Nashville; and

~~WHEREAS, the Affordable Housing Task Force ("AHTF") Report (June 8, 2021) projected that 44,772 rental units for households with incomes at or below 80% of the area median income ("AMI") are needed to meet the current demand and future growth over the next ten years; and~~

~~WHEREAS, the Metropolitan Government currently has a successful payment in lieu of ad valorem tax program ("MDHA PILOT Program") operated by the Metropolitan Development and Housing Agency ("MDHA") for MDHA lessees operating Low Income Housing Tax Credit ("LIHTC") properties resulting in a positive impact on the supply of affordable housing in~~

~~Nashville; and~~

~~WHEREAS, MDHA's PILOT Program is limited by state law to properties that have received LIHTC, and the need for affordable housing is much greater than what can be provided by this program alone; and~~

~~WHEREAS, the AHTF Report recommended the creation and expansion of tools and resources to address the City's housing affordability challenges, including the creation of a payment in lieu of taxes ("PILOT") to support non-LIHTC developments to fund long-term housing options in partnership with nonprofit and private developers; and~~

WHEREAS, mixed-income housing in market rate developments creates affordability options that may not otherwise exist and, therefore, increases the supply of housing for low and moderate-income persons; and

WHEREAS, mixed-income housing in market rate developments has the potential to create affordability in areas where none exists, thereby increasing access to employment, opportunity, and education; and

WHEREAS, the Affordable Housing Task Force ("AHTF") Report (June 8, 2021) recommended the creation and expansion of tools and resources to address the City's housing affordability challenges, including the creation of a payment-in-lieu of taxes ("PILOT") to support non-LIHTC developments to fund long-term housing options in partnership with nonprofit and private developers; and

WHEREAS, The Health and Educational Facilities Board of the Metropolitan Government of Nashville and Davidson County ("HEFB") was created pursuant to Chapter 101 of Title 48 of the Tennessee Code Annotated (the "Act") with a public purpose, among other things, to provide for safe and sanitary low and moderate income multi-family housing facilities; and

WHEREAS, Tennessee Code Annotated § 48-101-312 provides that the HEFB performs a public function on behalf of the Metropolitan Government and is a public instrumentality of the Metropolitan Government and, therefore, exempt from taxation in the state of Tennessee; and

WHEREAS, the Act allows the Metropolitan Government to delegate to the HEFB the authority to negotiate and accept payments-in-lieu of ad valorem taxes from the HEFB's lessees operating multifamily housing facilities upon finding that the payments are in furtherance of the public purpose of the HEFB; and

~~WHEREAS, the Metropolitan Government determines that it is in the best interest of the citizens of the Metropolitan Government to expand upon the affordable housing efforts by creating a new program administered through HEFB to negotiate and accept payments in lieu of taxes for multifamily housing projects operating without LIHTC that meet certain affordability thresholds; and~~

WHEREAS, on May 5, 2022, the Metropolitan Council adopted Ordinance No. BL2022-1170 created creating the initial Mixed-Income PILOT program, and the first two rounds of applications resulted in commitment of 800 which delegated to the Board the authority to negotiate and enter into payment-in-lieu-of-tax agreements with qualifying multifamily housing property owners who agree to provide a certain percentage of income-restricted housing units of affordable housing; however financing and construction of many of these units has been hindered by changing economic conditions at affordable rates in accordance with the Program's requirements; and

WHEREAS, RS2023-2252 approved an Interlocal Agreement between The Metropolitan Government of Nashville and Davidson County and The Health and Educational Facilities Board of the Metropolitan Government of Nashville and Davidson County for administrative, financial, and legal services for the Mixed-Income PILOT Program.

WHEREAS, there continues to be great need for housing and a great interest in using this tool to provide housing in areas of opportunity, and flexibility in program requirements can increase the economic feasibility of proposed projects; and

WHEREAS, the Unified Housing Strategy identifies the Mixed-Income PILOT as an efficient and effective way for a multifamily property owner to offer lower rents due to the decreased expenses over the lifetime of the affordability period; and

WHEREAS, the Unified Housing Strategy calls for the Housing Division to focus on recalibrating the program criteria to be more adaptable and responsive to market conditions; and

WHEREAS, Section 7 of BL2022-1170 allows for the Metropolitan Housing Division to review the performance of the Mixed-Income PILOT Program with the HEFB and the Metropolitan Council to make adjustments to the Mixed-Income PILOT Program to be made by resolution.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

SECTION 1. That the Metropolitan Council hereby approves an adjustment to the Mixed Income PILOT Program, as approved by Ordinance No. BL2022-1170, by amending the ~~Tier requirements of the Mixed-Income PILOT Program,~~ parameters and design as described in the attached Exhibit A, 2025 Revision-4.

SECTION 2. That all other reporting and administrative requirements and services remain as laid out in Ordinance No. BL2022-1170 and RS2023-2252 remain in effect.

SECTION 3. That this Resolution shall take effect ~~from and after its adoption~~ on July 1, 2025, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

EXHIBIT A

Metropolitan Government of Nashville and Davidson County

Health and Educational Facilities Board

Payment in Lieu of Tax (PILOT) Program for Mixed-Income Housing

GENERAL PROGRAM DESCRIPTION Adjustment 1, Effective July 1, 2025

Purpose: To incentivize mixed-income housing that is affordable to households with incomes at 50% or 80% or less of the area median income for the Nashville-Davidson MSA in multifamily properties that otherwise would not have any income-restricted units.

Program Overview: Based on the percentage of income-restricted units made available, the Metropolitan Government offers a calculation-based program whereby a percent of property taxes is abated for a specified number of years.

Each year, the Metropolitan Housing Division will publish income and rent guidelines for income-restricted units.

Program Parameters:

- Property must be in Nashville-Davidson County.
- The project must demonstrate a range of rents. Outside of the Downtown Code (DTC) no more than 40% of the units can be income restricted. For projects zoned DTC, no more than 50% of the units can be income restricted.
- The Mixed Income PILOT cannot be combined with other PILOT programs or LIHTC without Housing Division review, but the Housing Division encourages combining with below market senior debt and mission driven subordinate debt.
- The term for income-restricted units is 15 years. The owner can apply for renewal for a second 15-year term.
- The program requires new construction or significant capital improvement resulting in increased property assessment value (the payment in lieu of taxes must never be lower than the tax liability at time of application).
- Abatement applies only to the residential portion of the development.
- All units must be built and maintained to uniform standards in both construction and operations. Income-restricted units must be comparable to unrestricted units.
- Must comply with fair housing laws and must develop an affirmative marketing plan.
- Must list units on the Metropolitan Housing Division's resident portal.
- Abatement percentage based on post-construction/improvement tax liability.

- Adjustments to the Mixed Income PILOT program will not apply to project with existing PILOT agreements
 - Projects that have been approved but have not yet closed a PILOT agreement must reapply for any program adjustments to apply to their project.

Program Cap: Total annual abatement amount cannot exceed \$3 million annually. Any unused abatement from a given year may be rolled over to future years, subject to available and program guidelines.

Program Design: The Mixed Income PILOT program is designed to adapt to market conditions throughout Nashville-Davidson County and align with county-wide housing priorities.

The Housing Division will use a dynamic calculator to estimate the annual value difference between market-rate units and income-restricted units based on factors including but not limited to location, market conditions, targeted AMI levels, and county-wide housing priorities. Projects that best align with these priorities will receive priority.

On an annual basis, the Housing Division will assess and update the factors used in the calculator to ensure it is accurately adapting to market conditions and promoting county-wide housing priorities. To promote transparency, the Housing Division will publish all relevant information regarding the abatement calculation methodology on its website upon completing the assessment and updates. Applicants can review the calculator and supporting material to determine the feasibility of their projects.

PILOT Abatement Calculation: The abatement value will be calculated as the total value difference for the number of income restricted units, up to 80% of the estimated tax liability of the improvement value. The Year 1 PILOT will be calculated by subtracting the abatement value from the estimated tax liability of the improvement value. A PILOT schedule will be calculated by applying a set escalation factor to each subsequent year of the PILOT term. This escalation factor will be included in the supporting materials.

- Application fee: \$4,000 per project
- Initiation fee: 75 basis points of year 1 PILOT payment
- Annual monitoring and reporting fee: up to 5% of the annual PILOT payment
- Developer pays all legal fees

Implementation and Oversight

The Metropolitan Housing Division will assist the HEFB with the implementation and oversight of the Mixed-Income PILOT Program and will work with the HEFB to establish policies and procedures and appropriate enforcement mechanisms.

The Metropolitan Housing Division may contract with a third party for administrative services and operational support, such as income verification, compliance reviews, reporting, legal services, and market analyses.

Administrative and operational costs are supported by fees collected through the Program. Fees for legal services will be borne by the applicant developer in addition to the administrative and operational fees.

Pursuant to the Interlocal Agreement approved by RS2023-2252, the Metro Finance Department will handle all financial matters necessary as needed for the HEFB related to the Mixed Income PILOT program, and the Metro Law Department will provide services to the HEFB related to the Mixed Income PILOT program.

INTRODUCED BY:

Burkley Allen
Member of Council