

PILOT AGREEMENT

THIS PILOT AGREEMENT (the “**PILOT Agreement**”) is made and entered into as of the 29 day of June, 2023, by and between the METROPOLITAN DEVELOPMENT AND HOUSING AGENCY (“**MDHA**”) and WCO Robinson Apartments, LP (the “**Owner**”).

WITNESSETH:

WHEREAS, MDHA is a public body and a body corporate and politic organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §13-20-101, et seq., (the “**Act**”);

WHEREAS, §13-20-104(f) of the Act provides that a metropolitan government may delegate to a housing authority the authority to negotiate and accept in lieu of ad valorem taxes (“**In Lieu of Tax Payments**”) from a party that operates a low income housing tax credit (“**LIHTC**”) property, as such term is defined in the Act (a “**LIHTC Property**”) on property leased by such party from a housing authority;

WHEREAS, MDHA is the housing authority, as defined in the Act, for the Metropolitan Government of Nashville and Davidson County, Tennessee (the “**Metropolitan Government**”);

WHEREAS, by Ordinance No. BL2015-1281 as amended by Ordinance No. BL2016-334 (collectively, the “**PILOT Ordinance**”), the Metropolitan Government (i) authorized MDHA to negotiate and accept In Lieu of Tax Payments from lessees of LIHTC Property owned by MDHA, and (ii) approved MDHA’s program for determining qualifications and eligibility for such In Lieu of Tax Payments (the “**PILOT Program**”);

WHEREAS, Owner has acquired land located at 910 Robinson Road, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Project Site**”);

WHEREAS, Owner intends to construct a 39 unit apartment project, known as Robinson Road, on the Project Site and operate it as a LIHTC Property (the “**Project**”);

WHEREAS, MDHA is authorized by law and has deemed it necessary and desirable to acquire the Project Site for the purpose of facilitating the Project in accordance with the PILOT Program, the PILOT Ordinance and the Act;

WHEREAS, the Board of Commissioners of MDHA approved MDHA’s purchase of the Project Site and authorized the Executive Director of MDHA to take all actions on behalf of MDHA to undertake the following:

- (A) acquire the Project Site;
- (B) enter into a lease with Owner pursuant to which Owner will (i) lease the Project Site and the Project from MDHA with MDHA having the right to cause Owner to purchase the Project Site and the Project from MDHA upon expiration of the tenth (10th) Tax Year, (ii) construct the Project on the Project Site, and (iii) by recorded agreement, commit to operate the Project as a LIHTC Property in accordance with the requirements of the Internal Revenue Code and the Tennessee Housing Development Agency (“THDA”) for a minimum period of fifteen (15) years after the Project is complete (the “**Project Lease**”);
- (C) enter into this PILOT Agreement;
- (D) submit this PILOT Agreement to the Metropolitan Planning Commission to obtain a recommendation of approval or disapproval, as envisioned by the PILOT Ordinance;
- (E) submit this PILOT Agreement to the Metropolitan Council of the Metropolitan Government (the “**Metropolitan Council**”) for approval as required by the PILOT Ordinance; and
- (F) take such other action and execute such other documents as the Executive Director deems necessary or desirable to facilitate construction of the Project and the transactions described above consistent with this PILOT Agreement, the Act, the Project Lease, the Metropolitan Ordinance and the PILOT Program (including MDHA’s application and policies and procedures related thereto).

WHEREAS, MDHA intends to acquire the Project Site from Owner and will concurrently enter into the Project Lease; and

WHEREAS, Owner has agreed to make In Lieu of Tax Payments with respect to the Project as described herein.

NOW, THEREFORE, for and in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, and as an inducement to Owner to construct the Project and operate the Project as LIHTC Property, MDHA and Owner agree as follows:

1. With respect to Project Site and the real property component of the Project, Owner shall make In Lieu of Tax payments to MDHA who will then remit the payment to the Metropolitan Government, as follows:

- (a) The In Lieu of Tax Payments shall be equal to the Applicable Ad Valorem Taxes, as defined below, through and including the calendar year in which the construction of the Project is completed.

(b) Commencing on January 1st of the calendar year following the year in which the Project is placed into service (“**Tax Year 1**”) and each tax year subsequent to the Tax Year 1 (Tax Year 1 and each subsequent tax year being referred to herein as a “**Tax Year**”) through the tenth (10th) Tax Year, in Lieu of Tax Payments shall be as follows:

1	\$6,250
2	\$6,250
3	\$6,438
4	\$6,631
5	\$6,830
6	\$7,034
7	\$7,245
8	\$7,463
9	\$7,687
10	\$7,917

Subject to Section 1(e) below, the In Lieu of Tax Payments shall be fixed and shall not fluctuate with the amount of the assessment for the Project Site or the Project or the tax rate in effect for any Tax Year. The amount of the In Lieu of Tax Payments is approximately equal to \$202 per unit within the Project, with a three percent (3%) annual increase after year 2. In Lieu of Tax Payments for each Tax Year shall be paid when due but in any event not later than the date on which the Applicable Ad Valorem Taxes would become delinquent.

(c) After the tenth Tax Year, this Agreement shall expire and Owner shall pay 100% of the Applicable Ad Valorem Taxes.

(d) The term “**Applicable Ad Valorem Taxes**” shall mean any real property ad valorem taxes that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project.

(e) Notwithstanding anything contained herein to the contrary, if THDA or the IRS determines that the Project is not in compliance with LIHTC requirements and is therefore not operated as a LIHTC Property at any time during a Tax Year, and Owner has failed to cure such default within any specified cure period, Owner shall pay 100% of the Applicable Ad Valorem Taxes with respect to such Tax Year.

(f) Notwithstanding anything contained herein to the contrary, Owner shall pay 100% of the Applicable Ad Valorem Taxes for the periods before Tax Year 1 and after Tax Year 10, if the Project Lease is in effect during such periods.

2. Commencing in Tax Year 1 and in each Tax Year subsequent through the (10th) Tax Year, Owner shall provide to MDHA an annual report not later than September 1st of each Tax Year containing the following information:

(a) The value of the Project, as estimated by the Owner;

(b) The date and remaining term of the Project Lease;

(c) The amount of In Lieu of Tax Payments payable in such Tax Year;

(d) The date in which the Project is scheduled to return to the regular tax rolls and be eligible to pay 100% of the Applicable Ad Valorem Taxes following the tenth (10th) Tax Year;

(e) A calculation of the Applicable Ad Valorem Taxes for such Tax Year that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project;

(f) A copy of the Owner's most recent Annual Certification as submitted to THDA, certifying compliance with LIHTC requirements; and

(g) A copy of any monitoring or compliance reports provided by THDA to the Owner during such Tax Year.

3. Commencing with Tax Year 1 and each Tax Year thereafter, Owner shall pay to MDHA a monitoring and reporting fee to be set by MDHA but not to exceed five percent (5%) of the amount In Lieu of Tax Payment due with respect to such Tax Year (the "Annual MDHA Fee"). The Annual MDHA Fee shall be paid not later than fifteenth (15) day of such Tax Year. Unpaid amounts shall bear interest at the rate of four percent (4%) in excess of the average prime rate of interest published from time to time by the Federal Reserve or similar commonly accepted reporting organization if the Federal Reserve ceased to publish such information. Owner's failure to pay the Annual MDHA Fee within thirty (30) days after written notice from MDHA shall constitute a default under this PILOT Agreement in which event Owner shall pay 100% of the Applicable Tax Rate for such Tax Year instead of the In Lieu of

Tax Payment set forth above.

4. Owner's payment of the In Lieu of Tax Payments shall satisfy the requirement in Tenn. Code Ann. § 67-5-206(a) that MDHA pay the Metropolitan Government for services, improvements or facilities furnished by the Metropolitan Government for the benefit of the Project.

5. This PILOT Agreement may not be assigned to any party other than the assignee of the lessee's interest under the PILOT Lease pursuant to an assignment that is made in accordance with the PILOT Lease, including MDHA consent requirements, if any, specified therein. Each permitted assignee shall assume Owner's obligations under this PILOT Agreement concurrent with the assignment of the PILOT Lease.

6. This PILOT Agreement shall be construed in accordance with the laws of the State of Tennessee, and if any one or more of the provisions of this PILOT Agreement shall be held invalid, illegal or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, legality or unenforceability shall not affect any other provision hereof, but this PILOT Agreement shall be construed the same as if such invalid, illegal or unenforceable provision had never been contained herein. This PILOT Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

7. This PILOT Agreement is subject to and conditioned upon (i) approval of this PILOT Agreement by the Metropolitan Council as required by the PILOT Ordinance, (ii) Owner's satisfaction of all conditions and requirements imposed by MDHA in connection this PILOT Agreement or the transaction contemplated herein, (iii) MDHA taking title to the Property and entering into a mutually acceptable Project Lease, and (iv) THDA's approval of the Project and allocation of low income housing tax credits, to the extent such approval or allocation has not been received as of the date of this PILOT Agreement.

8. MDHA shall remit all In Lieu of Tax Payments received in connection with the Project and/or the Project Lease to the Metropolitan Government within fifteen (15) days of receipt.

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and date first above written.

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

By: DocuSigned by:
Troy D. White
C7432D7512084AB...

Title: Executive

WCO Robinson Apartments, LP
By: WCO 910 Robinson, LLC, General Partner

By: DocuSigned by:
Anthony Woodham
C7432D7512084AB...
President

Title: _____

FILED WITH THE METROPOLITAN CLERK

Austin Kyle

Date

EXHIBIT A

REAL PROPERTY DESCRIPTION

Land in the 4th Civil District of Davidson County, Tennessee, described as follows:

Beginning at a concrete monument at the intersection of the westerly margin of Robinson Road and the southerly margin of Bennett Drive; thence with the margin of Robinson Road, South 41 degrees 47 minutes East 231.9 feet to a point, the northeast corner of The Knoll, Section 1, a plat of which is recorded in Book 2330, Page 94, Register's Office for Davidson County, Tennessee, thence with the north line of subdivision, South 50 degrees 02 minutes West 351.6 feet to a concrete monument, the southeast corner of Lot 49 of Section 3 of the Knoll; a plat of which is of record in Book 2854, Page 110, said Register's Office; thence with the lines of Lots 49 and 52 of said subdivision, North 40 degrees 04 minutes East 278.48 feet to a monument in the south margin of Bennett Drive; thence with the south margin of Bennett Drive around a curve having a radius of 453.28 feet, a distance of 4.61 feet to a monument; North 60 degrees 41 minutes East 86.96 feet to a monument; around a curve having a radius of 525 feet, a distance of 114.23 feet to a monument; North 48 degrees 13 minutes East 110.39 feet to a monument; thence around a radius of the intersection of Bennett Drive and Robinson Road, a curve with a radius of 25 feet and a distance of 39.27 feet to the beginning, as shown on the plat of said subdivision, of record in Book 2854, Page 110, Register's Office for Davidson County, Tennessee.

Included in the above description, but hereby excluded is that portion of the property conveyed to the State of Tennessee described in Book 4406, Page 775, Book 4419, Page 334 and Book 4782, Page 43, in the Register's Office for Davidson County, Tennessee.

Being the same property conveyed to Woodbine Community Organization (WCO), a Tennessee non-profit corporation, by deed from William F. Fox et ux Lucy Fox, dated December 8, 2017, of record at instrument number 201712110126233, Register's Office for Davidson County, Tennessee.

Certification of Consistency with the Consolidated Plan

U.S. Department of Housing
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.
(Type or clearly print the following information:)

Applicant Name: _____

Project Name: _____

Location of the Project: _____

Name of the Federal
Program to which the
applicant is applying: _____

Name of
Certifying Jurisdiction: _____

Certifying Official
of the Jurisdiction
Name: _____

Title: _____

Signature: Treva Gilligan

Date: _____



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
Planning Department
Metro Office Building
800 Second Avenue South
Nashville, Tennessee 37201
615.862.7150
615.862.7209

Memo

To: MDHA
From: Metropolitan Nashville Planning Department
Date: May 30, 2023
Re: Planning Commission Recommendation for PILOT Agreement

This memo fulfills the Planning Commission obligations as outlined in the MDHA Housing Tax Credit PILOT Program General Program Description which was attached as Exhibit A to BL2016-435. The memo consists of two parts.

PART I: RECOMMENDATION ON GENERAL PLAN CONSISTENCY

Project: **Robinson Road Apartment (04409004700, 910 Robinson Road)**
39 multi-family units
Units targeting 60% AMI and below

Zoning: Office/Residential-Alternative- (OR20-A-NS) is intended for office and/or multi-family residential units at up to 20 dwelling units per acre and is designed to create walkable neighborhoods through the use of appropriate building placement and bulk standards. *OR20-A_NS would permit a maximum of 39 units.*

Policy:

Transition (TR) is intended to enhance and create areas that can serve as transitions between higher-intensity uses or major thoroughfares and lower density residential neighborhoods while providing opportunities for small scale offices and/or residential development. Housing in TR areas can include a mix of types and is especially appropriate for “missing middle” housing types with small- to medium-sized footprints.

Project Details:

The site is approximately 1.96 acres located on the south of Robinson Road, northeast of Bettie Drive. Surrounding properties are zoned Specific Plan, One and Two-Family Residential (R10) and in the near vicinity there is Industrial Warehouse Distribution (IWD). Surrounding land uses includes single-family residential and a multi-family residential, and in the vicinity are a few distribution warehouse properties.

The site plan consists of two multi-family two-story buildings and surface parking. The proposed development includes 39 multi-family units consisting of one and two-bedrooms. Rents are restricted for individuals making 60% AMI for 39 units and 8 units at 50% AMI and below.

Planning Department Analysis:

The policy on the site is Transition (TR). The Transition Policy is intended to enhance and create areas that can serve as transitions between higher intensity uses or major thoroughfares and lower density residential neighborhoods while providing opportunities for small scale offices and/or residential development. This project is an appropriate use of the policy. It is low density multi family providing a transitional buffer between the single family to the south of the parcel and the higher density multi family to the north of the project.

Planning Determination: The proposed development is consistent with the NashvilleNext adopted general plan and the Community Character Policies.

PART II: LIST OF FEDERALLY SUBSIDIZED MULTI-FAMILY PROPERTIES WITHIN THE CENSUS TRACT DISCREPANCY

See attached map.