



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2023-2252, **Version:** 1

A resolution approving 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, pursuant to Resolution Nos. R74-946 and R74-1081, as both were ratified by Resolution No. R77-414, the Metropolitan Council of The Metropolitan Government of Nashville and Davidson County authorized the creation of and approved the certificate of incorporation for The Health and Educational Facilities Board of The Metropolitan Government of Nashville Davidson County (the "Board"); and,

WHEREAS, the Board is a nonprofit public corporation performing a public function and is a public instrumentality of The Metropolitan Government of Nashville and Davidson County ("Metropolitan Government") for the purposes as provided for in Tenn. Code Ann. § 48-101-301, et seq. (the "Act"), and in the Board's certificate of incorporation, as amended; and,

WHEREAS, as enumerated in its certificate of incorporation and the Act, the Board's directors are authorized to employ and pay compensation to such employees and agents, including attorneys, as they deem necessary for the business of the Board; and,

WHEREAS, on May 5, 2022, the Metropolitan Council adopted Ordinance No. BL2022-1170 (the "PILOT Ordinance") that established the Mixed-Income PILOT Program (the "Program"), 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 at affordable rates in accordance with the Program's requirements; and,

WHEREAS, the PILOT Ordinance requires the Housing Division of the Metropolitan Planning Department to assist the Board with the administration, implementation, and oversight of the Program; and,

WHEREAS, to further effect the intent and purposes of the Program, in addition to the assistance provided by the housing division of the metropolitan planning department, the Board also will need support for financial services and legal services to fully administer the Program; and,

WHEREAS, the Metropolitan Government has the resources to provide the additional financial and legal services support through its Department of Finance and Department of Law; and,

WHEREAS, in order to enable the Board to fully implement the Program, the Metropolitan Government has determined that it will benefit the public welfare to provide the administrative, financial and legal services to the Board for the purposes of the Program; and,

WHEREAS, the Board has requested that the Metropolitan Government provide the administrative, financial, and legal services to the Board for the purposes of the Program; and,

WHEREAS, pursuant to Tenn. Code Ann. § 12-9-101 et seq., public agencies in Tennessee have the authority to enter into interlocal agreements to achieve common objectives subject to the approval of their respective governing bodies by resolution or as otherwise provided by law; and,

WHEREAS, the Metropolitan Government and the Board both share an interest in additional affordable

housing options being made available within the territory of the Metropolitan Government and desire to enter into an interlocal agreement for the purposes of the Program.

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

Section 1. That the Interlocal Agreement, by and 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, attached as Exhibit A, is hereby approved and the Metropolitan Mayor is hereby authorized to the execute the same.

Section 2. That this resolution shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution approves an interlocal agreement between the Metropolitan Government and the Health and Educational Facilities Board of the Metropolitan Government (“HEFB”) for administrative, financial, and legal services for the Mixed-Income PILOT Program (the “Program”).

The Metropolitan Council authorized the Mixed Income Pilot Program on May 5, 2022 pursuant to Ordinance No. BL2022-1170. The aim of the Program is to incentivize mixed-income housing that is affordable to households with incomes at 50% or 75% or less of the area median income (“AMI”) for the Nashville-Davidson Metropolitan Statistical Area in multifamily properties that otherwise would not have any income-restricted units. Program applicants apply to receive a property tax abatement for a specified number of years where the abatement value is determined by a tiered programmatic structure based on specific AMI levels and percentage of reduced rent units proposed in the development.

The agreement under consideration authorizes Metro to continue providing these services, as has been requested by the HEFB. The services are as follows:

- The housing division of the Metropolitan Planning Department will handle administrative support related to the implementation and oversight of the Program by the HEFB.
- The Director of Finance, or a designee, will maintain accounts and funds on behalf of the HEFB for the purposes of the Program.
- The Director of Finance, or a designee, will allocate or transfer funds as appropriate, designate expenditures, and authorize payments from the revenue maintained by the Metropolitan Government on the HEFB’s behalf for the Program.
- The Director of Finance, or a designee, will handle all other financial matters as needed from time to time by the HEFB as are related to the Program.
- The Director of Law, or a designee, will provide general legal counsel to the HEFB as is related to the Program.

The term of this agreement will begin upon approval of the Council and continue as long as (1) the Program remains in effect or (2) a qualifying property continues to receive a property tax abatement pursuant to the terms of the Program, whichever comes first. This agreement may be terminated by either party upon 90 days’ written notice.

