# Metropolitan Nashville and Davidson County, TN

## Legislation Details (With Text)

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| **File #:** | RS2024-748 | | |
| **Type:** | Resolution | **Status:** | Passed |
| **File created:** | 9/20/2024 | **In control:** | Metropolitan Council |
| **On agenda:** | 10/1/2024 | **Final action:** | 10/1/2024 |
| **Title:** | A Resolution authorizing the Metropolitan Development and Housing Agency to negotiate and enter into a PILOT Agreement and accept payments in lieu of ad valorem taxes with respect to a multi-family housing project located at 3720 Clarksville Pike known as North River. | | |
| **Sponsors:** | Kyonzte Toombs, Delishia Porterfield, Jennifer Gamble, Burkley Allen, Terry Vo, Quin Evans-Segall | | |
| **Indexes:** | | | |
| **Code sections:** | | | |
| **Attachments:** | 1. PILOT Agreement Exhibit | | |

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 10/2/2024 | 1 | Mayor | approved | |
| 10/1/2024 | 1 | Metropolitan Council | adopted | |
| 9/30/2024 | 1 | Planning and Zoning Committee | approved | |
| 9/30/2024 | 1 | Budget and Finance Committee | approved | |
| 9/24/2024 | 1 | Metropolitan Council | filed | |

A Resolution authorizing the Metropolitan Development and Housing Agency to negotiate and enter into a PILOT Agreement and accept payments in lieu of ad valorem taxes with respect to a multi-family housing project located at 3720 Clarksville Pike known as North River.

WHEREAS, Tennessee Code Annotated 13-20-104 (“the Act”) authorizes a Metropolitan Government for which a housing authority is created to delegate to such housing authority the authority to negotiate and accept payments in lieu of ad valorem taxes (“In Lieu of Tax Payments”) from the housing authority’s lessees operating low-income housing tax credit property (“LIHTC Property”) upon a finding that such payments are deemed to be in furtherance of the housing authority's public purposes; and

WHEREAS, the Metropolitan Development and Housing Agency (“MDHA”) was created pursuant to state law and is the housing authority for the Metropolitan Government; and

WHEREAS, by Ordinance No. BL2015-1281 as amended by Ordinance Nos. BL2016-334 and BL2016-435 (the “LIHTC Ordinance”), the Metropolitan Council (i) authorized MDHA to negotiate and accept In Lieu of Tax Payments from qualified 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, a copy of which was attached to the LIHTC Ordinance (the “PILOT Program”); and

WHEREAS, the Metropolitan Council approved an annual tax abatement not to exceed $5,000,000; and

WHEREAS, a balance in the amount of annual funding available for LIHTC’s is currently $3,347,948 after accounting for Hickory Forest ($245,759), 4th and Shelby ($761,956), Inspiritus (60,484), and Trinity Flats (583,853).

WHEREAS, WCO North River ("Owner") plans to acquire property located at 3720 Clarksville Pike (the "Project Site"); and

WHEREAS, Owner has proposed that an apartment project consisting of approximately 241 units restricted to individuals and families earning 60% or less of the Area Median Income (AMI) utilizing income averaging, known as North River, be constructed on the Project Site by Owner and operated as a LIHTC Property (the "Project"); and

WHEREAS, the Board of Commissioners of MDHA has approved MDHA's taking title to the Project Site for the purpose of facilitating an in lieu of tax agreement with the Owner, a copy of which is attached hereto as Exhibit A (the "PILOT Agreement") and authorized the Executive Director of MDHA to take all actions on behalf of MDHA to (i) take title to the property, (ii) lease the Project Site and the Project to Owner, (iii) enter into the PILOT Agreement, and (iv) submit the PILOT Agreement to the Metropolitan Council for approval as required by the Act and the PILOT Ordinance; and

WHEREAS, the PILOT Agreement has been submitted to the Metropolitan Planning Commission which has recommended approval and provided a list of other LIHTC properties in the census tract; and

WHEREAS, MDHA has certified that the Project is consistent with MDHA's Consolidated Plan for Nashville-Davidson County and that there are no other PILOT agreements in effect in the same census tract of the Project Site; and

WHEREAS, those portions of the Project and the Project Site owned by MDHA will be exempt from ad valorem taxation pursuant to Tennessee Code Annotated 67 5-206; and

WHEREAS, the Owner has agreed to make annual PILOT payments payable to the Metropolitan Government in accordance with the attached PILOT Agreement; and

WHEREAS, the value of the project when completed is estimated to be $57,221,187 based on an income evaluation of the Project and its corresponding tax credits;

WHEREAS, for the purpose of the $5,000,000 annual cap set forth in the PILOT Ordinance, the difference between the annual in lieu of tax payment payable under the PILOT Agreement and the projected real property ad valorem taxes that would otherwise be payable with respect to the Project in the first tax year after completion of the Project is $719,791; and

WHEREAS, MDHA's entering into the PILOT Agreement to facilitate the Project is in the interest and welfare of the citizens of the Metropolitan Government and will further MDHA's public purposes by providing financial incentives for construction and rehabilitation of affordable housing units through the federally sponsored low income housing tax credit program resulting in a positive impact on the supply of affordable housing in Davidson County; and

WHEREAS, MDHA has submitted the PILOT Agreement to the Metropolitan Council for approval as required by the Act and the PILOT Ordinance.

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

Section 1: That the Council of the Metropolitan Government finds that MDHA's entering into the PILOT Agreement and acceptance of payments in lieu of ad valorem taxes with respect to the Project Site and the Project is in furtherance of the MDHA's public purpose of providing for and facilitating an adequate supply of affordable housing and in furtherance of the other public purposes described above.

Section 2: That the PILOT Agreement and the Project comply with the PILOT Ordinance and the PILOT Program.

Section 3: The Council of the Metropolitan Government finds that for the purpose of the $5,000,000 annual cap set forth in the PILOT Ordinance, the difference between the annual in lieu of tax payment payable under the attached PILOT Agreement and the projected real property ad valorem taxes that would otherwise be payable with respect to the Project in the first tax year after completion of the Project is $719,791.

Section 4: That the Council of the Metropolitan Government hereby approves the terms of MDHA's PILOT Agreement with the Owner in the form attached as Exhibit A.

Section 5: That this Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This resolution authorizes the Metropolitan Development and Housing Agency ("MDHA") to enter into an agreement to accept payments in lieu of taxes ("PILOT") for a multi-family housing project located at 3720 Clarksville Pike, known as North River. In 2016, Ordinance Nos. BL2015-1281, BL2016-334, and BL2016-435 authorized MDHA to negotiate and accept PILOT payments from operators of low-income housing tax credit ("LIHTC") properties, capped at $2,500,000 annually. In 2024, Ordinance No. BL2024-392 increased the total abatement from $2,5000,000 to $5,000,000. If approved, this PILOT, would be the forty-seventh such PILOT program overall, and the third for MDHA in 2024. Before this project, the amount of annual funding available for LIHTC projects is $3,347,948 after taking into account Resolution Nos. RS2024-241, RS2024-649, RS2024 -707, and RS2024-747.

PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTs were historically used by Metro to provide incentives through the Industrial Development Board ("IDB") to large employers to create job opportunities. But Tenn. Code Ann. § 13-20-104 was amended several years ago to give MDHA the authority to enter PILOTs to create affordable rental housing subject to Council approval.

MDHA developed their PILOT program to provide additional financial incentives to developers considering construction or rehabilitation of affordable housing units through a federally funded LIHTC program. Subsidized LIHTC developments serve those at or below 60% of the average median income ("AMI") for the Nashville area, which translates to an income cap of $44,940 for individuals and $64,140 for families of four in 2024. Once negotiated by MDHA, each PILOT agreement must be approved by the Council by resolution.

The maximum term for the PILOT payments under this program is 10 years. The PILOT agreement would only be available for additional tax liability over and above the pre-development assessed value of the property. The program is available for both existing and new developments, based on financial need. The PILOT lease is to be terminated if the property sits vacant for two years.

MDHA is required by state law to file an annual report with the Council, Assessor of Property, and State Board of Equalization identifying the values of the properties subject to PILOTs, the date and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

The owner of the property, WCO North River, LP, proposes an apartment project consisting of approximately

241 units to be restricted to individuals and families earning at or below 60% AMI. The amount of the PILOT payment to Metro will be $25,000 in the first tax year after completion. The owner will be required to pay a monitoring and reporting fee to MDHA not to exceed 5% of the in lieu of tax payment. The estimated project valuation upon completion is $57,221,187.

*Fiscal Note: This PILOT request would require the developer to make a first-year payment of $25,000 in lieu of property taxes, with a 3% annual increase starting at Year 2 through the remainder of the 10-year period.*

*In addition to the PILOT payments, the developer would be required to pay a monitoring and reporting fee to MDHA. This fee would be set by MDHA not to exceed 5% of the amount of the PILOT payment due each year.*

*The final assessed value of this project will not be known until completion. However, the value of the project when completed is estimated to be $57,221,187. For purposes of this analysis, this number will be used as a reasonable estimate of the final project value.*

*Over the 10-year life of this PILOT agreement, a total of $7,161,313 would be abated, Metro would receive $286,597 of in-lieu of payments from this project, as depicted in the following table:*

| **Real Property Tax (Ne** | | | | | | |
|---|---|---|---|---|---|---|
| | **Year** | **Total V** | **Standard Tax** | **PILOT** | **Abatement** | **Abatement %** |
| | 1 | $57,221 | $744,791 | $25,000 | $719,791 | 96.6% |
| | 2 | $57,221 | $744,791 | $25,750 | $719,041 | 96.5% |
| | 3 | $57,221 | $744,791 | $26,523 | $718,268 | 96.4% |
| | 4 | $57,221 | $744,791 | $27,318 | $717,473 | 96.3% |
| | 5 | $57,221 | $744,791 | $28,138 | $716,653 | 96.2% |
| | 6 | $57,221 | $744,791 | $28,982 | $715,809 | 96.1% |
| | 7 | $57,221 | $744,791 | $29,851 | $714,940 | 96.0% |
| | 8 | $57,221 | $744,791 | $30,747 | $714,044 | 95.9% |
| | 9 | $57,221 | $744,791 | $31,669 | $713,122 | 95.7% |
| | 10 | $57,221 | $744,791 | $32,619 | $712,172 | 95.6% |
| | | | | | | |
| **Totals** | | | $7,447,910 | $286,597 | $7,161,313 | 96.2% |

*After the property tax abatement from this project, $2,628,157 would still be available within MDHA's annual cap of $5 million for other PILOT projects in 2024.*



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