

RESOLUTION NO. _____

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE GRANTING OF INCENTIVES TO DEVELOP HOUSING IN DOWNTOWN CHATTANOOGA; TO DELEGATE CERTAIN AUTHORITY TO THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF CHATTANOOGA, TENNESSEE; TO ADOPT A PROGRAM FOR DOWNTOWN HOUSING DEVELOPMENT; TO AUTHORIZE THE MAYOR OF THE CITY OF CHATTANOOGA TO ENTER INTO AGREEMENTS FOR PAYMENTS IN LIEU OF AD VALOREM TAXES MEETING THE CRITERIA OF SAID PROGRAM AND TO PROVIDE FOR A TERMINATION OF THIS INCENTIVE PROGRAM IN TEN (10) YEARS.

WHEREAS, pursuant to Tennessee Code Annotated, Section 48-101-312(b), a city or county in Tennessee is permitted to delegate to a health, educational and housing facility corporation (a “Corporation”) the authority to negotiate and accept payments in lieu of ad valorem taxes (“PILOTS”) from lessees of the Corporation upon a finding by the city or county that such payments are deemed to be in furtherance of the Corporation’s public purposes; and

WHEREAS, the City of Chattanooga wishes to encourage the development of housing in the downtown Chattanooga area; and

WHEREAS, the City of Chattanooga has determined that PILOTS from developers of downtown rental multi-family housing to be occupied by persons of low and/or moderate income, and/or elderly, and/or handicapped persons would be in furtherance of the public purposes of The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the “HEB”) as set forth within Part 3 of Chapter 101 of Title 48 of the Tennessee Code Annotated;

WHEREAS, the City of Chattanooga wishes to set forth the criteria that must be met by developers of downtown housing facilities in order for them to qualify for PILOT treatment at various levels; and

WHEREAS, a Program for Downtown Housing Development adopted by the City of Chattanooga and Hamilton County in 2002 expired by its terms in January of 2012;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA:

1. That we do hereby find that the development of all types of downtown housing is in the best interest of the City of Chattanooga (the “City”) and Hamilton County (the “County”), and that PILOTS derived therefrom would be in furtherance of the public purposes of the HEB; and

2. That, having made such findings, we do hereby delegate to the HEB the authority to negotiate and enter into PILOTS from developers of housing in downtown Chattanooga pursuant to the terms of the attached Program for Downtown Housing Development (the “Program”) subject to authorizing resolutions from the City Council and County Commission; and

3. That the Mayor of the City of Chattanooga is hereby authorized to enter into Agreements For Payments In Lieu Of Ad Valorem Taxes among the City, the County, and the HEB that meet the criteria of the Program; and

4. That this Resolution shall be effective for a period beginning effective upon adoption of this resolution and ending December 31, 2021, at which time it shall terminate and be of no further force or effect, unless extended by action of the City and the County.

ADOPTED: _____, 2012.

Program for Downtown Housing Development

In the City of Chattanooga and Hamilton County, Tennessee

This Program for Downtown Housing Development (the “Program”) has been approved by the Chattanooga City Council and the Hamilton County Commission in order to provide material incentives for the development of rental multifamily housing to be occupied by persons of low and/or moderate income, and/or elderly, and/or handicapped persons within downtown Chattanooga. Proposed housing projects will be evaluated based upon the criteria of the Program and may qualify for a freeze on property taxes for a number of years that will vary depending upon the factors described below.

This tax incentive is possible only if title to the housing development is transferred to The Health, Educational and Housing Facility Board of the City of Chattanooga, Tennessee (the “HEB”). The reason that this must be done is that under Tennessee law no reductions or freezes of property taxes may be given to private individuals or entities. If, however, title to property is transferred to a governmental entity, like the HEB, then the governmental entity’s interest in property is not subject to ad valorem property taxation. Pursuant to this Program, if the property meets the required criteria, then the tenant of the HEB must agree to make payments in lieu of tax (“PILOTS”) in amounts that are less than the tax that would have been due on the property if it were privately owned. The PILOT program will have the effect of completely or partially freezing the property taxes of the project for the prescribed number of years.

The approval process for projects will consist of the filing of an application with the HEB, approval by the HEB, and individual approval of each project by resolutions of both the City Council and the Hamilton County Commission.

The mechanics of the Program are described below. Capitalized terms are defined in a definitional section at the end of this document:

1. Basic Requirements. In order to qualify for the incentives of the Program, a housing development must be located within the Downtown; be rental multifamily housing to be occupied by persons of low and/or moderate income, and/or elderly, and/or handicapped persons; and must qualify as a “project” under the state legislation under which the HEB was incorporated. Both existing housing that is to be rehabilitated and new housing construction are eligible for the Program. All qualifying projects must comply with all applicable zoning, land use and building code requirements of the City of Chattanooga.

2. 60% Improvement Requirement. The value of all new construction, building renovation and site improvements must be equal to at least 60% of the value of the property prior to the making of any improvements.

3. Terms of PILOT Freeze Period. The PILOT Freeze Period for each project shall be six (6) years and plus two (2) additional years for renovations and two (2) additional years for Historic properties. Upon expiration of the PILOT freeze period, the property taxes shall be paid in full as assessed by the City and County.

4. Other Requirements. The following additional requirements shall apply to the Program:

- (a) Applications must be made on a written form to be promulgated by the RiverCity Company and must be accompanied by a \$500 fee to the RiverCity Company for administration and processing.
- (b) An applicant must apply for a PILOT Freeze before commencement of construction or rehabilitation of a project.
- (c) An applicant must own the subject property or have an enforceable option to purchase the property before applying.

- (d) An applicant whose application for a PILOT Freeze is approved shall have one year from the date of approval to close a PILOT Lease. If this schedule is not met, the applicant must re-submit an application and pay an additional fee of \$250 to the RiverCity Company for reinstatement into the Program.
- (e) If property subject to a PILOT Lease has been unoccupied for a period of two years, the PILOT Lease will be terminated, and the property will be returned to private ownership and full property taxation.
- (f) PILOT Freezes may not be assigned without the prior written approval of the HEB, City, and County.
- (g) Upon completion of any project qualifying for a PILOT Freeze, the project shall be reviewed by the RiverCity Company to determine if it was completed substantially in accordance with the representations set forth in the application. With sixty days following completion of the project, RiverCity shall issue a report confirming completion in substantial accord or alternatively shall detail all failures of the project to be in substantial accord. The City Council and/or County Commission may direct a reduction in the benefits of the PILOT freeze in their respective discretion for a failure to complete the project in substantial accord with the representations set forth in the application.
- (h) This program will not apply to extended stay hotels.

5. Council, and Commission: After a PILOT freeze has been approved by the HEB, individual projects must be approved by resolutions of the City Council and the Hamilton County Commission. The City reserves the right to apply an equivalent tax incentive under its Tax Increment Financing (TIF) program in lieu of a PILOT incentive at its discretion.

6. Definitions:

“*Downtown*” means that part of the City of Chattanooga more particularly described as

DOWNTOWN HOUSING TAX FREEZE AREA

Begin in North Chattanooga at the intersection of southern right-of-way of Whitehall Road with the eastern right-of-way of State Highway 27; thence along the southern rights-of-way of Whitehall Road, West Manning Street and East Manning Street to the intersection of East Manning Street with the western right-of-way of Oliver Street; thence along the western right-of-way of Oliver Street in a southerly direction to its intersection with Tremont Street; thence along the western right-of-way of Tremont Street in a northerly direction to its intersection with Tampa Street; thence along the eastern right-of-way of Tampa Street in a southerly direction to its

intersection with Frazier Avenue; thence along the northern right-of-way of Frazier Avenue in an easterly direction to its intersection with Barton Avenue; thence along the western rights-of-way of Barton Avenue and the Veteran's Bridge, crossing the Tennessee River and continuing along the western right of way of Georgia Avenue to its intersection with East 4th Street; thence along the southern rights-of-way of East 4th Street, Lansing and East 3rd Street in an easterly direction to its intersection with Central Avenue; thence along the western right-of-way of Central Avenue to a point where, if extended, Central Avenue would intersect with State Highway 27; thence along the northern right-of-way of State Highway 27 in a westerly direction to its intersection with the Riverfront Parkway; thence along the eastern right-of-way of Riverfront Parkway in a northerly direction to its intersection with Martin Luther King Boulevard; thence along the northern right-of-way of Martin Luther King Boulevard in a northwesterly direction and crossing the Tennessee River to a point at which Martin Luther King Boulevard, if extended, would intersect with Hamm Road; thence along the southern rights-of-way of Hamm Road and Manufacturers Road to the intersection of Manufacturers Road and Compress Street; thence in a northerly direction along the eastern right-of-way of Compress Street to its intersection with Whitehall Road; thence along the southern right-of-way of Whitehall Road in an easterly direction to its intersection with the eastern right-of-way of State Highway 27, the Point of Beginning.

"PILOT Freeze" means the benefits conferred under the Program for the PILOT Freeze Period.

"PILOT Freeze Period" means a period of time during which annual PILOTS are due in an amount equal to the annual tax liability for the property before any new improvements were made subject to the following:

a) in no event less than the amount of the Hamilton County School portion of the property taxes that would be due on the property if it had been subject to taxation

b) in no event shall the amount of taxes payable to the City if it had been subject to taxation be less than the percentage amount paid to the county following adjustment for the school portion of the tax. It is the intent of this section that the City shall receive in taxes no less a percentage than of its total tax levy than is received by Hamilton County .

"PILOT Lease" means the lease from the HEB to the developer of property subject to this Program.