

PILOT Program for Affordable Multi-Family Housing

Application Process

Administered By

**The Health, Educational and Housing Facility Board
of the City of Memphis, Tennessee**

In Cooperation With

**THE CITY OF MEMPHIS
Division of Finance
and
Division of Housing and Community Development**



**Adopted: April 3, 2002
Revised: April 7, 2010**

APPLICATION PROCESS

PILOT PROGRAM (Payment In Lieu Of Taxes)

Administered By:
THE HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD OF THE CITY OF MEMPHIS,
TENNESSEE
(hereinafter HEHFB or Board)

Introduction

The PILOT (Payment In Lieu Of Taxes) Program is a financial incentive designed to encourage new construction and substantial rehabilitation of affordable multi-family housing through significant property tax relief for a period of ten (10) years within the limits of the City of Memphis (the "City"). Priority is given to development projects located in Target Areas, as defined by the City, at the time of the application.

Program Boundaries

The PILOT Program is offered for new construction and substantial rehabilitation projects throughout the City, with preference given to the Target Areas, as defined by the City at the time of the application.

Basic Eligibility Requirements

Investment: To be eligible for a PILOT, the value of the building renovations, site improvements or new construction must be equal to or greater than fifty percent (50%) of the property acquisition cost.

Site Control: The applicant ("Applicant") must have site control which shall be the equivalent of fee simple title, 99 year lease, or an option to purchase with no contingencies except financing.

Financial Commitment: Applicant must have evidence of financing commitment for total project costs.

Target Market: 20% of the Applicant's units must be occupied by individuals whose income is 50% or less of the median gross income or 40% or more of the units must be occupied by individuals whose income is 60% or less of the median gross income.

Tenant Benefits: Applicant must provide written projection of how PILOT savings will directly benefit tenants through one or more of the following – additional property improvements, rent reduction or stabilization, and tenant services.

Application Process

1. *Pre-Submittal Conference-* A mandatory meeting with the HEHFB Executive Director shall be held prior to submission of a PILOT application. This meeting is to acquaint all parties with the scope of the Project and any related issues. This meeting also serves to familiarize the Applicant with the overall submittal and review process as well as overall PILOT policies and basic eligibility requirements. **The Board reserves the right to reject applications when this requirement has not been met.**
2. *Submittal of Application-* An outline of the PILOT application follows in this package. The official application must be assembled based on this outline. Fifteen copies of the application must be submitted prior to the application deadline. **APPLICATIONS WILL ONLY BE ACCEPTED DURING AN ANNOUNCED PILOT ROUND.**

The applications should be delivered to:
The Health, Educational and Housing Facility Board of the City of Memphis, Tennessee
65 Union Avenue, Suite 1120
Memphis, TN 38103

3. *Board Review and Approval* - The Health, Educational and Housing Facility Board of Directors (“the Board”) generally meets on the first Wednesday of each month at 12 Noon. Meetings are held at the Office of the Board located at 65 Union Avenue, Suite 1120, Memphis, Tennessee 38103. Per resolution of the Board, a Board PILOT Review Committee (the “PILOT Committee”) has been established to review, with the staff, and make recommendation to the Board for PILOT application approvals and ongoing monitoring and compliance. Applicants may be permitted to present to the Board after staff evaluation and review and based on recommendation by the PILOT Committee. The Board will deliberate on all applications and render its decision(s) on all applications at a later time.
4. *Closing* - If the Project is approved by the Board, the Board’s General Counsel will prepare and distribute PILOT documents and upon receipt of all required documents will arrange a PILOT closing at which time regulatory and compliance agreements will be executed and all required documents will be filed with the City and Shelby County taxing authorities, and all necessary documents will be duly recorded with the Shelby County Register of Deeds (the “Closing”).

Applicant Fees

Application Fee:

Application Fee is defined as a non-refundable fee, due and payable upon submission of the application, per project calculated on the following basis:

- \$3,000 for all Projects with total project costs of less than \$5,000,000;
- \$4,000 for all Projects with total project costs of \$5,000,000-\$10,000,000;
- \$5,000 for all Projects with total project costs greater than \$10,000,000.

Reservation Fee:

Reservation Fee is defined as a non-refundable fee equal to .25% (25 basis points) of the Board’s closing fee (as defined hereafter) and is due and payable within sixty (60) days of PILOT approval by the Board. This fee will be credited to the Applicant at Closing. Failure to pay the Reservation Fee in a timely way will result in forfeiture of the PILOT approval.

Closing Fee:

Closing Fee is defined as one percent (1%) of the total project cost, plus applicable attorney fees and filing fees. Closing Fees are assessed and due at Closing.

Extension Fee:

The Applicant will have up to six (6) months from the time of approval by the Board to close the PILOT transaction. If the transaction has not closed within that time, the Project will be allowed a one time, automatic six (6) month extension, upon payment of an extension fee. The Extension Fee is defined as a payment equal to the original application fee. Said Extension Fee will be due and payable before any extension is considered. The Extension Fee shall not be credited against the Closing Fee.

Transfer Fee:

Each PILOT transfer must be approved by the Board after consideration of a PILOT Transfer Application submitted by the potential transferee. The Transfer Fee is defined as one-half of the original Application Fee, plus applicable Board expenses including reasonable attorney fees. The Transfer Fee shall be submitted with the PILOT Transfer Application.

Annual Fees:

Annual fees are defined as annual PILOT payments to the City and County taxing authorities.

Monitoring and Compliance Fee:

Properties will be charged a nominal amount each quarter and likewise for an annual compliance review. As of 2010 this is expected to be no more than \$2,250 total per year.

Other Closing Requirements

The following must be provided at Closing:

- Liability insurance on the property with coverage amount equal to the full value of the property. The Board should be named as an additional insured with certificate provided prior to closing.
- Notice to liability insurer advising that the Board will be informed if liability insurance on the property is being reduced, terminated, or going to lapse.
- Lender Approved Environmental Assessment
- Copy of Management Contract or in the case of self-management – governing documents.

Health, Educational and Housing Facility Board Contacts

Executive Director John L. Baker
Office Telephone: (901) 527-6400
Office Fax: (901) 527-6405
Email Address: john.baker@memphishehf.com
Web Site: www.memphishehf.com

General Counsel Charles E. Carpenter, Esquire
Office Telephone: (901) 523-7788
Office Fax: (901) 523-2849
Email Address: charlesc@386beale.com

ATTACHMENTS:

- ❖ GENERAL POLICIES AND PROCEDURES – EXHIBIT A
- ❖ PAYMENT IN LIEU OF TAX CRITERION – EXHIBIT B

APPLICATION OUTLINE for the PILOT Program

Applicant Information

1. Name _____
Address _____

E-mail _____ Phone _____

2. Applicant's representative(s) names _____
Other project financial guarantor(s) _____

Contact information if different from above
Name _____
Address _____

E-mail _____ Phone _____
(Note: Attach additional pages as needed.)

3. Relevant background information about the Applicant and Guarantors, including development experience, if any, and all other relevant information this organization may need to consider while reviewing the application. Describe the corporate or partnership structure as applicable. The Board reserves the right to review the information provided.

(Note: Attach additional pages as needed.)

4. Financial Background
a. Current audited financial statements of the Applicant and Guarantors. If audited financial statements are unavailable, please submit non-audited statements.
- attached _____ (Yes)
b. State the relationship any Applicant or Guarantor has had with any accounting firm over the last five years and reason for change, if any.

c. Three years of federal tax returns if Applicant is an individual.
- attached _____ (Yes)

5. Give three credit references for you personally, and three for your business.

Personal

Business

6. Is Applicant, Guarantor or any other person involved with the Project currently engaged in any civil or criminal proceeding. (Yes) ___ (No) ___ Has any individual involved with the Project has ever been charged or convicted of any felony or currently under indictment. (Yes) ___ (No) ___ Please supply detailed information. (Attach pages as needed.)

NOTE: The Board reserves the right to review background records for criminal and credit information. Any expense related thereto will be the responsibility of Applicant and chargeable as an expense to Applicant.

7. Any previous or current relationship between Applicant or any Guarantor and any Board member _____ (Yes) _____ (No). If Yes – describe in detail.

8. Any previous or current relationship between Applicant or any Guarantor and General Counsel of Board _____ (Yes) _____ (No). If yes – describe in detail.

Project Information

1. Brief project description (including items listed below).

a. Intended usage

b. Economic and environmental impact

c. Square footage of all improvements / land area for construction or rehabilitation

d. All other information needed to fully explain the Project

e. Demolition and, or architectural plans and renderings and any available history on the proposed project – attached _____ (Yes)

f. Letter from a certified engineer, licensed in the State of Tennessee, as to the structural integrity of any existing building, for its intended usage, if applicable – attached _____ (Yes) _____ (NA)

2. Briefly state marketing approach/plans for the intended market. Identify and provide contact information for the proposed management company and provide projected lease-up schedule.

3. Location of proposed project by street address, parcel number, and legal description.

(Note: Attach additional pages as needed.)

a. Name the property owner at the time of application submittal

b. Evidence of site control in the form of deed, long term lease, or option agreement - attached _____ (Yes)

c. Describe any and all existing financing, options and liens on the property

4. Estimated Project costs broken down by component. **“Project Costs” for the purposes of assessing the amount of the Issuer’s fee and the amount of the PILOT allocation shall include all costs except property appraisals, market studies, environmental studies, monitoring fees, and rent-up costs. They do not include project reserves and capitalized interest. The Project will be required to submit an inspection certificate from an architect or engineer, or a lender’s certificate to evidence and certify the total project costs.**

5. Indicate changes needed to the public spaces and, or infrastructure around the Project (e.g. – sidewalks, lighting, and landscaping)? _____(Yes)
If yes – describe plans, costs and financing

6. **State the proposed timing/anticipated dates for the following –**

- a. **Closing of the loan or contributing financing availability -** _____
- b. **First expenditure of funds related to the Project -** _____
- c. **Anticipated date of demolition or construction start -** _____
- d. **Anticipated completion date -** _____
- e. **Projected lease up date -** _____

7. Project professionals – indicate names, address, and phone number -

- a. Counsel –

- b. Architect and, or Engineer –

- c. Contractor –

- d. Property Manager –

- e. Other professionals as applicable -

Property Tax Information

Note: According to Tennessee State Statute and the guidelines of this program, title for the subject property must be conveyed to the HEHFB for the term of the PILOT.

1. State the tax parcel number(s) for all property involved with the Project _____
2. State the current assessed value of all Project property _____
3. Indicate any tax assessments under appeal, and status of appeal _____
4. Indicate any subdivision of tax parcels that will result from Project _____
5. Indicate name in which property will be held _____

Project Financing Information

1. Project financing structure information
 - a. Contact information for lender and capital provider
Name _____
Address _____

E-mail _____ Phone _____
 - b. Amount of loan or bond _____
 - c. Lender's commitment letter – attached _____ (Yes)
(Note: Please stipulate any and all conditions to be met.)
 - d. Loan or bond documents as applicable – attached _____ (Yes)
2. Five years cash flow pro forma* showing Project's ability to service its debt – attached _____ (Yes)

*** This should be done two ways – with and without the PILOT – detailing amenities or other tenant benefits deriving from the PILOT. It is anticipated that these pro formas will be reviewed by a contracted financial advisor.**
3. Financial history of the Project and previous attempts to develop or finance – attached _____ (Yes) _____ (NA)

Sponsors of projects approved under this PILOT Program will be required to submit quarterly reports certifying tenant income levels, and the benefit being realized by the tenants. The HEHFB shall reserve the right to monitor tenant benefits, which shall be a covenant of, and condition to the continued participation in the PILOT program. The Board also anticipates annual on-site review of general conditions of the property.

The statement below must be included along with a dated signature of the Applicant or Applicant's representative.

This application is made in order to induce The Health, Educational and Housing Facility Board of the City of Memphis (HEHFB) to grant financial incentives to the Applicant. The Applicant hereby represents that all statements contained herein are true and correct. All information materially significant to the HEHFB in its consideration of the application is included. The Applicant expressly consents to the HEHFB's investigation of its credit in connection with this application. The Applicant acknowledges that it has reviewed the descriptions of the HEHFB financial program for which it is applying and agrees to comply with those policies. The Applicant further acknowledges that it has received a copy of the Board's General Policies and Procedures for the PILOT program, and acknowledges that the General Policies and Procedures are an integral part of the application process. The Applicant shall also be required to show a good faith effort with regard to the employment of minority contractors. The Applicant specifically agrees to pay all reasonable costs, fees and expenses incurred by the HEHFB whether or not the incentive is granted or Project completed.

Applicant

By: _____

Title: _____

Date: _____

**Original signature (in blue ink) required on original application form.
Copies of original signature page may be included in the 15 copies of the application.**

EXHIBIT A

GENERAL POLICIES AND PROCEDURES

As set forth in the Tennessee Code Annotated (TCA), Sections 48-101-308 et seq (the "Act"), The Health, Educational and Housing Facility Board of the City of Memphis (the "Board") is authorized to finance, acquire, improve, maintain, extend, lease, dispose of properties, and establish a PILOT program in order to maintain and increase employment opportunities, and to increase the quantity of affordable housing available in affected municipalities, and to promote the economic vitality and well being of the community. The annual allocation limit for the PILOT program as established by the Council of the City of Memphis (the "Council") is \$50,000,000, which aggregate amount is determined by the total Project costs of each approved project. There shall be a minimum of two PILOT application rounds per year, based on available allocation remaining, with the time frame for such rounds to be determined by the Board. For the purposes of assessing the amount of the Closing Fee and the amount of the PILOT allocation, Project Costs is defined to include all costs except property appraisals, market studies, environmental studies, monitoring fees, rent-up costs, reserves, and capitalized interest.

PILOT Qualifications

The following criterion sets forth the requirements for a property to qualify under the Board's PILOT program:

1. The project must meet the following affordability requirement: 20% or more of the Applicant's units must be occupied by households whose income is 50% or less of the median gross income or 40% or more of the units must be occupied by individuals whose income is 60% or less of the median gross income.
2. The value of the building renovations, site improvements or new construction must be equal to or greater than 50% of the property acquisition costs.
3. The project's primary use must be affordable multi-family residential within the limits of the City of Memphis (the "City") containing a minimum of twenty-four (24) units.
4. The total project cost for new construction must be at least \$1,000,000; and for acquisition/rehabilitation projects must be at least \$750,000.

Approval Screening

All applicants are required to attend a mandatory pre-submittal conference with a designated representative of the Board wherein the Applicant will be further apprised of the PILOT review process, PILOT policies and basic eligibility requirements. The Applicant must also set forth the expected benefits to the tenants of the Project as a result of PILOT benefits, including an analysis of the monetary amount anticipated to be utilized for the administration of tenant based programs, using the analysis of the tax amounts saved with the PILOT in place and without PILOT approval.

Initial review of the application will be done by the PILOT Committee and staff. Upon review and recommendation by the PILOT Committee, final approval shall be determined by the Board of Directors.

Board approval will be weighted on the above PILOT Qualifications. In addition, the Board will consider the following, listed in order of priority:

1. Location of the Project in Target Area, as is defined by the City at the time of application; **
2. Detailing and tracing of tenant benefits; (See p. 9, Project Financing Information item 2.
3. Financing, with preference given to projects with the highest likelihood of performing the proposed construction or rehabilitation.
4. Projects demonstrating the greatest leverage of project funds and tax benefit. In the matter of Acquisition-Rehabilitation – projects with rehab costs at 50% or more of the acquisition cost will be considered in Round I. Those with less than 50% may be considered in Round II if there is remaining allocation after Round I.
5. Community impact; and

6. If in the initial round of applications for each calendar year an applicable project is submitted for scattered site housing, a preference of 10% of Board's annual allocation shall be set aside for Single Family scattered site houses, as qualified under the Code and per authorizing Resolution of the City Council

** The City of Memphis Target Areas can be viewed and downloaded as follows:

- Go on--line to scif.memphistn.gov
- See STRATEGIC COMMUNITY INVESTMENT FUNDS (SCIF)
- View and, or download "AGENCY PROFILE INSTRUCTION PACKET & APPLICATION"
- Map and area boundaries should be available there. .

(If an applicant cannot access the information this way, they should call the Board's office.)

Fee Schedule

The Closing Fee assessed by the Board for issuing the PILOT shall be one percent (1%) of the certified project cost payable at Closing. For the purposes of determining the Closing Fee in connection with a project, project costs shall be determined on the basis of the total certified cost for a project including, without limitation, all acquisition and hard costs. The budget set forth in any application to the Board shall be deemed to be a certification by the Applicant that the budget set forth therein is a reasonable estimate of all project costs. An updated budget may be requested on behalf of the Board at the time of the signing of such PILOT agreement.

The Closing Fee of one percent (1%) of project cost will be charged to participating developments. This fee will be divided as follows: seventy percent (70%) to the Board and thirty percent (30%) to the City of Memphis Division of Housing and Community Development ("HCD").

For Memphis Housing Authority ("MHA") assisted tax credit developments, which are allowed a twenty (20) year term, the Closing Fee will be divided as follows: thirty percent (30%) to the Board and seventy percent (70%) to HCD.

Project Cost

There will be a preliminary and final evaluation of total project cost. The preliminary evaluation will be done in the pre-submittal conference, with the final evaluation held at Closing. **For purposes of the final evaluation, the Project will be required to submit an Architect's Inspection certificate or Lender's certificate to evidence and certify the total project cost prior to Closing.**

PILOT Documents

The required documentation for an approved PILOT transaction includes the following:

- a. PILOT Agreement;
- b. Lease Agreement; and
- c. Quit Claim Deed transferring title to the property to the Board.

Compliance/Monitoring

It is the purpose of this program to benefit low and moderate income tenants. As a result, properties included in this tax relief program are subject to quarterly reporting and monitoring requirements for compliance with both the terms of this program and with other fair housing practices. Each approved applicant will submit reports to the Board to insure compliance with PILOT program requirements. Said compliance requirements will be provided in the pre-submittal conference. **The costs of the compliance and monitoring services shall be the responsibility of the Applicant. The compliance and monitoring by the Board will be provided by a third party vendor, and will include, but is not limited to, tracking on a quarterly basis of the following:**

1. Total amount of the tax benefit earned by PILOT;
2. Total value of tenant benefit generated by PILOT. (Evidence of benefit pass-through)

3. Evidence of percentage of tenants whose income falls within 50% or 60% of the area median income;
4. Evidence of general liability insurance renewals;
5. Receipt of final title insurance policy;
6. Status of management contract.

If after review any Project is found to be deficient in meeting the PILOT standards, the Applicant will be allowed a sixty (60) day period within which to redress any and all deficiencies. If the deficiencies are not cured in a timely way, it will be a material default and upon recommendation of the Committee, the PILOT will be subject to termination by the Board.

On or before October 1 each year, the lessee shall file with the State Board of Equalization a report listing leased properties and details of the lease and payment in lieu of tax (PILOT) agreements in the format provided in TCA 7-53-305. A copy of the report shall be filed with the assessor of property on or before October 15. The assessor may audit or review the report and conduct comparative analysis to ensure that all agreements and reports are filed. Failure to complete and file the report with the board in a timely way shall subject lessee to a late filing fee of fifty dollars (\$50.00) payable to the State Board of Equalization. In addition, failure to file the report with the State Board of Equalization or Shelby County Assessor within thirty (30) days after written demand for the report shall subject the lessee to an additional payment in lieu of tax in the amount of five hundred dollars (\$500). The Board is required to make a quarterly report to the City Council on the status of the PILOT program. An annual audit is also prepared and presented by the Executive Director of the Board.

Additional Guidelines

1. The maximum allowable term for a PILOT lease shall be ten (10) years.
2. Payments in lieu of taxes shall be based on the current assessment of the property as published by the Shelby County Assessor of Property at Closing.
3. An applicant must own the property or have an option or other right to purchase the property in order to be eligible to apply for a PILOT. Said site control shall be the equivalent of fee simple title, 99 year lease or an option to purchase with no contingencies except financing.
4. Applications for PILOT approval must include a five (5) year project pro forma/financial analysis of the project's income, expenses and tenant benefits.
5. Affordable multi-family residential or housing facility is defined as twenty-four (24) or more residential units located in a single building, on one parcel of land or on contiguous or non-contiguous parcels of land as defined in the Code.
6. An Applicant will have up to six (6) months from the time of approval by the Board to close a PILOT transaction. If the transaction has not been closed within that time, the Project will be allowed a one time, automatic six (6) month extension, upon payment of an extension fee. An extension fee equal to the original application fee will be due and payable before said extension shall be granted. The extension fee shall not be credited against the closing fee. Any additional extensions will require a good cause showing before the Board before approval.
7. All PILOTs not closed within one (1) year of approval are subject to withdrawal.
8. If property approved for a PILOT becomes vacant and unoccupied for a period of one year, the PILOT agreement will be terminated and the property may return to the tax rolls at the then current tax assessment.
9. All PILOT transactions will be closed in the name of the Applicant or party designated in the application as the owner of the project. Prior written approval of Board will be required for substitution of another party under any PILOT agreement prior to closing thereof.
10. No PILOT agreement may be transferred/assigned without the approval of the Board. The transferee/assignee must agree to comply with the terms of the PILOT documents, meet all compliance requirements, execute all necessary transfer/assignment documents, and pay required transfer fee of one-half of the original application fee, plus applicable Board expenses and attorney fees. Transfer applicants shall be subject to background checks. (See page 6.)
11. Upon completion of any Project subject to a PILOT agreement, the Project shall be reviewed to determine if the Project was completed as set forth in the application with respect to such project plans and specifications as approved by the Board.
12. Project value shall be determined on the basis of the total appraised value given (including, without limitation, cash and assumption of debt) in the event of sale, transfer or assumption of all

of the lessee's interest in a PILOT. If the sale, transfer or assumption is for less than all of the lessee's or borrower's interest, project value shall be determined on the basis of an appraisal of the Project.

13. In the event the Project is sold or refinanced, it is possible to continue the PILOT, subject to certain conditions as approved by the Board, but any legal or other costs associated with the matter will be borne by the Applicant.
14. If minor errors exist in a submitted and eligible application, the Board may deem to allow the applicant up to 10 business days to make the needed corrections.
15. Any change in liability insurance is to be immediately reported to the Board, as the Board is to remain an additional insured party at all times during the term of the project's PILOT.
16. Changes made to the on-site management or the name of a property require prior written notification be provided to the Board immediately with new contact information if applicable.

Transfer of PILOT

There shall be no automatic transfers of the PILOT by the Applicant, and any attempt to do so shall be void ab initio. However, for Projects with a recorded Land Use Restriction Agreement exceptions may apply. Each PILOT transfer must be approved by the Board after consideration of a PILOT Transfer Application by the potential transferee. As a condition of transfer, the transferee must agree to comply with the terms of the PILOT Agreement and other PILOT conditions, including compliance and monitoring, and general liability insurance requirements. The transfer fee is one-half of the original application fee, plus applicable Board expenses including reasonable attorney fees. The transfer fee shall be submitted with the PILOT Transfer Application. **All transfer applications must be submitted to the Board a minimum of two (2) weeks prior to the Board meeting at which the transfer application will be considered.**

Deeds of Trust

The Board will agree to enter into a Deed of Trust, as requested, in order for the Applicant to obtain permanent financing after PILOT approval. The Board assumes no liability whatsoever, financial or otherwise, for payment of the obligations of the Applicant as evidenced by any note secured thereby. Anything to the contrary in a Deed of Trust notwithstanding, in the event of default on the note by the Applicant, the sole remedy for a lender against the Board is the conveyance of the property to lender. A lender, by accepting the Deed of Trust, agrees that it shall not sue for, seek or demand any deficiency judgment or other money judgment or to impose any liability against Board or its successors and assigns (including any incorporator, member, director, employee or agent) for repayment of any debt and is fully exculpated therefrom by lender, trustee, and Applicant.

**GENERAL POLICIES AND PROCEDURES FOR
MEMPHIS HOUSING AUTHORITY
LOW INCOME HOUSING TAX CREDIT PROPERTIES**

The Board is authorized by Resolution adopted on May 7, 2002 by the Council of the City of Memphis, Tennessee (the "Council") to negotiate and enter into agreements with qualified lessees in connection with payments in lieu of ad valorem taxes, provided that such payments are deemed by the Board to be in furtherance of its public purpose (the "Resolution"). The Memphis Housing Authority ("MHA") is a public housing agency and is authorized by legislation codified as T.C.A. §13-20-104, et seq., as amended, among other things, to establish a payment in lieu of ad valorem taxes program ("MHA PILOT"). T.C.A. §48-101-301 et seq. and T.C.A. §13-20-104, et seq. (collectively, the "MHA PILOT Act"); however, in lieu of seeking a direct delegation of authority, a variance of the Board's delegation was applied for and granted.

Pursuant to the MHA PILOT Act, the Resolution was amended by the Council on September 2, 2003, (the "Amended Resolution") to provide a variance to the Board's PILOT program for the benefit of MHA, so that it may continue its public benefit purposes of providing safe, decent and affordable housing for low and moderate income families within the City of Memphis, and such purposes to be furthered by a variance restricted exclusively for projects developed through the assistance of low income housing tax credits ("LIHTC"), under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code").

Eligibility Criteria:

- A. Approved projects must be affordable housing properties that are developed, acquired or subsidized by MHA to serve the general welfare of the citizens of the City of Memphis, Tennessee (the "City") and the County of Shelby, Tennessee (the "County").
- B. Approved projects must meet all criteria for the PILOT as established by the Amended Resolution and the Board.
- C. Approved projects must develop LIHTC properties that are restricted under government regulations pursuant to the Code.
- D. Approved projects shall be endorsed, in writing, by MHA to be deemed to be in compliance with the Act, the Amended Resolution, the Code, and in furtherance of MHA's mission in providing safe, decent and affordable housing to the citizens of the City and County.
- E. The maximum allowable term for an approved MHA PILOT shall be twenty (20) years.
- F. To be eligible to apply for a PILOT, at the time of the initial application, the Applicant must have site control, which shall be the equivalent of (i) fee simple title, (ii) a long term ground lease of not less than 50 years or (iii) an option to purchase with no contingencies except financing, and (iv) the Applicant must demonstrate evidence of financing commitment for total project costs.

PILOT Structure:

- A. For PILOTS issued hereunder, the Board will structure the PILOT and coordinate its implementation through the Shelby County Assessor's Office by finalizing (i) a PILOT Agreement, (ii) a Quit Claim Deed filed in the name of the Board and (iii) a PILOT Lease Agreement between the Board and the owner.
- B. The Board will hold legal title to the real property, as a nominee only, solely for purpose of the PILOT, and all other incidents of ownership of the real property for all purposes will flow to the lessee.
- C. At the end of the PILOT term, which shall not exceed a period of twenty (20) years, the Board shall by Quit Claim Deed convey the real property to the owner.

- D. The Board shall prepare or assist in the preparation of the Quit Claim Deed, PILOT Agreement and PILOT Lease Agreement to effectuate the above structure.
- E. In the event that MHA holds legal title to the property, and intends to execute a long term ground lease of the property with a third party, the document structure will be for the third party to sub-lease the property to the Issuer and the Issuer will sub-sub lease the property to the third party which will finance, own and operate the improvements therein.

The maximum allowable term for a PILOT on MHA LIHTC properties is twenty (20) years. Such PILOT approval shall fall outside of the annual allocation limit of \$50,000,000 of total project cost. Submission of an application for an MHA PILOT is not limited to an active PILOT round. Said application will be accepted during active PILOT rounds as well as at regular monthly meetings.

Generally, MHA LIHTC properties do not have a property assessment value to submit with the PILOT application, as the property has been previously exempt under a prior governmental or exempt entity. As such, upon PILOT approval said properties with no current assessment value must submit to the Board an independent appraisal of the property which sets forth a predevelopment market value assessment in order that the PILOT amount can be determined under the regular PILOT calculation. The Board shall submit an approved appraiser listing to each affected Applicant.

As set forth in the MHA PILOT Act, before October 1 of each year, MHA shall submit to the State Board of Equalization an annual report containing a list of all the real and personal property owned by the housing authority and its associated entities and subsidiaries with respect to which payments in lieu of ad valorem taxes have been negotiated and accepted; the value of each listed property, as estimated by the lessee of the property; the date and term of the lease for each listed property; the amount of payments made in lieu of property taxes for each listed property; the date each listed property is scheduled to return to the regular tax rolls; and a calculation of the taxes which would have been due for each listed property if the properties were privately owned or otherwise subject to taxation. Each lessee of MHA shall be responsible for the timely completion and filing of the report, and failure to timely complete and file the report shall subject such lessees to a penalty equivalent to that applicable to similar lessees of industrial development corporations, provided, that no lessee shall be liable who has provided the State Board of Equalization information required by this section as may be pertinent to property leased by the lessee from MHA.

EXHIBIT B

Payment in Lieu of Taxes (PILOT) Criteria

<u>CRITERIA</u>	<u>HEHFB PILOT</u>
Location : Activity Central Business District Within Parkway City Wide	Not Targeted Priority for Targeted Areas Priority for Targeted Areas
Low to Moderate (LMB) Benefit	20% of the units shall be occupied by individuals or families with income not more than 50% of the area median; or 40% of the units shall be occupied by individuals or families with income not more than 60% or less of the area median
Development Size	at least 24 units
Minimum Project Cost	New Const. = \$1,000,000 Acquisition/Rehab = \$750,000
Minimum Rehab Investment	at least 50% of the property acquisition cost
Maximum Length of Freeze	10 years for regular PILOT; 20 years for MHA
City Component County Component	Freeze Freeze
Tenant Impact Analysis (Benefit Pass-Through)	Monitoring and Compliance Required

OTHER NOTES

- The annual allocation limit for the program is \$50,000,000 of Total Project Cost.
- Closing Fee of one percent (1%) of project cost will be charged to participating developments and divided as follows: seventy percent (70%) to the HEHFB and thirty percent (30%) to the City of Memphis Division of Housing and Community Development (“HCD”). There is a Reservation Fee equal to one fourth of the closing fee to be paid within sixty days of PILOT approval.
- For Memphis Housing Authority (“MHA”) assisted tax credit developments, the Closing Fee will be divided as follows: seventy percent (70%) to HCD and thirty percent (30%) to the HEHFB.