

INTRODUCED: 6/9/2025

REFERRED TO: Metropolitan and Economic Development Committee

SPONSOR: Councilor Gibson

DIGEST: approves a payment in lieu of taxes (PILOT), as provided by I.C. 36-3-2-12, for BPCP Apartments, LP, for an affordable housing project being financed in part with low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, known as Broadway Park and Citizens Park, consisting of 74 affordable housing units for low-income residents, located at 605, 617, and 625 East 38th Street, 3760 Broadway Street, and 2222 North College Avenue, in District 8

SOURCE:

Initiated by: Department of Metropolitan Development

Drafted by: Scott C. Frissell, Krieg DeVault LLP

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____

Date: June 5, 2025

CITY-COUNTY SPECIAL ORDINANCE NO. _____, 2025

A SPECIAL ORDINANCE approving Payments in Lieu of Taxes (“PILOTS”) as provided in Indiana Code § 36-3-2-12 (the “Act”) for two affordable housing projects being financed in part with low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

WHEREAS, the Act authorizes the legislative body of the City of Indianapolis (the “City”) to adopt an ordinance to require a property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under Indiana Code § 6-1.1-10-16.7; and

WHEREAS, Indiana Code § 6-1.1-10-16.7 provides for a property tax exemption for a project where (1) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low income housing tax credit program under 26 U.S.C. § 42; (2) the real property is subject to an extended use agreement under 26 U.S.C. § 42 as administered by the Indiana Housing and Community Development Authority; and (3) the owner of the property has entered into an agreement to make payments in lieu of taxes in accordance with the Act; and

WHEREAS, BPCP Apartments, LP, an Indiana limited partnership (the “Owner”), has or will acquire certain real estate in Center Township, Marion County, Indiana, which consists of scattered parcels located at 605, 617, and 625 East 38th Street, 3760 Broadway Street, and 2222 North College Avenue, Indianapolis, Indiana, and identified as Marion County Parcel Numbers 1062003, 1018867, 1014162, 1010620, 1019434 and 1011883 (collectively, the “Real Estate”), and upon which Owner desires to develop two separate affordable housing projects for low income residents to be known as Broadway Park, consisting of forty (40) affordable housing units for low income residents, and Citizens Park, consisting of thirty-four (34) affordable housing units for low income residents (collectively with the Real Estate, the “Projects”), which Owner has represented will be owned and operated as affordable housing facilities pursuant to the federal low income housing tax credit program under 26 U.S.C. § 42 with an extended use agreement that is expected to continue for forty (40) years after completion of construction; and

WHEREAS, the City and Owner desire to approve the PILOTS to facilitate the Projects and provide additional affordable housing in the City; and

WHEREAS, the terms and conditions of the PILOTS are contained in Exhibit A (the "PILOT Agreement"), which include without limitation, (i) during the construction of the Projects, an annual payment equal to the property taxes for the tax year in question that would have been payable by Owner on the assessed value of the Property if Owner was a non-exempt taxpayer, and (ii) thereafter an annual payment for fifteen (15) years equal to Fifteen Thousand Six Hundred and No/100 Dollars (\$15,600.00) (the "Base Amount"), with the Base Amount increasing annually by two percent (2%) during the term of the fifteen (15) year PILOT Period (as defined in the PILOT Agreement) (the "PILOT Payment"); and

WHEREAS, the City recognizes and agrees that in accordance with Indiana Code § 36-3-2-12(f)(2), the percentage generated by dividing the annual PILOT Payment by the amount of the property taxes that would have been paid to the City if the Projects were not subject to an exemption from property taxation shall be the percentage of the property taxes required to be paid by the Owner to the City on an annual basis during the term of the PILOT Agreement; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to authorize and enter into the PILOT Agreement; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The forgoing recitals are fully incorporated herein by this reference.

SECTION 2. It is hereby found that the acquisition of the Real Estate and construction of the Projects will be of benefit to the health or general welfare of the City and its citizens and does comply with the purposes and provisions of the Act.

SECTION 3. The PILOT Agreement is hereby approved by the City, and the Owner shall make the annual PILOT Payment in accordance with the terms of the PILOT Agreement, which is conditioned upon, among other requirements, the Owner receiving property tax exemptions for each parcel of the Real Estate pursuant to Indiana Code § 6-1.1-10-16.7.

SECTION 4. In accordance with Indiana Code § 36-3-2-12(h), the PILOT Payment shall be deposited in the City's housing trust fund established under Indiana Code § 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

SECTION 5. In accordance with Indiana Code § 36-3-2-12(e), the Owner has consented to this Ordinance and the PILOT Payment, which shall be illustrated by the City's Department of Metropolitan Development ("DMD") and Owner executing the PILOT Agreement in substantially the same form of the attached, subject to necessary and appropriate updates and revisions agreed to by DMD and the Owner.

SECTION 6. DMD and the City Controller are authorized and directed to execute the PILOT Agreement approved herein after it has been finalized by DMD and the Owner, and DMD is further authorized to execute any other document which may be necessary or desirable to consummate the transaction, and DMD's execution is hereby confirmed on behalf of the City. The signature of the authorized signatory of DMD and the City Controller on the PILOT Agreement may be facsimile signatures.

SECTION 7. By adopting this Ordinance, authorizing and directing DMD and the City Controller to finalize and execute the PILOT Agreement, and authorizing the PILOT Payment, the City has undertaken all required action contained within the Act.

SECTION 8. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 9. All ordinances, resolutions and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 10. It is hereby determined that all formal actions of the Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Council, that all deliberations of the Council

and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5 et seq., as amended.

SECTION 11. DMD and City Controller are authorized to take all such further actions or to execute, attest and deliver such further instruments and documents in the name of the City as in DMD's and the City Controller's judgment shall be necessary or advisable in order to fully consummate the PILOT Agreement and the Projects and carry out the purposes of this Ordinance.

SECTION 12. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code § 36-3-4-14 and shall automatically terminate upon the termination of the PILOT Agreement.

The foregoing was passed by the City-County Council this _____ day of _____, 2025, at _____ p.m.

ATTEST:

Vop Osili
President, City-County Council

Yulonda Winfield
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2025.

Yulonda Winfield
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2025.

Joseph H. Hogsett, Mayor