

PILOT AGREEMENT

THIS PILOT AGREEMENT (the "**PILOT Agreement**") is made and entered into as of the 12th day of April, 2017, by and between the METROPOLITAN DEVELOPMENT AND HOUSING AGENCY ("**MDHA**") and FOREST BEND TOWNHOMES, L.P. (the "**Owner**").

WITNESSETH:

WHEREAS, MDHA is a public body and a body corporate and politic organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §13-20-101, et seq., (the "**Act**");

WHEREAS, §13-20-104(f) of the Act provides that a metropolitan government may delegate to a housing authority the authority to negotiate and accept in lieu of ad valorem taxes ("**In Lieu of Tax Payments**") from a party that operates a low income housing tax credit ("**LIHTC**") property, as such term is defined in the Act (a "**LIHTC Property**") on property leased by such party from a housing authority;

WHEREAS, MDHA is the housing authority, as defined in the Act, for the Metropolitan Government of Nashville and Davidson County, Tennessee (the "**Metropolitan Government**");

WHEREAS, by Ordinance No. BL2015-1281 as amended by Ordinance No. BL2016-334 (collectively, the "**PILOT Ordinance**"), the Metropolitan Government (i) authorized MDHA to negotiate and accept In Lieu of Tax Payments from 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 (the "**PILOT Program**");

WHEREAS, Owner owns land located at 501 Forest Park Road, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "**Project Site**");

WHEREAS, Owner intends to construct a 47 unit townhome apartment project, known as Forest Bend Townhomes, on the Project Site and operate it as a LIHTC Property (the "**Project**");

WHEREAS, MDHA is authorized by law and has deemed it necessary and desirable to acquire the Project Site for the purpose of facilitating the Project in accordance with the PILOT Program, the PILOT Ordinance and the Act;

WHEREAS, the Board of Commissioners of MDHA approved MDHA's purchase of the Project Site and authorized the Executive Director of MDHA to take all actions on behalf of MDHA to undertake the following:

- (A) acquire the Project Site;
- (B) enter into a lease with Owner pursuant to which Owner will (i) lease the Project Site and the Project from MDHA with MDHA having the right to cause Owner to purchase the Project Site and the Project from MDHA upon expiration of the tenth (10th) Tax Year, (ii) construct the Project on the Project Site, and (iii) by recorded agreement, commit to operate the Project as a LIHTC Property in accordance with the requirements of the Internal Revenue Code and the Tennessee Housing Development Agency (“THDA”) for a minimum period of twenty (20) years after the Project is complete (the “**Project Lease**”);
- (C) enter into this PILOT Agreement;
- (D) submit this PILOT Agreement to the Metropolitan Planning Commission to obtain a recommendation of approval or disapproval, as envisioned by the PILOT Ordinance;
- (E) submit this PILOT Agreement to the Metropolitan Council of the Metropolitan Government (the “**Metropolitan Council**”) for approval as required by the PILOT Ordinance; and
- (F) take such other action and execute such other documents as the Executive Director deems necessary or desirable to facilitate construction of the Project and the transactions described above consistent with this PILOT Agreement, the Act, the Project Lease, the Metropolitan Ordinance and the PILOT Program (including MDHA’s application and policies and procedures related thereto).

WHEREAS, MDHA intends to acquire the Project Site from Owner and will concurrently enter into the Project Lease; and

WHEREAS, Owner has agreed to make In Lieu of Tax Payments with respect to the Project as described herein.

NOW, THEREFORE, for and in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, and as an inducement to Owner to construct the Project and operate the Project as LIHTC Property, MDHA and Owner agree as follows:

I. With respect to Project Site and the real property component of the Project, Owner shall make In Lieu of Tax payments to the Metropolitan Government, as follows:

(a) The In Lieu of Tax Payments shall be equal to the Applicable Ad Valorem Taxes, as defined below, through and including the calendar year in which the construction of the Project is completed.

(b) Commencing on January 1st of the calendar year following the year in which the construction of the Project is completed (“**Tax Year 1**”) and each tax year subsequent to the Tax Year 1 (Tax Year 1 and each subsequent tax year being referred to herein as a “**Tax Year**”) through the tenth (10th) Tax Year, in Lieu of Tax Payments shall be as follows:

Tax Year	In-Lieu of Tax Payment
1	\$7,931
2	\$8,328
3	\$8,744
4	\$9,181
5	\$9,640
6	\$10,123
7	\$10,629
8	\$11,160
9	\$11,718
10	\$12,304

Subject to Section 1(e) below, the In Lieu of Tax Payments shall be fixed and shall not fluctuate with the amount of the assessment for the Project Site or the Project or the tax rate in effect for any Tax Year. The amount of the In Lieu of Tax Payments is approximately equal to \$169 per unit within the Project, with a five percent (5%) annual increase. In Lieu of Tax Payments for each Tax Year shall be paid when due but in any event not later than the date on which the Applicable Ad Valorem Taxes would become delinquent.

(c) After the tenth Tax Year, this Agreement shall expire and Owner shall pay 100% of the Applicable Ad Valorem Taxes.

(d) The term “**Applicable Ad Valorem Taxes**” shall mean any real property ad valorem taxes that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project.

(e) Notwithstanding anything contained herein to the contrary, if THDA or the IRS determines that the Project is not in compliance with LIHTC requirements and is therefore not operated as a LIHTC Property at any time during a Tax Year, Owner shall pay 100% of the Applicable Ad Valorem Taxes with respect to such Tax Year.

(f) Notwithstanding anything contained herein to the contrary, Owner shall pay 100% of the Applicable Ad Valorem Taxes for the periods before Tax Year 1 and after Tax Year 10, if the Project Lease is in effect during such periods.

2. Commencing in Tax Year 1 and in each Tax Year subsequent through the (10th) Tax Year, Owner shall provide to MDHA an annual report not later than September 1st of each Tax Year containing the following information:

(a) The value of the Project, as estimated by the Owner;

(b) The date and remaining term of the Project Lease;

(c) The amount of In Lieu of Tax Payments payable in such Tax Year;

(d) The date in which the Project is scheduled to return to the regular tax rolls and be eligible to pay 100% of the Applicable Ad Valorem Taxes following the tenth (10th) Tax Year;

(e) A calculation of the Applicable Ad Valorem Taxes for such Tax Year that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project;

(f) A copy of the Owner's most recent Annual Certification as submitted to THDA, certifying compliance with LIHTC requirements; and

(g) A copy of any monitoring or compliance reports provided by THDA to the Owner during such Tax Year.

3. Commencing with Tax Year 1 and each Tax Year thereafter, Owner shall pay to MDHA a monitoring and reporting fee to be set by MDHA but not to exceed five percent (5%) of the amount In Lieu of Tax Payment due with respect to such Tax Year (the "Annual MDHA Fee"). The Annual MDHA Fee shall be paid not later than fifteenth (15) day of such Tax Year. Unpaid amounts shall bear interest at the rate of four percent (4%) in excess of the average prime rate of interest published from time to time by the Federal Reserve or similar commonly accepted reporting organization if the Federal Reserve ceased to publish such information. Owner's failure to pay the Annual MDHA Fee within thirty (30) days after written notice from MDHA shall constitute a default under this PILOT Agreement in which event Owner shall pay 100% of the Applicable Tax Rate for such Tax Year instead of the In Lieu of Tax Payment set forth above.

4. Owner's payment of the In Lieu of Tax Payments shall satisfy the requirement in Tenn. Code Ann. § 67-5-206(a) that MDHA pay the Metropolitan Government for services, improvements or facilities furnished by the Metropolitan Government for the benefit of the Project.

5. This PILOT Agreement may not be assigned to any party other than the assignee of the lessee's interest under the PILOT Lease pursuant to an assignment that is made in accordance with the PILOT Lease, including MDHA consent requirements, if any, specified therein. Each permitted assignee shall assume Owner's obligations under this PILOT Agreement concurrent with the assignment of the PILOT Lease.

6. This PILOT Agreement shall be construed in accordance with the laws of the State of Tennessee, and if any one or more of the provisions of this PILOT Agreement shall be held invalid, illegal or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, legality or unenforceability shall not affect any other provision hereof, but this PILOT Agreement shall be construed the same as if such invalid, illegal or unenforceable provision had never been contained herein. This PILOT Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

7. This PILOT Agreement is subject to and conditioned upon (i) approval of this PILOT Agreement by the Metropolitan Council as required by the PILOT Ordinance, (ii) Owner's satisfaction of all conditions and requirements imposed by MDHA in connection this PILOT Agreement or the transaction contemplated herein, (iii) MDHA taking title to the Property and entering into a mutually acceptable Project Lease, and (iv) THDA's approval of the Project and allocation of low income housing tax credits, to the extent such approval or allocation has not been received as of the date of this PILOT Agreement.

8. MDHA shall remit all In Lieu of Tax Payments received in connection with the Project and/or the Project Lease (authorized April __, 2017 by MDHA) to the Metropolitan Government within fifteen (15) days of receipt.

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and date first above written.

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

By: _____

Title: _____

FOREST BEND TOWNHOMES, L.P.,

By: Forest Bend GP, LLC,

Its: General Partner

By: Forest Bend Venture, LLC

Its: Manager

By:  _____

Name: Jay Stewart

Its: Manager

FILED WITH THE METROPOLITAN CLERK

Shannon B. Hall

Date

EXHIBIT A

A tract of land located in the 9TH Council District of Davidson County, Tennessee, said property being the Forest Bend Townhomes, L.P. property as recorded in Instrument No. 20140620-0054114, also being a portion of Lot 7 and a Portion of Lot 8 of Forest Park Acreage Tracts, in Book 843, page 45, Register's Office of Davidson County, Tennessee, and being more particularly described as follows.

Beginning at the south west corner of Coventry Woods property as recorded in Deed Book 6966, page 333;

Thence with the south line of Coventry Woods, South 82°21'50" East a distance of 491.97' to a 3/4" iron rod with no cap;

Thence with the same, South 07°28'24" West a distance of 75.50' to 3/8" iron rod with no cap;

Thence with the same, South 82°37'21" East a distance of 375.68' to a 1" iron rod with no cap;

Thence with the northerly line of Rainbow Terrace Subdivision (1130/85), South 56°09'53" West a distance of 106.65' to a 3/4" iron rod with cap "Delle" found;

Thence with the same, South 56°48'19" West a distance of 199.51' to a 1" iron rod found;

Thence with the same, South 55°57'31" West a distance of 193.26' to an iron pin found;

Thence along the terminus of Margaret Street and along the east line of Samuel Batey property as recorded in Instrument No. 20071210-0142367, North 33°55'20" West a distance of 170.98' to an iron pin found;

Thence with the northerly line of Gerald Logan property as recorded in Instrument No. 20080219-0014459, North 81°40'29" West a distance of 181.50' to an iron pin found near a fence corner post;

Thence along the east line of Secretary of Veterans Affairs (Instrument No. 20140430-0036445), Equity Trust Company (Instrument No. 20080822-0086368) and Gary Luster (Instrument No. 20070405-0041232), North 08°19'31" East a distance of 175.00' to an iron pin set;

Thence along the north line of aforesaid Gary Luster, North 81°40'29" West a distance of 200.03' to an iron pin set;

Thence along the east margin of Forest Park Road (50' Right of Way), North 07°44'25" East a distance of 95.87' to the point of beginning, having an area of 168,573 square feet, 3.87 acres.

Note: The above property description is based on information gathered during the course of an actual field survey conducted by O'Leary and Associates, LLC, under the direction of Allen B. O'Leary, Tennessee Registered Land Surveyor Number 1987. All iron pins set are 1/2" Rebar, with a plastic cap stamped "O'Leary, RLS 1987". All deeds referenced above (Deed Book, Page) are of record in the Register's Office of Davidson County, Tennessee. The above property description was prepared under my direction on this the 8TH day of August 2014.

Being the same property conveyed to Forest Bend Townhomes, L.P. by deed of record in Instrument No. 20140620-0054114, Register's Office for Davidson County, Tennessee.



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
Planning Department
Metro Office Building
800 Second Avenue South
Nashville, Tennessee 37201
615.862.7150
615.862.7209

Memo

To: MDHA
From: Metropolitan Nashville Planning Department
Date: March 27, 2017
Re: Planning Commission Recommendation for PILOT Agreement

This memo fulfills the Planning Commission obligations as outlined in the MDHA Housing Tax Credit PILOT Program General Program Description which was attached as Exhibit A to BL2016-435. The memo consists of two parts.

PART I: RECOMMENDATION ON GENERAL PLAN CONSISTENCY

Project: **Forest Bend Townhomes (501 Forest Park Road)**
47 multi-family units
All rents proposed to be restricted based on 50% and 60% of AMI

Zoning: RS15 (Single-Family Residential) requires a minimum 15,000 square foot lot and is intended for single-family dwellings. The property is also within a Planned Unit Development overlay and is currently approved for 47 multi-family units.

Land Use Policy: Conservation (CO) is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

T4 Urban Neighborhood Evolving (T4NE) is intended to create and enhance urban residential neighborhoods that provide more housing choices, improved pedestrian, bicycle and vehicular connectivity, and moderate to high density development patterns with shallow setbacks and minimal spacing between buildings. T4 NE areas are served by high levels of connectivity with complete street networks, sidewalks, bikeways and existing or planned mass transit. T4 NE policy may be applied either to undeveloped or substantially under-developed "greenfield" areas or to developed areas where redevelopment and infill produce a different character that includes increased housing diversity and connectivity. Successful infill and redevelopment in existing neighborhoods needs to take into account considerations such as timing and some elements of the existing developed character, such as the street network and block structure and proximity to centers and corridors.

Major and Collector Street Plan: Forest Park Road is a local street.

Project Details: The project consists of 47 townhome units, all with 3 bedrooms. Three (3) of the 47 units will be accessible. The project will also include a community building containing an office and laundry room. A playground and picnic area will also be included for the benefit of residents. The site plan includes 119 parking spaces, meeting the requirement of the Zoning Code. Internal sidewalks are provided throughout the project, connecting the proposed residences to Forest Park Drive. Forest Park Drive is identified by Metro Public Works for future sidewalks between Old Hickory Boulevard and Neelys Bend Road as part of their Fiscal Year 2017 Sidewalk Program. Currently, a field survey is underway, so the extent and location of sidewalks has not been determined. The future sidewalks will connect to Neelys Bend Road, which has sidewalks leading to Gallatin Pike.

Planning Department Analysis: The proposed plan is consistent with the currently approved final site plan for the Planned Unit Development. The T4 Urban Neighborhood Evolving policy supports a variety of residential dwelling types and varying densities. Given the location of the proposed project and the surrounding land uses, the project is consistent with the policy. There is an existing MTA bus stop located across Forest Park Road from the proposed project. Additionally, the project is located less than 1 mile from Gallatin Pike which features a mixture of commercial services. A future Metro Public Works sidewalk project will provide pedestrian connection from the site to a larger existing network.

Planning Determination:


The project is consistent with the NashvilleNext adopted general plan and the community character policy for the area (T4 Neighborhood Evolving).

**PART II: LIST OF FEDERALLY SUBSIDIZED MULTI-FAMILY PROPERTIES
WITHIN THE CENSUS TRACT**

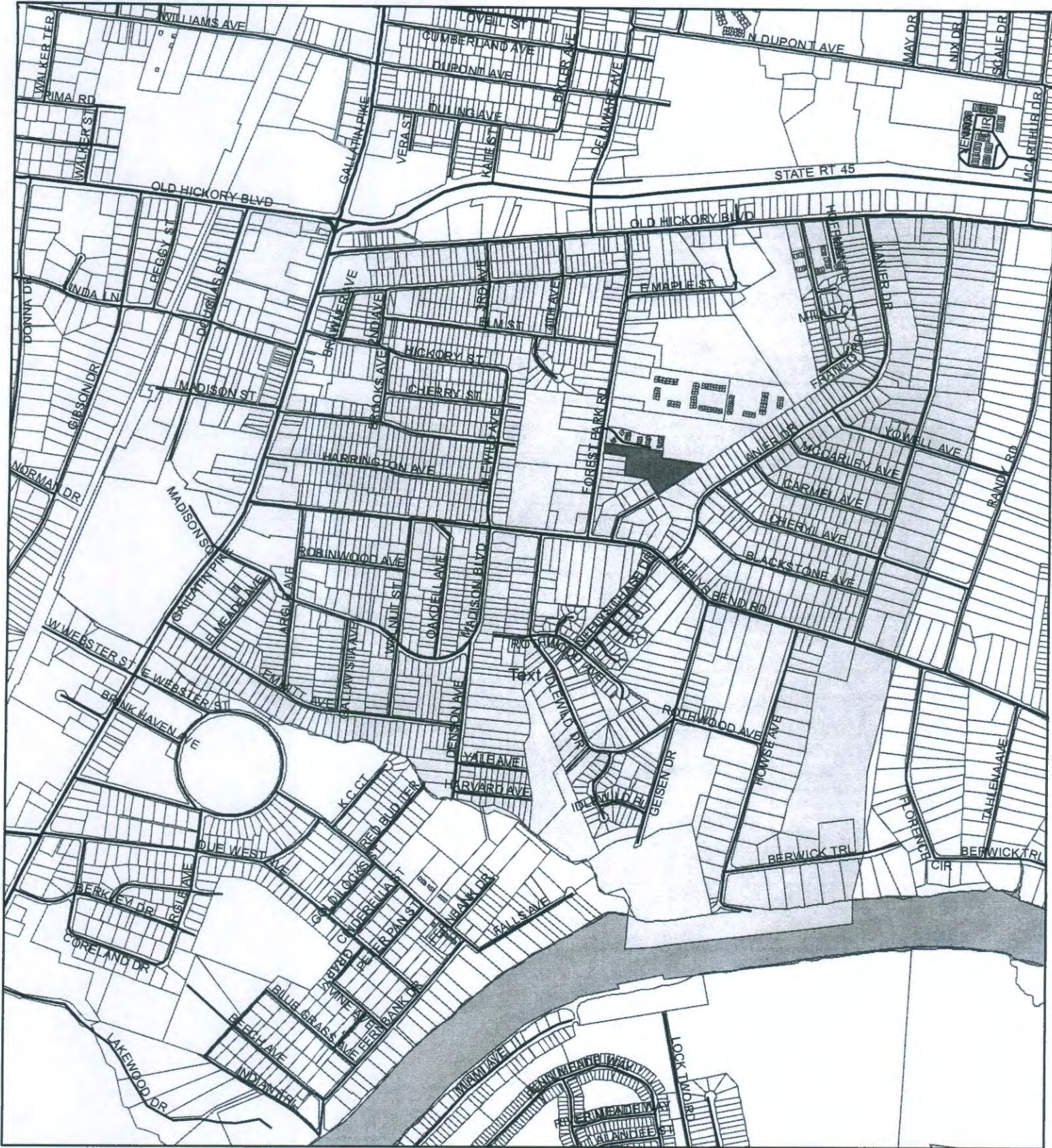
See attached map.

**Certification of Consistency
with the Consolidated Plan****U.S. Department of Housing
and Urban Development**

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.
(Type or clearly print the following information:)

Applicant Name: Joe Cain on behalf of Forest Bend Townhomes, LPProject Name: Forest Bend TownhomesLocation of the Project: 501 Forest Park Road
Madison, TNName of the Federal
Program to which the
applicant is applying: LIHTCName of
Certifying Jurisdiction: Metropolitan Nashville-Davidson County, TNCertifying Official
of the Jurisdiction
Name: Angela HubbardTitle: Community Development DirectorSignature: Date: 4/4/2017

Federally Subsidized Multi-Family Projects within Census Tract 047037010701



Low Income Tax Credit Project	# of Units
None	NA

- Parcel 05201014800
- Census Tract



0.2 0.1 0 0.2 Miles