



Community Services and Land Use Committee Affordable and Workforce Housing Workshop Beaufort County, SC

Council Chambers, Administration Building Beaufort County Government Robert Smalls
Complex 100 Ribaut Road, Beaufort

Monday, November 13, 2023
1:30 PM

AGENDA

COMMITTEE MEMBERS:

ALICE HOWARD, CHAIR
GERALD DAWSON
THOMAS REITZ

YORK GLOVER, VICE-CHAIRMAN
PAULA BROWN
JOSEPH PASSIMENT, EX-OFFICIO

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. **CITIZEN COMMENT PERIOD - 15 MINUTES TOTAL**
Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.
6. DISCUSSION AFFORDABLE AND WORKFORCE HOUSING: WHERE ARE WE, WHERE DO WE WANT TO GO, AND HOW DO WE GET THERE
7. ADJOURNMENT

TO WATCH COMMITTEE OR COUNTY COUNCIL MEETINGS OR FOR A COMPLETE LIST OF AGENDAS AND
BACKUP PACKAGES, PLEASE VISIT:

<https://beaufortcountysc.gov/council/council-committee-meetings/index.html>



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Discussion Affordable and Workforce Housing: Where Are We, Where Do We Want to Go, and How Do We Get There
MEETING NAME AND DATE:
Community Services and Land Use Committee - Affordable and Workforce Housing Workshop
PRESENTER INFORMATION:
Thomas J. Keaveny, II, County Attorney
ITEM BACKGROUND:
Beaufort County is committed to improving access to affordable and workforce housing through rent and home ownership. Beaufort Jasper Housing Trust members Wendy Zara and Dick Stewart will explain actions the Trust has taken to increase the availability of affordable and workforce housing in Beaufort County. They will also discuss the Trust's plans and goals for the coming months and years. Jeremy Cook, a Public Finance attorney from Haynsworth Sinkler Boyd who also serves Beaufort County's bond counsel, will discuss funding options which are available to County Council to implement programs which are designed to increase the number of apartments and houses which are available for affordable and workforce needs. Finally, administration will explain steps it has taken to increase the number of available units in Beaufort County.
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
None at this time. This is a discussion item.
STAFF RECOMMENDATIONS TO COUNCIL:
Council should consider its options and make a decision on how it wants to proceed.
OPTIONS FOR COUNCIL MOTION:
See above.

**RELEVANT STATUTES
AND ORDINANCES/POLICIES
FROM OTHER
JURISDICTIONS**

CHAPTER 22
William C. Mescher Local Housing Trust Fund Enabling Act

SECTION 31-22-10. Legislative findings.

(A) The General Assembly finds:

(1) Throughout this State, there is a shortage of adequate shelter for South Carolinians including the availability of an affordable residence or permanent domicile with adequate privacy, space, physical accessibility, security, structural stability and durability, and adequate electrical, plumbing, and heating systems.

(2) Private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent.

(3) The public's health, safety, and economic interests are best served by the provision of permanent affordable housing because such housing enables South Carolinians to maintain employment, assists this state's children to succeed in school, and helps this state's economic growth and prosperity.

(B) The purpose of this chapter is to authorize a local government to individually or jointly create and operate a local housing trust fund or regional housing trust fund to promote the development of affordable housing, as defined in this chapter.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

Editor's Note

2007 Act No. 19, Section 1, provides as follows:

"This chapter may be cited as the 'William C. Mescher Local Housing Trust Fund Enabling Act'."

SECTION 31-22-20. Definitions.

For purposes of this chapter:

(1) "Affordable housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

(2) "Homeless housing" means emergency, transitional, or permanent residential housing shelter for a person needing special assistance and shelter because he is homeless as defined by HUD or consistent with another definition of homelessness under which a person may receive federal financial assistance, state financial assistance, or another supportive service.

(3) "Local housing trust fund" (LHTF) means a local government fund separate from the general fund established by the governing authority of a local municipality or county government with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.

(4) "Regional housing trust fund" (RHTF) means a multi-jurisdictional government fund separate from the general fund and established jointly by the governing authorities of one or more municipalities or county governments with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.

(5) "Special needs housing" means housing or shelter provided by private or public entities including privately operated elderly housing, nursing homes, community residential care facilities, and other special needs population housing facilities regardless of purpose or type of facility.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

SECTION 31-22-30. Authority to create Local Housing Trust Fund or Regional Housing Trust Fund.

(A) A local government, including a municipality or county, may create and operate an LHTF or RHTF by ordinance, or join an existing trust fund to implement either a local or regional program for affordable housing as defined in this chapter. A local government may jointly form a regional housing trust fund by

ordinance. A regional housing trust fund created under this chapter is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government.

(B) A local government that creates an LHTF or RHTF may finance the LHTF or RHTF with money available to the local government through its budgeting authority unless expressly prohibited by the law of this State. Sources of these funds include, but are not limited to, one or more of the following:

- (1) donations;
- (2) bond proceeds; and
- (3) grants and loans from a state, federal, or private source.

The local government may alter a source of funding for the LHTF or RHTF by amending the ordinance that establishes financing for the LHTF or RHTF, but only if sufficient funds exist to cover the projected debts or expenditures authorized by the LHTF or RHTF in its budget. This chapter does not create, grant, or confer a new or additional tax or revenue authority to a local government or political subdivision of the State unless otherwise provided by the law of this State.

(C) A local government operating an LHTF or RHTF shall safeguard the fund in the same manner as the general fund or a separate utility fund established for specific purposes. The LHTF or RHTF may be included in the required financial expense reports or annual audit for each local government.

(D) A local government operating an LHTF or RHTF may allocate funds to a program that promotes the development or rehabilitation of affordable housing as defined in this chapter. Regarding the distribution of funds from an LHTF or RHTF, preference must be given to a program or project that promotes the development or rehabilitation of affordable housing for an individual or family with an annual income at or below fifty percent of the median income for the local area, adjusted for family size according to current data from HUD, the development or rehabilitation of special needs housing, or the development or rehabilitation of homeless housing.

(E) LHTF or RHTF funds may be used to match other funds from federal, state, or private resources, including the State Housing Trust Fund. A local government shall seek additional resources for housing programs and projects to the maximum extent practicable. A local government shall administer its housing trust fund through new or existing nonprofit organizations to encourage private charitable donation to the funds. Where an LHTF or RHTF receives such a donation, the donation must be used and accounted for in accordance with the provisions of this chapter.

(F) An LHTF or RHTF established, utilized, or funded under this chapter must provide an annual report to the local government that created the fund. The local government shall require the LHTF or RHTF to provide an accounting of its funds each year. This report must be made available to the public by posting on the appropriate website of the local government.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

SECTION 31-22-35. Effect of legislation on existing local or regional housing trust funds.

An LHTF or RHTF existing on the effective date of this act shall not be required to alter the existing terms of its governing documents; provided, however, that any alteration or amendment to such governing documents must conform to the provisions of this act.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

SECTION 31-22-40. Conflicting laws.

The provisions of this chapter must control where inconsistent with the provisions of another law.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

ARTICLE 5
Local Accommodations Tax

SECTION 6-1-500. Short title.

This article may be cited as the "Local Accommodations Tax Act".

HISTORY: 1997 Act No. 138, Section 8.

SECTION 6-1-510. Definitions.

As used in this article:

(1) "Local accommodations tax" means a tax on the gross proceeds derived from the rental or charges for accommodations furnished to transients as provided in Section 12-36-920(A) and which is imposed on every person engaged or continuing within the jurisdiction of the imposing local governmental body in the business of furnishing accommodations to transients for consideration.

(2) "Local governing body" means the governing body of a county or municipality.

(3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

(4) "Workforce housing" means residential housing for rent or sale that is reasonably and appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

HISTORY: 1997 Act No. 138, Section 8; 2023 Act No. 57 (S.284), Section 6, eff May 19, 2023.

Effect of Amendment

2023 Act No. 57, Section 6, added (4), relating to the definition of "Workforce housing".

SECTION 6-1-520. Imposition of local accommodations tax.

(A) A local governing body may impose, by ordinance, a local accommodations tax, not to exceed three percent. However, an ordinance imposing the local accommodations tax must be adopted by a positive majority vote. The governing body of a county may not impose a local accommodations tax in excess of one and one-half percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local accommodations tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local accommodations tax fund must be credited to the local accommodations tax fund.

HISTORY: 1997 Act No. 138, Section 8.

SECTION 6-1-530. Use of revenue from local accommodations tax.

(A) The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

(1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

(2) tourism-related cultural, recreational, or historic facilities;

(3) beach access, renourishment, or other tourism-related lands and water access;

(4) highways, roads, streets, and bridges providing access to tourist destinations;

(5) advertisements and promotions related to tourism development;

(6) water and sewer infrastructure to serve tourism-related demand; or

(7) development of workforce housing, which must include programs to promote home ownership.

However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local

accommodations tax revenue for the purposes set forth in this item. The provisions of this item are no longer effective after December 31, 2030.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the local accommodations tax authorized in this article may also be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.

HISTORY: 1997 Act No. 138, Section 8; 1999 Act No. 93, Section 13; 2002 Act No. 312, Section 1; 2006 Act No. 314, Section 1, eff June 1, 2006; 2010 Act No. 290, Section 35, eff January 1, 2011; 2023 Act No. 57 (S.284), Section 1, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

The 2006 amendment, in subsection (B), designated subparagraph (1) and added subparagraph (2).

The 2010 amendment, in paragraph (B)(2), substituted "fifty" for "twenty".

2023 Act No. 57, Section 1, in (A), inserted (7) and made nonsubstantive changes.

SECTION 6-1-540. Cumulative rate of local accommodations tax.

The cumulative rate of county and municipal local accommodations taxes for any portion of the county area may not exceed three percent, unless the cumulative total of such taxes were in excess of three percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed as of December 31, 1996.

HISTORY: 1997 Act No. 138, Section 8.

SECTION 6-1-550. Local accommodations tax revenue upon annexation.

In an area of the county where the county has imposed a local accommodations tax that is annexed by a municipality, the municipality must receive only that portion of the revenue generated in excess of the county local accommodations tax revenue for the previous twelve months in the area annexed.

HISTORY: 1997 Act No. 138, Section 8.

SECTION 6-1-560. Real estate agents required to report when rental property listing dropped.

Real estate agents, brokers, corporations, or listing services required to remit taxes under this section must notify the appropriate local governmental entity or entities if rental property, previously listed by them, is dropped from their listings.

HISTORY: 1997 Act No. 138, Section 8.

SECTION 6-1-570. Remitting tax to local governing body; frequency determined by estimated average amounts.

The tax provided for in this article must be remitted to the local governing body on a monthly basis when the estimated amount of average tax is more than fifty dollars a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars a month.

HISTORY: 1998 Act No. 419, Part II, Section 63A.

CHAPTER 4
Allocation of Accommodations Tax Revenues

SECTION 6-4-5. Definitions.

As used in this chapter:

- (1) "County area" means a county and municipalities within the geographical boundaries of the county.
- (2) "Cultural", as it applies to members of advisory committees in Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.
- (3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.
- (4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.
- (5) "Housing costs" for housing occupied by the owner means:
 - (a) the principal and interest on a mortgage loan that finances the purchase of the housing;
 - (b) the closing costs and other costs associated with a mortgage loan;
 - (c) mortgage insurance;
 - (d) property insurance;
 - (e) utility-related costs;
 - (f) property taxes; and
 - (g) if the housing is owned and occupied by members of a cooperative or an unincorporated cooperative association, fees paid to a person for managing the housing.
- (6) "Housing costs" for rented housing means:
 - (a) rent; and
 - (b) utility-related costs, if not included in the rent.
- (7) "Ordinance" means an ordinance adopted pursuant to Section 6-29-530.
- (8) "Utility-related costs" means costs related to power, heat, gas, light, water, and sewage.
- (9) "Workforce housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

HISTORY: 1991 Act No. 147, Section 1; 2001 Act No. 74, Section 2; 2002 Act No. 312, Section 2; 2023 Act No. 57 (S.284), Section 5, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

2023 Act No. 57, Section 5, added (5) to (9).

SECTION 6-4-10. Allocation to general fund; special fund for tourism; management and use of special fund.

The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

(1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

"Tourism-related expenditures" include:

(i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

(ii) promotion of the arts and cultural events;

(iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

(iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

(v) public facilities such as restrooms, dressing rooms, parks, and parking lots;

(vi) tourist shuttle transportation;

(vii) control and repair of waterfront erosion, including beach renourishment;

(viii) operating visitor information centers;

(ix) development of workforce housing, which must include programs to promote home ownership.

However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.

(c)(i) Allocations to the special fund must be spent by the municipality or county within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of

the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the appropriate local governing body, a county or municipality may carry forward unexpended allocations to the special fund beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment or development of workforce housing, which must include programs to promote home ownership. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 2010 Act No. 284, Section 2, eff upon approval (became law without the Governor's signature on June 28, 2010); 2014 Act No. 184 (S.294), Sections 1, 2, eff June 2, 2014; 2023 Act No. 57 (S.284), Section 2, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

The 2010 amendment, in item (3), inserted "only" preceding "for advertising" in the first sentence and added the last two sentences.

2014 Act No. 184, Section 1, in subsection (4)(b), changed the paragraph designators from arabic to roman numbers"; and in subsection (4)(b)(vii), inserted ", including beach renourishment".

2014 Act No. 184, Section 2, rewrote subsection (4)(c).

2023 Act No. 57, Section 2, in (4), in (b), inserted (ix) and made nonsubstantive changes, and in (c)(ii), in the first sentence, inserted "or development of workforce housing, which must include programs to promote home ownership".

SECTION 6-4-12. Housing impact analysis.

(A) If a local government intends to use the funds for the development of workforce housing, then the local government shall prepare a housing impact analysis prior to giving second reading to the ordinance.

(B) The analysis required by subsection (A) must include:

(1) information about the effect of the ordinance on housing, including the effect of the ordinance on each of the following:

(a) the cost of developing, construction, rehabilitating, improving, maintaining, or owning single-family or multifamily dwellings;

(b) the purchase price of new homes or the fair market value of existing homes;

(c) the cost and availability of financing to purchase or develop housing;

(d) housing costs; and

(e) the density, location, setback, size, or height development on a lot, parcel, land division, or subdivision; and

(2) an analysis of the relative impact of the ordinance on low- and moderate-income households.

(C) The following applies to information on housing costs required to be included in the analysis conducted pursuant to subsection (B)(1)(d):

(1) the analysis must include reasonable estimates of the effect of the ordinance on housing costs, expressed in dollar amounts. The local government shall include a brief summary of, or worksheet

demonstrating, the computations used in determining the dollar amounts. However, if the local government determines that it is not possible to make an estimate expressed in dollar amounts, then the analysis must include a statement setting forth the reasons for the local government's determination; and

(2) the analysis must include descriptions of both the immediate effect and, to the extent ascertainable, the long-term effect of the ordinance on housing costs.

(D) Except as otherwise provided in this section, a housing impact analysis required pursuant to this section must be based on costs associated with the development, construction, financing, purchasing, sale, ownership, or availability of a median-priced single-family residence. However, the analysis may include estimates for larger developments as part of an analysis of the long-term effects of the ordinance.

(E) A local government may request information from any state agencies, local units of government, universities or colleges, organizations, or individuals as necessary to prepare a housing impact analysis pursuant to this section.

(F) The local government shall provide the housing impact analysis for an ordinance to the members of the legislative body of the local government, the Department of Revenue, and the Tourism Expenditure Revenue Committee before the ordinance is considered by the legislative body. The Department of Revenue may not disburse any accommodations taxes to the local government for purposes of development of workforce housing unless and until the local government has provided the housing impact analysis to the parties required pursuant to this subsection.

HISTORY: 2023 Act No. 57 (S.284), Section 4, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

SECTION 6-4-15. Use of revenues to finance bonds.

A municipality or county may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities, all of which must fulfill the purpose of this chapter, for civic activities, the arts, cultural events, or workforce housing that includes programs to promote home ownership. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by a municipality or county from the accommodations tax in an amount not to exceed the amount received by the municipality or county after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by a municipality or county from the accommodations tax may be used to retire outstanding bonded indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred.

HISTORY: 1991 Act No. 147, Section 1; 2023 Act No. 57 (S.284), Section 3, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

2023 Act No. 57, Section 3, in the first sentence, substituted ", all of which must fulfill the purpose of this chapter, for civic activities, the arts, cultural events, or workforce housing that includes programs to promote home ownership" for "for civic activities, the arts, and cultural events which fulfill the purpose of this chapter".

SECTION 6-4-20. Administration account established; State Treasurer's duties; distribution of account revenues; exceptions to tourism spending mandate.

(A) An accommodations tax account is created to be administered by the State Treasurer.

(B) At the end of each fiscal year and before August first a percentage, to be determined by the State Treasurer, must be withheld from those county areas collecting four hundred thousand dollars or more from that amount which exceeds four hundred thousand dollars from the tax authorized by Section 12-36-2630(3), and that amount must be distributed to assure that each county area receives a minimum of fifty thousand dollars. The amount withheld from those county areas collecting four hundred thousand dollars or more must be apportioned among the municipalities and the county in the same proportion as those units received quarterly remittances in Section 12-36-2630(3). If the total statewide collections from the local accommodations tax exceeds the statewide collections for the preceding fiscal year then this fifty thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. The difference between the fifty thousand dollars minimum and the actual collections within a county area must be distributed to the eligible units within the county area based on population as determined by the most recent United States census.

(C) At the end of each fiscal year and before August first, the State Treasurer shall distribute to each county area collecting more than fifty thousand dollars but less than four hundred thousand dollars an additional fifteen thousand dollars. If the total statewide collections from the local accommodations tax exceed the statewide collections for the preceding fiscal year, this fifteen thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. This amount must be distributed in the same manner as the fifty thousand dollars in subsection (B). The amount paid those qualified county areas under this subsection must be paid from the account created under this section.

(D) The amount withheld in excess must be distributed to the county areas whose collections exceed four hundred thousand dollars based on the ratio of the funds available to the collections by each county area.

(E) The accommodations tax funds received by a municipality or county in county areas collecting fifty thousand dollars or less are not subject to the tourism-related provisions of this chapter.

(F) Two percent of the local accommodations tax levied pursuant to Section 12-36-2630(3) must be remitted quarterly and equally to the eleven agencies designated by law and regional organizations to administer multi-county tourism programs in the state tourism regions as identified in the promotional publications of the South Carolina Department of Parks, Recreation and Tourism. This remittance is in addition to other funds that may be allocated to the agencies by local governments.

(G) The State Treasurer may correct misallocations to counties and municipalities from accommodations tax revenues by adjusting subsequent allocations, but these adjustments may be made only in allocations made in the same fiscal year as the misallocation.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 1991 Act No. 168, Section 2.

Code Commissioner's Note

1991 Act No. 168, Section 2, originally amended this section by adding item "(5)." By direction of the Code Commissioner, the added text was redesignated as subsection "(G)" to conform to the designations in the earlier amendment of this section by 1991 Act No. 147, Section 1.

SECTION 6-4-25. Advisory Committee; guidelines for expenditures; annual reports; reports to Accommodations Tax Oversight Committee.

(A) A municipality or county receiving more than fifty thousand dollars in revenue from the accommodations tax in county areas collecting more than fifty thousand dollars shall appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the municipality or county receiving the revenue. At least two of the hospitality industry

members must be from the lodging industry where applicable. One member shall represent the cultural organizations of the municipality or county receiving the revenue. For county advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if a county which receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the county with a majority of the membership coming from no one area.

(B) A municipality or county and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism-related expenditures. A recipient's application must be reviewed by an advisory committee before it receives funds from a county or municipality.

(C) Advisory committees shall submit written recommendations to a municipality or county at least once annually. The recommendations must be considered by the municipality or county in conjunction with the requirements of this chapter.

(D) Municipalities and counties annually shall submit to the South Carolina Accommodations Tax Oversight Committee:

- (1) end-of-the-year report detailing advisory committee accommodations tax recommendations;
- (2) municipality's or county's action following the recommendations;
- (3) list of how funds from the accommodations tax are spent, except for the first twenty-five thousand dollars and five percent of the balance in Section 6-4-10(2) allocated to the general fund. The list is due before October first and must include funds received and dispersed during the previous fiscal year;
- (4) list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.

(E) The regional tourism agencies in Section 6-4-20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.

HISTORY: 1991 Act No. 147, Section 1; 2002 Act No. 312, Section 3.

SECTION 6-4-30. Repealed by 2003 Act No. 69, Section 3.MM, eff June 18, 2003.

Editor's Note

Former section was entitled "Department of Revenue's duties regarding accommodations taxes" and was derived from 1991 Act No. 147, Section 1; 1997 Act No. 87, Section 1; 2001 Act No. 74, Section 3.B.

SECTION 6-4-35. Tourism Expenditure Review Committee.

(A) There is established the Tourism Expenditure Review Committee consisting of eleven members as follows:

- (1) one member appointed by the Speaker of the House;
- (2) one member appointed by the President of the Senate;
- (3) the Director of the South Carolina Department of Parks, Recreation and Tourism, or his designee, ex officio;
- (4) eight members appointed by the Governor as follows:
 - (a) one member on the recommendation of the South Carolina Association of Tourism Regions;
 - (b) one member on the recommendation of the South Carolina Association of Convention and Visitors Bureaus;
 - (c) one member on the recommendation of the South Carolina Travel and Tourism Coalition;
 - (d) one member on the recommendation of the Municipal Association of South Carolina;
 - (e) one member on the recommendation of the South Carolina Association of Counties;
 - (f) one member on the recommendation of the Hospitality Association of South Carolina;
 - (g) one member on the recommendation of the South Carolina Arts Commission; and
 - (h) one member at large.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify, except that of those first appointed by the Governor, four shall serve for a term of two years and the term must be noted on the appointment. Regardless of the date of appointment, all terms expire July first of the applicable year. Members shall serve without compensation but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.

(B)(1)(a) The Tourism Expenditure Review Committee shall serve as the oversight authority on all questionable tourism-related expenditures and to that end, all reports filed pursuant to Section 6-4-25(D)(3) must be forwarded to the committee for review to determine if they are in compliance with this chapter. The municipality or county must be notified if an expenditure is questioned, and the committee may consider any further supporting information the municipality or county may provide. If the committee finds an expenditure to be in noncompliance, it shall certify the noncompliance to the State Treasurer, who shall withhold the amount of the expenditure found in noncompliance from subsequent distributions in accommodations tax revenue otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(b) If the committee determines that a municipality or county has failed to file the reports required pursuant to Section 6-4-25(D)(3), it may impose a fee of five hundred dollars a month or part of a month for each month the report is not filed, but not more than five thousand dollars. The committee shall certify the penalty to the State Treasurer, who shall withhold the amount of the penalty from subsequent distributions otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(c) Allocations withheld must be reallocated proportionately to all other recipients.

(2) The committee has jurisdiction to investigate and research facts on written complaints submitted to it with regard to the appropriate tourism-related expenditures and resolve these complaints as provided in item (1) of this subsection.

(3) The committee shall forward copies of information submitted by the local governments and regional tourism agencies pursuant to Section 6-4-25 arising under the tourism provisions of this chapter to the Department of Parks, Recreation and Tourism, which shall publish an annual report on the information submitted.

HISTORY: 2001 Act No. 74, Section 3.A; 2003 Act No. 38, Section 1, eff June 2, 2003; 2019 Act No. 1 (S.2), Section 31, eff January 31, 2019.

Editor's Note

2004 Act No. 202, Section 3, provides as follows:

"Wherever the term 'Administrative Law Judge Division' appears in any provision of law, regulation, or other document, it must be construed to mean the Administrative Law Court established by this act."

Effect of Amendment

The 2003 amendment, in subsection (A) substituted "eleven" for "nine" in the introductory paragraph, substituted "eight" for "six" in paragraph (4), added paragraphs (4)(g) and (4)(h), and made nonsubstantive changes.

2019 Act No. 1, Section 31, in (A)(2), substituted "President of the Senate" for "President Pro Tempore of the Senate".

ARTICLE V. SPECIAL TAX ASSESSMENT FOR LOW AND MODERATE INCOME RENTAL PROPERTY

Sec. 40-155. General provisions.

- (a) Pursuant to the provisions of S.C. Code 1976, § 4-9-195, and made applicable to municipalities by S.C. Code 1976, § 5-21-140, as those sections are from time to time amended, the city grants a special property tax assessment to real property which qualifies as low and moderate income rental property, under the provisions of this article. Unless otherwise specified by resolution of city council, the special assessment period shall be ten years. City council may, by resolution, approve a longer special assessment period, up to an aggregate period not to exceed 20 years. To qualify for a special assessment period greater than ten years for a special tax assessment under section 40-156(b), city council must find that granting an assessment period greater than ten years for the subject property will foster the economic viability of the surrounding community and is in the best interest of the city. To qualify for a special assessment period greater than ten years for a special tax assessment under section 40-156(c), city council must find that the proposed rehabilitation of the subject property is extensive in scale and scope, and that granting an assessment period greater than ten years for the subject property will foster the economic viability of the surrounding community and is in the best interest of the city.
- (b) The city council, by resolution, shall determine whether property is to be designated as a "Low and Moderate Housing Rehabilitation District" for special tax assessment purposes, whether a property is a "low and moderate income rental property" and whether all statutory requirements have been met. Accordingly, city council may create a Low and Moderate Housing Rehabilitation District and designate a property as being within a Low and Moderate Housing Rehabilitation District if the property provides accommodations to persons and families of moderate to extremely low income. Once a Low and Moderate Housing Rehabilitation District is created, additional property may be added to the district by resolution; district property is not required to be contiguous.
- (c) As set forth in section 40-155(b), "Persons and families of moderate to low income" means those individuals who are members of households whose gross income falls between zero and 150 percent of the "median gross income" of all households in the City of Greenville as determined on the basis of the latest available statistics furnished to the South Carolina State Housing, Finance, and Development Authority by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office. Gross income means income derived from any source whatsoever. An allowance for each member of the family equal to an amount for personal exemptions as defined by Internal Revenue Code Section 151, as defined in S.C. Code 1976, §12-6-4910, must be deducted from gross income in order to qualify a person or family as a member of the "beneficiary class".

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-156. Certification; criteria for low and moderate income rental housing designation.

- (a) In order to be eligible for the special property tax assessment, low and moderate income rental property must receive certification from the city in accordance with sections 40-156(b) or (c) below.
- (b) A property is eligible for certification for the special property tax assessment as low and moderate income rental property if the property provides accommodations under the Section 8 Program as defined in the

United States Housing Act of 1937 and amended by the Housing and Community Act of 1974 for low and moderate income families and persons as defined by Section 31-13-170(p).

- (c) A property is eligible for preliminary and final certification for the special property tax assessment as low and moderate income rental property if, in the case of income-producing real property, the expenditures for rehabilitation exceed the appraised value of the property, and the property is located in an area designated by the city as a Low and Moderate Housing Rehabilitation District.
- (1) Prior to the commencement of any work, the property must receive preliminary certification from the city manager.
 - (2) In order to receive final certification under this section 40-156(c), upon completion of work, a property must have met the following conditions:
 - a. The property has received preliminary certification;
 - b. The completed rehabilitation receives approval from city council; and
 - c. The minimum expenditures for rehabilitation were incurred and paid.
 - (3) If the property owner desires to have the property qualified as "historic" as defined in article IV, then the rehabilitation work must be approved by the appropriate reviewing authority as provided in article IV.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-157. Standards for review of rehabilitation work for final certification under section 40-156(c).

- (a) *Minimum expenditures for rehabilitation.* As set forth in this section, "Minimum expenditures for rehabilitation" means the owner rehabilitates the building, with expenditures for rehabilitation exceeding the appraised value of the property. The term "appraised value" means, in the discretion of the property owner applicant, the appraised value as certified to the city by a real estate appraiser licensed by the state; the sales price as delineated in a bona fide contract of sale within six months of the time it is submitted; or the most recent appraised value published by the county tax assessor.
- (b) *Expenditures for rehabilitation* means the actual costs of rehabilitation relating to one or more of the following:
 - (1) Improvements located on or within the existing building and exterior improvements to the real property;
 - (2) Architectural and engineering services attributable to the design of the improvements; or
 - (3) Costs necessary to maintain the character or integrity of the building.
- (c) *Scope.* The special tax assessment may apply to the following:
 - (1) Structures rehabilitated; and/or
 - (2) Real property on which the building is located.
- (d) *Time limits.* Upon preliminary certification, the property will be assessed for two years on the appraised value of the property at the time the preliminary certification was made. If the project is not complete after two years, but the minimum expenditures for rehabilitation have been incurred, the property continues to receive the special assessment until the project is complete, but not for more than five years. The total special tax assessment period shall not exceed ten years without city council approval.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-158. Process.

- (a) *Applications.* A property owner seeking certification for a property shall submit applications in a format provided by the city.
- (1) A property owner seeking approval under section 40-156(b) above must submit a completed application for final certification for special tax assessment, with supporting documentation showing that the property meets the requirements of section 40-156(b) including, but not limited to, one of the three forms of documentation of for determining the appraised value of the property, in the discretion of the property owner applicant, as stated in section 40-157(a).
 - (2) Prior to beginning work, a property owner seeking approval of rehabilitation work under section 40-156(c) must submit a completed application for preliminary certification for special tax assessment, with supporting documentation, including, but not limited to, one of the three forms of documentation for determining the appraised value of the property, in the discretion of the property owner applicant, as stated in section 40-157(a). After completion of the project, the property owner must submit an application for final certification as set forth in section 40-158(c).
 - (3) A property owner seeking approval under section 40-156 (b) shall provide documentation from the appropriate authority confirming that accommodations under the Section 8 program are being provided.
- (b) *Preliminary certification under section 40-156(c).* Within 30 calendar days of receipt of the completed application for preliminary certification under section 40-156(c), the city manager shall provide the owner with written notification of its decision for preliminary certification under section 40-156(c). Upon receipt of this determination, the owner may:
- (1) If the application is approved, obtain required permits and begin rehabilitation;
 - (2) If the application is not approved, revise such application in accordance with comments provided by the city; or
 - (3) If the application is not approved, appeal the decision to city council.
- (c) *Substantive changes.* Once preliminary certification is granted to an application under section 40-156(c), substantive changes must be approved by the city manager. Unapproved substantive changes are conducted at the risk of the property owner and may disqualify the project from eligibility. Additional expenditures will not qualify the project for an extension on the special tax assessment.
- (d) *Final certification under section 40-156(b).* Upon receipt of the application for certification under section 40-156(b), the city shall determine whether or not the property meets the requirements under section 40-156(b). The city may take whatever necessary steps are required to confirm certifications made by the property owner in the application. City council will provide certification when it determines that the requirements set forth in section 40-156(b) are met. Upon certification, the property will be assessed on the appraised value of the property at the time the certification was made.
- (e) *Final certification under section 40-156(c).* Upon completion of the project under section 40-156(c), the owner of property must submit a completed application for final certification for special tax assessment in order to be eligible for the special tax assessment. The owner shall certify that the completed project is consistent with the approval granted by the city. The city may take whatever necessary steps are required to confirm such certifications. City council will provide final certification when the completed work meets the standards and verification is made that expenditures have been made in accordance with section 40-157(b) and (c). Upon final certification, the property will be assessed for the remainder of the special assessment

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period on the appraised value of the property at the time the preliminary certification was made. If the completed project does not comply with all requirements for final certification, final certification must not be granted and any monies not collected by the county tax collector due to the special assessment must be returned to the county tax collector. The city shall notify the county tax collector if final certification is not granted.

- (f) *Decertification.* The city may decertify property in the following cases, and the property becomes immediately ineligible for the special tax assessments provided for low and moderate income rental property. When the property has received final certification and assessed as rehabilitated low and moderate income rental property, it remains so certified and must be granted the special assessment until the property becomes disqualified by any one of the following actions:
- (1) Written notice by the owner to the city and the county auditor to remove the preferential assessment;
 - (2) Removal of low and moderate income rental property designation by the city council due to the owner of any property certified as "low and moderate income rental property" taking actions which city council deems to cause the property to be unsuitable for such a designation; and
 - (3) Decertification of the property by the city council as low or moderate income rental property for persons and families of moderate to low income as defined by S.C. Code § 31-13-170(p) (in the case of certification under Section 40-156(b)) or persons and families of moderate to low income as defined by section 40-155(c)(in the case of certification obtained under section 40-156(c)).

Notification of any change affecting eligibility must be given immediately to the county assessor and the county tax collector. The owner shall provide the notification if the owner initiates the decertification; the city shall provide the notification if the city initiates the decertification.

- (g) *Notification.* Upon preliminary certification and final certification of a property, the owner of the property shall notify the county assessor and the county tax collector that such property has been duly certified and is eligible for the special tax assessment. The owner has the responsibility to confirm the special assessment status on an annual basis with the county.
- (h) *Date effective.* If an application for preliminary certification is approved by August 1, the special assessment authorized herein is effective for that year. Otherwise, it is effective beginning with the following year. The special assessment only begins in the current or future tax years as provided for in this section. In no instance may the special assessment be applied retroactively.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Secs. 40-159—40-170. Reserved.

**BEAUFORT COUNTY
REGIONAL HOUSING TRUST
DOCUMENTS**

September 26, 2022
IGA

RESOLUTION 2022/51

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH JASPER COUNTY, TOWN OF HILTON HEAD ISLAND, TOWN OF BLUFFTON, TOWN OF PORT ROYAL, CITY OF BEAUFORT, CITY OF HARDEEVILLE, AND THE TOWN OF YEMASSEE TO JOINTLY CREATE, FUND, AND OPERATE A REGIONAL HOUSING TRUST FUND

WHEREAS, Beaufort County (the "County"), Jasper County, the Town of Hilton Head Island, the Town of Bluffton, and the City of Hardeeville belong to a regional association that seeks to identify problems and opportunities that face the entire southern low country as identified by each member jurisdiction known collectively as the Southern Lowcountry Regional Board ("SoLoCo"); and

WHEREAS, SoLoCo desires to expand the regional housing trust fund study area by inviting the member parties making up the Northern Regional Plan Committee of the City of Beaufort, Town of Port Royal and Town of Yemassee (collectively referred to as the "Parties") to also participate in a Regional Housing Trust Fund ("RHTF"); and

WHEREAS, the Parties recognize that affordable housing is a serious public health and safety concern in the low country, which places stress on individual families and communities at large from a lack of diversity in neighborhoods, a separation of the workforce from workplaces, imbalances in educational opportunities and community amenities, adverse impacts on child development, and a higher incidence of violent crime that affect low-income neighborhoods; and

WHEREAS, private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent; and

WHEREAS, the Parties commissioned an analysis of regional housing needs and a recommendation report which was completed August 2021 by Asakura Robinson and presented to SoLoCo thereafter; and

WHEREAS, the Asakura Robinson report recommended the establishment of a non-profit 501c(3) Regional Housing Trust Fund in accordance with legislation passed by the South Carolina State Legislature known as the "William C. Mescher Local Housing Trust Fund Enabling Act" which, inter alia, allows for the establishment of RHTFs among local governments; and

WHEREAS, the purpose of this intergovernmental agreement (hereinafter "Agreement") is to authorize the Parties to jointly create, fund, and operate a RHTF and an oversight board to improve affordable housing; and

WHEREAS, an Intergovernmental Agreement Regarding Affordable Housing has been drafted for the purposes set forth above and is attached to this Resolution as "Exhibit A" and incorporated herein by reference; and

WHEREAS, the County wishes to contribute \$1,119,523 which is an amount equal to three (3%) percent of the American Rescue Fund Act funds; and

WHEREAS, funding contributions in succeeding years will be in proportion to the population of the participating jurisdictions as outlined within the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Beaufort County Council that the County Administrator is authorized to enter into an intergovernmental agreement, substantially similar to Exhibit A attached hereto and incorporated herein by reference, with Jasper County, Town of Hilton Head Island, Town of Bluffton, Town of Port Royal, City of Hardeeville, City of Beaufort, and Town of Yemassee to contribute funding for the Regional Housing Trust Fund.

DONE this 26th day of September 2022

BEAUFORT COUNTY, SOUTH CAROLINA



Joseph Passiment, Chairman

ATTEST:



Sarah Brock, Clerk of Council

EXHIBIT "A"
(FULLY EXECUTED)

STATE OF SOUTH CAROLINA)	
)	INTERGOVERNMENTAL AGREEMENT
COUNTY OF JASPER)	REGARDING AFFORDABLE HOUSING
COUNTY OF BEAUFORT)	

THIS INTERGOVERNMENTAL AGREEMENT is entered into with an effective date of October 28, 2022 by and among Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, the City of Beaufort, the Town of Port Royal, the City of Hardeeville and the Town of Yemassee (collectively referred to as "the Parties").

WHEREAS, the member Parties of Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, and City of Hardeeville belong to a regional association that seeks to identify problems and opportunities that face the entire southern low country as identified by each member jurisdiction known collectively as the Southern Lowcountry Regional Board ("SoLoCo"); and

WHEREAS, the member Parties of Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, and the City of Hardeeville, known collectively as the Southern Lowcountry Regional Board ("SoLoCo"), desired to expand the regional housing trust fund study area by inviting the member parties making up the Northern Regional Plan Committee of City of Beaufort, Town of Port Royal and Town of Yemassee to also participate in the initiative; and

WHEREAS, the Parties recognize that decent, affordable housing is important in that it fulfills a basic human need for shelter, contributes to the well-being of families, provides stability which may lessen the catalysts of physical illness and mental illness and stress, and is a critical component of the economic vitality of the region to attract and retain employees in the local workforce; and

WHEREAS, private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent; and

WHEREAS, the Parties commissioned an analysis of regional housing needs and a recommendation report which was completed August 2021 by Asakura Robinson and presented to SoLoCo; and

WHEREAS, the Asakura Robinson report recommended the establishment of a non-profit 501c(3) Regional Housing Trust Fund ("RHTF") in accordance with legislation passed by the South Carolina State Legislature known as the "William C. Mescher Local Housing Trust Fund Enabling Act" which, inter alia, allows for the establishment of Regional Housing Trust Funds among local governments; and

WHEREAS, the purpose of this intergovernmental agreement (hereinafter "Agreement") is to authorize the parties to jointly create, fund, and operate a regional housing trust fund and an Oversight board to improve affordable housing;

NOW, THEREFORE, for and in consideration of these premises and the mutual covenants set forth below, the Parties hereto hereby agree as follows:

Section 1 Definitions.

For purposes of this Agreement:

- a. "Affordable housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed one hundred percent (100%) of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD). Projects serving households with income at or below 60% of the Annual Median Income will receive priority consideration.
- b. "Regional housing trust fund" (RHTF) means a multi-jurisdictional government fund separate from the general fund and established jointly by the governing authorities of one or more municipalities or county governments with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.
- c. "Special needs housing" means housing or shelter provided by private or public entities including privately operated elderly housing, nursing homes, community residential care facilities, and other special needs population housing facilities regardless of purpose or type of facility.

Section 2 Priorities.

The priorities identified in the Asakura Robinson study of August 2021 are hereby adopted as follows:

- a. Providing accessible, affordable housing to the region to support the workforce in the service economy, as well as others with high housing cost burdens.
- b. Overcoming barriers to affordable development, such as financial gaps and land availability.
- c. Ensuring a regional approach for affordable housing that addresses the needs of each jurisdiction, while meeting important strategic goals for housing location.
- d. Understanding the tools and resources available to Housing Trust Funds through various state and federal laws and regulations.
- e. Identifying a stable and reliable dedicated revenue source.

Section 3 Funding.

- a. SC Code Section 31-22-30, as amended, provides that "a local government, including a municipality or county, may jointly form a regional housing trust fund by ordinance. A regional housing trust fund created under this chapter is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government".
- b. The Parties agree the RHTF established by this Agreement shall be funded for a period of ten (10) years with annual contributions by the Parties apportioned based on annual census population numbers. See Attachment A for Year 1 apportionment. Apportionment for Years 2-9 shall be

updated annually after the population census numbers are released and documented via written amendment to this Agreement to be signed by all the Parties.

- c. Funding shall be committed via the Parties' budgeting authority. Sources of these funds include, but are not limited to, one or more of the following:
- i. donations;
 - ii. bond proceeds; and
 - iii. grants and loans from a state, federal, or private source.
 - iv. any other public funds which may be lawfully used to support Affordable Housing.
- d. Alternate sources of funding for the RHTF
The Parties may alter a source of funding for the regional housing trust fund by amending the ordinance(s) that establish financing for the regional housing trust fund, but only if sufficient funds exist to cover the projected debts or expenditures authorized by the regional housing trust fund in its budget. State law does not create, grant, or confer a new or additional tax or revenue authority to a local government or political subdivision of the State unless otherwise provided by the law of this State. Each Party will make an initial contribution to the RHTF based on the Chart outlined in Attachment A.
- e. The Parties shall safeguard the fund in the same manner as the general fund or a separate utility fund established for specific purposes. The RHTF may be included in the required financial expense reports or annual audit for each local government.
- f. The Parties may allocate funds to a program that promotes the development or rehabilitation of affordable housing as defined in the state enabling legislation. Regarding the distribution of funds from a regional housing trust fund, preference must be given to a program or project that promotes the development or rehabilitation of affordable housing for an individual or family with an annual income at or below one hundred percent of the median income with priority consideration being given to projects serving those individuals or families with incomes at or below sixty (60) percent of the median income for the local area, adjusted for family size according to current data from HUD, the development or rehabilitation of special needs housing, or the development or rehabilitation of homeless housing.
- g. RHTF funds may be used to match other funds from federal, state, or private resources, including the State Housing Trust Fund. The Parties shall seek additional resources for housing programs and projects to the maximum extent practicable. The Parties shall administer the RHTF through a new or existing nonprofit organization to encourage private charitable donation to the funds. Where a regional housing trust fund receives such a donation, the donation must be used and accounted for in accordance with the purpose as established by the RHTF Oversight Board and in accordance with State statutes.
- h. A regional housing trust fund established, utilized, or funded under this Agreement and enabling ordinances must provide an annual report to the Parties that created the fund and attested to this agreement. Minimum requirements for such said report is outlined in Attachment B. The

regional housing trust fund director must offer to present to each Parties' Council the annual report details and make the report available to the public by posting it on the appropriate website of the member local governments. Any alteration or amendment to such governing documents must conform to the provisions of the enabling legislation

- i. The Parties agree that projects funded by the RHTF will be judged on their merits and that funding and location of those projects will vary from year to year; and

Section 4 Operations.

- a. Each Party shall appoint one (1) representative to serve a two-year term on the Regional Housing Trust Oversight Board ("the Board") for so long as they remain a financial contributing party. The director of the regional housing trust fund will serve as Ex Officio member of the Board. The ninth appointee would be an at large representative agreed upon by the Parties making the membership a total of nine representatives. Board Members shall represent a diverse field of experts familiar with affordable housing, real estate, and local government housing priorities. No elected officials may serve on the Oversight Board.
- b. Meetings will be held six times per year.
- c. Board responsibilities include:
 - i. Providing feedback on community needs, serving as an advocate for affordable housing and the RHTF, connecting the Administrative Operating Contractor with community resources, and acting as a direct liaison between the RHTF and the local government entity.
 - ii. Drafting and adopting bylaws for the operation of the Board within six (6) months of the creation of the RHTF; By-laws shall address how a member Party may terminate their participation and funding, including how that termination will or could impact RHTF projects in their jurisdiction, and the methodology for complete dissolution of the RHTF if a voting majority of the Parties agree; By-laws shall address how a quorum is established, a meeting and reporting schedule, and any other requirements as defined by State statute
 - iii. Make decisions on how the RHTF will operate to include whether to establish a 501(c)3, hire employees, contract with a Certified Development Financial Institution (CDFI), or other method agreed upon by a majority of the Board, manage the operations of the RHTF to include hiring, firing, potential contracts, and other items that require approval as outlined in adopted bylaws.
 - iv. Allocating other permissible funds to projects including, but not limited to, impact fee waivers, water and sewer impact fees,
 - v. Develop an annual budget with projected revenues and expenditures.
 - vi. Define types of projects eligible for funding.

Section 5 Term and Termination.

The term of this Agreement shall be ten (10) years from the date of full execution by the Parties which shall be understood to be the date first set forth above. This Agreement may be renewed for another ten (10) year term as agreed to in writing by the Parties. Termination of the Agreement in whole may only occur via dissolution of the RHTF.

Section 6 Fiscal Agent.

Beaufort County will contract with Community Works to serve as the fiscal agent and will manage the financial relationship with the Parties, Community Works and the Board. Beaufort County will provide financial reports on a quarterly basis to the Parties.

Section 7 Notices.

All notices required or permitted under this Agreement shall be in writing. All notices and payments shall be sent to the official main address of the member parties or to such other address as may from time to time be designated by written notice or via email with confirmation of email delivery receipt. Notices shall be deemed delivered when five (5) days after deposit in U.S. registered mail, postage prepaid, addressed to the other party or upon confirmation of email delivery receipt.

Section 8 Governing Law and Severability Clause.

This Agreement is governed and interpreted in accordance with the laws of the State of South Carolina. Any and all disputes between the Parties that may arise pursuant to this Agreement shall be brought and fully litigated in a court of competent jurisdiction located in Beaufort County, South Carolina. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such term, covenant or condition of this Agreement shall be valid and enforceable to the full extent permitted by law. The stricken provision of this Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

Section 9 Assignment.

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs, administrators, representatives, and assigns. However, this provision shall not be construed to permit or allow assignments not otherwise allowed under this Agreement.

Section 10 Miscellaneous.

This IGA expresses the complete agreement and understanding of the undersigned parties, and any and all prior or contemporaneous oral agreement or prior written agreement regarding the subject matter hereof shall be merged herein and then extinguished. The captions and headings used in this IGA are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this IGA. As used in this IGA, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. This IGA may be executed in multiple counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute the same instrument.

Section 11 Authorization and Execution.

This AGREEMENT is signed by the authorized representatives of the Parties set forth below, and is effective as of the date first set forth above.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth below.

BEAUFORT COUNTY: Erich Sheenway date: 10-28-22

JASPER COUNTY: [Signature] date: 11/21/2022

THE TOWN OF HILTON HEAD ISLAND: [Signature] date: 11-7-2022

THE CITY OF BEAUFORT: [Signature] date: 10-28-22

THE TOWN OF BLUFFTON: [Signature] date: 11/9/2022

THE TOWN OF PORT ROYAL: [Signature] date: 11/1/22

THE CITY OF HARDEEVILLE: [Signature] date: 11/14/2022

THE TOWN OF YEMASSEE: [Signature] date: 11/21/2022

Attachment A

Year Sum	Beaufort County	Hilton Head Island	Bluffton	Port Royal	City of Beaufort	Jasper County	Hardeeville	Yemassee	
Y1*	\$2,035,058	\$1,119,523	\$156,815	\$59,474	\$197,669	\$200,671	\$175,240	\$108,699	\$16,967

*Year 1 = 3% of American Rescue Plan funds

Y2	\$515,000	\$228,605	\$86,559	\$63,702	\$32,683	\$31,274	\$57,117	\$12,579	\$2,482
Y3	\$530,750	\$235,596	\$89,206	\$65,650	\$33,682	\$32,230	\$58,864	\$12,964	\$2,558
Y4	\$546,672	\$242,664	\$91,882	\$67,619	\$34,693	\$33,197	\$60,629	\$13,353	\$2,635
Y5	\$563,072	\$249,944	\$94,639	\$69,648	\$35,734	\$34,193	\$62,448	\$13,753	\$2,714
Y6	\$579,965	\$257,442	\$97,478	\$71,737	\$36,806	\$35,219	\$64,322	\$14,166	\$2,795
Y7	\$597,363	\$265,165	\$100,402	\$73,889	\$37,910	\$36,275	\$66,251	\$14,591	\$2,879
Y8	\$615,284	\$273,120	\$103,414	\$76,106	\$39,047	\$37,364	\$68,239	\$15,028	\$2,966
Y9	\$633,743	\$281,314	\$106,517	\$78,389	\$40,218	\$38,485	\$70,286	\$15,479	\$3,055
Y10	\$652,755	\$289,753	\$109,712	\$80,741	\$41,425	\$39,639	\$72,395	\$15,944	\$3,146
Sum	\$7,269,662	\$3,443,127	\$1,036,623	\$706,955	\$529,866	\$518,548	\$755,791	\$236,555	\$42,197

Attachment B

Reporting Requirements

The annual report will be provided to RHTF Oversight Board by the Operating Administrator and/or staff responsible for managing and administering the Fund as outlined in a separate operating agreement between the two parties. The annual report must include, at a minimum, the following metrics:

- 1) **Impact Data:** the project names and location funded in each participating jurisdiction, the amount of funding provided per project, the number and type of dwelling units built/or preserved in each funded project along with an affordability percentage breakdown, and demographic data where available.
- 2) **Financial Data:** the accounting of revenues and expenditures of the fund, additional funding raised to support the RHTF including additional project capital and operating investments, project leveraging amounts and other inkind or financial support provided to support the purpose of the fund.
- 3) Where feasible and available, success stories and project highlights, including pictures and testimonials.

October 24, 2022
**Ordinance Establishing
 Trust**

ORDINANCE 2022/42

**AN ORDINANCE TO ESTABLISH A REGIONAL HOUSING TRUST FUND AND OTHER
 MATTERS RELATED THERETO**

WHEREAS, the South Carolina State Legislature has enacted enabling legislation known as the "William C. Mescher Local Housing Trust Fund Enabling Act" which, *inter alia*, allows for the establishment of Regional Housing Trust Funds among local governments; and

WHEREAS, Beaufort County Council wishes to establish a regional housing trust fund with adjacent counties and municipalities within Beaufort County; and

WHEREAS, S.C. Code Section 31-22-30 provides "a local government, including a municipality or county, may jointly form a regional housing trust fund by ordinance. A regional housing trust fund created under this chapter is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government"; and

WHEREAS, Beaufort County wishes to establish a regional housing trust fund with Jasper County, the Town of Hilton Head Island, the Town of Bluffton, the City of Beaufort, the City of Port Royal, the Town of Hardeeville and the Town of Yemassee, under terms set forth herein.

NOW, THEREFORE, be it ordained by Beaufort County Council, in meeting duly assembled, as follows:

SECTION 1. Legislative findings.

A. County Council finds:

- (1) In Beaufort County and the surrounding area, there is a shortage of adequate shelter for South Carolinians including the availability of an affordable residence or permanent domicile with adequate privacy, space, physical accessibility, security, structural stability and durability, and adequate electrical, plumbing, and heating systems.
- (2) Private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent.
- (3) The public's health, safety, and economic interests are best served by the provision of permanent affordable housing because such housing enables South Carolinians to maintain employment, assists this state's children to succeed in school, and helps this State's economic growth and prosperity.

B. The purpose of this ordinance is to authorize Beaufort County and adjacent counties and municipalities to jointly create and operate a regional housing trust fund.

SECTION 2 Definitions.

For purposes of this ordinance:

- (1) "Affordable housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).
- (2) "Homeless housing" means emergency, transitional, or permanent residential housing shelter for a person needing special assistance and shelter because he is homeless as defined by HUD or consistent with

another definition of homelessness under which a person may receive federal financial assistance, state financial assistance, or another supportive service.

(3) "Regional housing trust fund" (RHTF) means a multi-jurisdictional government fund separate from the general fund and established jointly by the governing authorities of one or more municipalities or county governments with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.

(4) "Special needs housing" means housing or shelter provided by private or public entities including privately operated elderly housing, nursing homes, community residential care facilities, and other special needs population housing facilities regardless of purpose or type of facility.

SECTION 3. Funding.

A. The Beaufort Regional Housing Trust Fund may finance its expenditures with money available to the member local governments through their budgeting authority unless expressly prohibited by the law of this State. Sources of these funds include, but are not limited to, one or more of the following:

- (1) donations;
- (2) bond proceeds; and
- (3) grants and loans from a state, federal, or private source.

Beaufort County and the other participating members of the RHTF may alter a source of funding for the RHTF by amending the ordinance(s) that establish financing for the RHTF, but only if sufficient funds exist to cover the projected debts or expenditures authorized by the RHTF in its budget. State law does not create, grant, or confer a new or additional tax or revenue authority to a local government or political subdivision of the State unless otherwise provided by the law of this State.

- B. The member local governments of the RHTF shall safeguard the fund in the same manner as the general fund or a separate utility fund established for specific purposes. The RHTF may be included in the required financial expense reports or annual audit for each local government.
- C. The member local governments operating a RHTF may allocate funds to a program that promotes the development or rehabilitation of affordable housing as defined in the state enabling legislation. Regarding the distribution of funds from a RHTF, preference must be given to a program or project that promotes the development or rehabilitation of affordable housing for an individual or family with an annual income at or below fifty (50%) percent of the median income for the local area, adjusted for family size according to current data from HUD, the development or rehabilitation of special needs housing, or the development or rehabilitation of homeless housing.
- D. RHTF funds may be used to match other funds from federal, state, or private resources, including the State Housing Trust Fund. Member local governments shall seek additional resources for housing programs and projects to the maximum extent practicable. The member local governments shall administer the housing trust fund through new or existing nonprofit organizations to encourage private charitable donation to the funds. Where the RHTF receives such a donation, the donation must be used and accounted for in accordance with the provisions of this chapter.
- E. A RHTF established, utilized, or funded under this ordinance must provide an annual report to the member local governments that created the fund. The member local governments shall require the RHTF to provide an accounting of its funds each year. This report must be made available to the public by posting on the appropriate website of the member local governments. Any alteration or amendment to such governing documents must conform to the provisions of the enabling legislation.

SECTION 4. Operations.

The local governments who are to be a party to the RHTF shall enter into an Intergovernmental Agreement which shall contain, *inter alia*, clauses which address the following:

- A. The creation, governance, operation and maintenance of a non-profit corporation, created as tax exempt under Section 501(c)(3) of the US Internal Revenue Code.
- B. The relative financial contributions of each of the members.
 - 1. Each participating jurisdiction will dedicate 3% of their allocation from their American Recovery Act appropriations
 - 2. Each year thereafter, there will be a total annual additional contribution of \$500,000 from all jurisdictions, divided based upon population of each local government, as set forth in the below table:

Year	Sum	1	2	3	4	5	6	7	8	9	10
Y1*	\$2,035,058	\$1,119,523	\$156,815	\$59,474	\$197,669	\$200,671	\$175,240	\$108,699	\$16,967		
**Year 1 = 3% of American Rescue Plan funds											
Y2	\$515,000	\$228,605	\$86,559	\$63,702	\$32,683	\$31,274	\$57,117	\$12,579	\$2,482		
Y3	\$530,750	\$235,596	\$89,206	\$65,650	\$33,682	\$32,230	\$58,864	\$12,964	\$2,558		
Y4	\$546,672	\$242,664	\$91,882	\$67,619	\$34,693	\$33,197	\$60,629	\$13,353	\$2,635		
Y5	\$563,072	\$249,944	\$94,639	\$69,648	\$35,734	\$34,193	\$62,448	\$13,753	\$2,714		
Y6	\$579,965	\$257,442	\$97,478	\$71,737	\$36,806	\$35,219	\$64,322	\$14,166	\$2,795		
Y7	\$597,363	\$265,165	\$100,402	\$73,889	\$37,910	\$36,275	\$66,251	\$14,591	\$2,879		
Y8	\$615,284	\$273,120	\$103,414	\$76,106	\$39,047	\$37,364	\$68,239	\$15,028	\$2,966		
Y9	\$633,743	\$281,314	\$106,517	\$78,389	\$40,218	\$38,485	\$70,286	\$15,479	\$3,055		
Y10	\$652,755	\$289,753	\$109,712	\$80,741	\$41,425	\$39,639	\$72,395	\$15,944	\$3,146		
Sum	\$7,269,662	\$3,443,127	\$1,036,623	\$706,955	\$529,866	\$518,548	\$755,791	\$236,555	\$42,197		

SECTION 5. Severability.

If any part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance without such unconstitutional, illegal or invalid provision, and the remainder of this Ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this Ordinance or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council to establish a regional housing trust fund and other matters related thereto.

Adopted this 24th day of October 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
 Joseph Passiment, Chairman

ATTEST:



Sarah W. Brock, Clerk to Council

First Reading: September 26, 2022 / Vote 11:0

Second Reading: October 3, 2022 / Vote 10:0

Public Hearing: October 24, 2022

Third Reading: October 24, 2022 / Vote 10:0

WHEREAS, the Parties have agreed any and all donations, contributions and equity and/or debt investments will be made to CW on behalf of the Fund to support the mission outlined below and included in the IGA.

NOW, THEREFORE, for and in consideration of the mutual promises, undertakings and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged and affirmed by the Parties, it is agreed as follows:

1. MISSION

This Agreement has been established with the following intended mission in mind: to support the increased development and preservation of affordable and workforce housing in the Jasper- Beaufort region to include the jurisdictions governed by the Participating Government Entities.

2. PURPOSE AND SCOPE

This Agreement shall provide the structure, roles, responsibilities, and obligations of the Parties in connection with the establishment, operation, and administration of the Fund. CW will act as the Fund's fiscal agent and program administrator. CW staff will work with Participating Government Entities' designated staff to develop programs and policies that support the mission of the Fund. CW will provide operational, program, financial and administrative oversight, and support for the Fund. CW will contract these services through Beaufort County but will be responsible for all engagement and reporting outlined in the executed IGA.

3. OBJECTIVE

The Parties shall endeavor to work together to develop and establish policies and procedures that will promote and sustain the effective and efficient deployment of financing for the promotion of affordable and workforce housing.

4. TERM and TERMINATION

- A. *Effective*. This Agreement shall become effective on the date indicated above and continue for an initial term of three (3) years ("Initial Term"). Thereafter, unless notice of termination has been provided as set forth herein below, this Agreement shall automatically renew from year to year (each, a "Renewal Term").
- B. *Annual Evaluation Required*. Both Parties agree to an annual evaluation of this Agreement, where said evaluation shall occur between May 1st and June 15th of each year. CW shall provide the County with a written report no later than May 1, if May 1 falls on a weekend, then the report shall be provided on the Monday following May 1. The written report must include, but is not limited to, the following information related to (i) the Fund and (ii) projects financed by the Fund and pending projects intended to be financed by the Fund ("Projects") :
 - financial summary of the Fund for the previous year
 - an up-to-date financial summary of the loan origination fees and loan interest charged to borrowers by CW
 - list of borrowers from previous year and the funding amounts provided
 - an update on pending Projects
 - goals for the upcoming year
 - any additional information reasonably related to the Fund or Projects if requested by the

County in writing no less than ten (10) business days prior to May 1.

Upon receipt of the report, the County shall provide a copy of the report to each of the Participating Government Entities. After review, if additional information reasonably related to the Fund or Projects is desired by the County, then the County must submit a written request for said information to CW and CW must provide a written response within ten (10) business days.

1. *First Year Evaluation.* The Parties mutually agree that the required annual evaluation as provided for in this Section is not required in the first year of this Agreement, said first year evaluation period being defined as the evaluation that would occur in 2023, of the Initial Term; but shall be required in every following year pursuant to this Agreement.
 2. *Termination Resulting from Evaluation.* Following the completion of the annual evaluation, if either Party desires to terminate this Agreement, the Party that desires to terminate shall provide the other Party with thirty (30) calendar days prior written notice of desired termination, provided that the notice of termination under this Section must be delivered to the other Party on or before June 30.
- C. *Termination Without Cause.* Upon at least six (6) months prior written notice, either Party may terminate this Agreement at the end of the Initial Term or any Renewal Term for any reason.
- D. *Termination for Cause.* During the Initial Term or any Renewal Term, this Agreement may only be terminated for cause if a Party breaches its obligations hereunder and fails to cure such breach within thirty (30) calendar days of receipt of a written notice of the breach from the other Party.
- E. *Termination for Non-Appropriation of Funds.* Either Party may terminate this Agreement upon thirty (30) calendar days prior written notice to the other Party in the event that sufficient appropriation of funds from any source (whether federal, state, county or other source) are not made or sufficient funds are otherwise unavailable to the Participating Government Entities and the lack of funding does not allow the County to pay (i) the minimum annual contribution to the Fund set forth on Exhibit B attached hereto and incorporated herein by reference (the "Minimum Annual Contributions"); or (ii) the Administrative Fee due to CW under this Agreement. In the event that sufficient funding is not appropriated, the County shall not be responsible for providing supplemental funding if any one Participating Government Entity fails to acquire the required funds, and any lack of funding shall not be deemed a breach of this Agreement as provided for in Section 4(D). If this Agreement is terminated under this Section, CW shall be compensated for all necessary and reasonable direct costs of performing the services provided to the date of such termination. CW will not be compensated for any other costs in connection with a termination for non-appropriation. CW will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits.
1. *Alternative to Termination.* If the Parties have the right to terminate the Agreement under Section 4(E) but neither Party elects to terminate within thirty (30) days after the County provides notice to CW of a funding deficiency, then the Parties agree to mutually cooperate to resolve the deficiency of funding by amending this Agreement. Resolution includes, but is not limited to, amendment to the Administrative Fee, amendment to Exhibit B, or any other mutually agreeable option to allow for the Fund and this Agreement to continue.
- F. *Mutual Termination.* In addition to any other rights to termination set forth in this Agreement, the Parties may mutually agree to terminate this Agreement prior to the expiration of any term.

5. ADMINISTRATIVE FEE

- A. *Administrative Fee Generally.* During the Initial Term and each Renewal Term, unless otherwise mutually agreed by the Parties, the County will pay CW an administrative fee (hereafter referred to as the "Administrative Fee"), as specified herein below, to provide the staffing, programming, technical services and expertise to establish and manage the Fund pursuant to this Agreement. The Administrative Fee shall be paid annually, in advance, for the forthcoming year within ten (10) business days following each anniversary date of this Agreement.
- B. *Administrative Fee Rate.* The Administrative Fee for the initial year of services, which shall be due within ten (10) business days of the Effective Date, will be equal to 10% of the Minimum Annual Contribution applicable for Year 1, thus resulting in an Administrative Fee of \$203,505.80. For each subsequent year, the Administrative Fee shall be equal to 10% of the Minimum Annual Contribution amount required to be paid on or before the anniversary date for the forthcoming year.
1. *Additional Funding Beginning of Year.* If the Participating Government Entities increase the aggregate contribution paid to the Fund at the beginning of a year above the Minimum Annual Contribution required for such year, the Administrative Fee shall be calculated using the actual contribution amount rather than the Minimum Annual Contribution amount.
 2. *Additional Funding After Beginning of Year.* If any or all of the Participating Government Entities desire to contribute additional funds to the Fund after the beginning of the year (after the annual Administrative Fee for such year has been calculated and paid), the Parties agree to work cooperatively to determine if an Administrative Fee is to be paid to CW from the additional contribution. The Parties agree the aforementioned determination of additional Administrative Fee must be made *prior* to such additional funds being contributed. If the Parties do not mutually agree to the amount of the additional Administrative Fee for such additional funds being contributed, then CW is under no obligation to accept such funds. As information only and not as a binding commitment of either Party, in most circumstances CW would expect to be compensated at a similar rate as stated in Section 5(B) for the administration and deployment of additional funding contributed after the beginning of the year.
- C. *Other Compensation to CW.* All other compensation to CW will be in the form of loan origination fees and loan interest charged to borrowers pursuant to loans approved and deployed from the Fund. For the avoidance of doubt, CW is entitled to all loan origination fees and loan interest charged to borrowers, and none of the Government Participating Entities expect to receive any portion of such fees and interest.

Except for payment of the Administrative Fee and as otherwise expressly provided in this Agreement, CW shall receive no other compensation from the County or the Participating Government Entities for the services provided under the terms of this Agreement. Nothing in this Agreement shall preclude CW from charging or collecting a reasonable origination fee for processing applications or interest spread from borrowers for financing.

- D. *Disclosure of Third Party Compensation.* As used in this Section, "Interested Person" means any individual or entity that desires to be involved in a Project or would profit from a Project. Prior to any substantial steps in any Project, specifically prior to CW presenting any Project to any committee or council, CW shall disclose if CW has ever accepted any form of compensation, monetary donation, or gift from any Interested Person related to such Project. For the avoidance of doubt, the foregoing disclosure requirement is not intended to require CW to disclose funding sources and donors who have contributed to CW's operating and capital funds that CW may choose to utilize in such Project (consistent with CW's obligations to under Section 6(A)(4)(b)), nor is it intended to require CW to disclose prior arm's length business transactions with a third party in unrelated projects when the third party may also be involved

in such Project, but rather it is intended to require CW to disclose donations, gifts, or non-arm's length compensation from Interested Persons which could be reasonably perceived as being given by the Interested Person to gain favor with CW or to induce CW to involve the Interested Person in the Project. Following completion of any Project, CW shall not at any time accept from any Interested Person any form of non-arm's length compensation, monetary donation, or gift as a result of, or pursuant to, a Project or as a result of negotiations without disclosing said aforementioned compensation to the County in writing. The terms of this Section are not to be interpreted to impede on CW's ability to obtain donations (in cash or other property), funding, or arm's length compensation from third parties. For the avoidance of doubt, when CW utilizes funds from its operating and capital funds to support a Project, CW's monies will be segregated from the Fund's account and will not be commingled with the Fund.

6. OTHER RESPONSIBILITIES AND OBLIGATIONS OF THE PARTIES

In exchange for the Administrative Fee and additional costs set forth in Section 5 of this Agreement, CW will provide the operational, administrative, and support services as part of its Fund Management activities as described in this Section. The County acknowledges that it must provide necessary support to CW for the Fund to be successful, said support is defined in this Section.

A. *CW Responsibilities and Obligations.*

1. *Administrative Support.* CW agrees to provide the following Administrative Support:
 - a. Provide appropriate staff, office space, equipment and supplies for CW employees who are providing administrative support and management to the Fund;
 - b. CW will host all information about the Fund on its website and link to Participating Government Entity sites as needed;
 - c. Provide human resource support and staff to support and manage the Fund to include but not limited to marketing, lending, underwriting, compliance, oversight, fundraising and management;
 - d. Hire a Regional Program Director to manage and run the day-to-day operations of the fund located in Jasper – Beaufort area; and
 - e. CW's CEO will provide direct leadership to the Fund and peer level support to any staff defined by the County and Participation Government Entities.

2. *Financial Support.* CW agrees to provide the following Financial Support:
 - a. Act as the fiscal agent for the Fund, including managing all operating and program funds in a defined bank account, accepting funds on the Participating Government Entities behalf to support the Fund, managing accounts payable and receivables on behalf of the Fund, managing and preparing financial reports for designated staff and any other parties defined by the County and Participating Government Entities, including providing an annual audit, and providing other financial reports;
 - b. Enter into agreements on behalf of the Fund where necessary to receive funding and/or investments;
 - c. Review loan applications for funding based on the Funds policies;
 - d. CW will enter into approved loan and/or funding agreements on behalf of the Fund;
 - e. The Fund will be a part of CW's consolidated financials under a specified reserve account;
 - f. CW will provide quarterly financial statements for the Fund along with any defined reports to designated staff.

3. *Loan Program Support.* CW agrees to provide the following Loan Program Support:

- a. Providing underwriting services for the Fund utilizing CW's Loan Policies and Procedures;
 - b. Utilizing CW's affordable housing financing and credit policies to underwrite loan applications;
 - c. Providing participation and co-lending opportunities with CW's CDFI funding where appropriate;
 - d. Working with the Participating Government Entity staff to present eligible projects to CW's Loan Committee for analysis and recommendations;
 - e. Present final credit memos and funding recommendations to the Fund's Board as outlined in the IGA;
 - f. Preparing Loan Closing packets;
 - g. Closing loans approved;
 - h. Deploying the Fund's approved funding to eligible borrowers;
 - i. Managing the Fund's loan portfolio including loan loss reserves, loan maintenance, collections and notices; and
 - j. Providing the County with quarterly portfolio status reports.
4. *Other Program Support.* CW agrees to provide other Program Support as follows:
- a. CW will work with the Participating Government Entities to define and jointly agree upon future activities that may include, but are not limited to, other financing and equity like product development;
 - b. CW will leverage additional operating and capital funds from other public and private sources to support regional objectives;
 - c. CW and the participating Government Entities will work together to support advocacy and policy action; and
 - d. CW will work with the participating Government Entities in providing education and outreach to support the mission of affordable housing.
- B. *County Responsibilities and Obligations.*
1. *Administrative Support.* County agrees to provide Administrative Support as follows:
- a. Execute the IGA with all Participating Government Entities to establish the Fund;
 - b. Act as the lead administrator of the Fund and enter into this Agreement with CW to administer the Fund;
 - c. Pay the Administrative Fee, in accordance with Section 5 above, to CW for the aforementioned activities and support;
 - d. Cause the Participating Government Entities to collectively contribute the applicable Minimum Annual Contribution to the Fund for each year during any term of this Agreement. If the Participating Government Entities do not collectively contribute sufficient funds to meet the Minimum Annual Contribution, either Party may terminate this Agreement pursuant to Section 4(E);
 - e. Working with CW to finalize the Fund's Program budget based on public and private commitments;
 - f. Providing approval and authorization to CW for loan fund expenditures;
 - g. Reimbursing CW for any expenses associated with the Fund not covered by the Administrative Fee, including, but not limited to, expenses associated with special programs, audits, legal services, public relations activities, and marketing; and
 - h. Establishing a Board that will provide guidance and direction to CW to support the Fund and its mission.

2. *Fundraising Support.* County agrees to provide Fundraising Support as follows:
 - a. Identifying and raising revenue sources to finance affordable and workforce housing;
 - b. Identifying and raising operating support for the Fund in partnership with CW; and
 - c. Making collective fundraising requests for public and private sources and exploring revenue sources to support the Fund's activities and programs.

3. *Programmatic Support.* County agrees to provide Programmatic Support as follows:
 - a. Providing funds to finance affordable housing projects based on the Fund's Program Policies;
 - b. As outlined in the IGA, an Oversight Board will be established to provide guidance and oversight of the Fund;
 - c. Participating Government Entities may recommend projects for financing to the CW Loan Officer and Loan Committee for consideration;
 - d. The established Board will review loans presented by CW's Loan Officer and Loan Committee recommended for financing consideration;
 - e. Participating Government Entities may provide additional funding and or support from other sources to a Project to include but not limited to CDBG, HOME, guarantees, loan loss reserve; and
 - f. Participating Government Entities in partnership will develop a Fund marketing and PR strategy.

- C. *Parties' Joint Responsibilities and Obligations.* Where appropriate, the Parties agree to jointly engage in the following:
 - a. Evaluating and underwriting Projects with both CW and County funding sources in mind;
 - b. Ensuring Projects meet program requirements;
 - c. Maintaining affordability controls;
 - d. Annual monitoring of funded Projects;
 - e. Advocating for policies that promote and preserve affordable and workforce housing;
 - f. Making joint funding requests;
 - g. Cultivating housing partners, developers, and advocates;
 - h. Providing technical assistance to developers and borrowers;
 - i. Increasing educational opportunities, including, but not limited to, developer forums, workshops, housing summits, etc.; and
 - j. Where appropriate, jointly using logos and co-branding in press releases, marketing materials, and other documents and communications.

7. MISCELLANEOUS TERMS

- A. *Notices.* All notices required or permitted under this Agreement shall be in writing. Notices shall be deemed delivered when (a) personally delivered; (b) five (5) days after deposit in U.S. registered mail, postage prepaid, addressed to the other party; (c) one (1) day after facsimile transmission, provided that a hard copy of the facsimile transmission is promptly mailed in the manner set forth in subsection (b) above; or (d) receipt of an email is acknowledged by the recipient by reply email (provided that an automatic "read receipt" or "out of office" reply does not constitute acknowledgment of receipt for purposes of this Section). All notices and payments shall be sent to the address shown below or to such other address as may from time to time be designated by written notice.

If to County, To:

Beaufort County
 Attn: County Administrator
 P.O. Drawer 1228
 Beaufort, SC 29901
 Phone: 843-255-2027
 Email: egreenway@bcgov.net

To County, With Copy to:

Beaufort County
 Attn: County Attorney
 P.O. Drawer 1228
 Beaufort, SC 29901
 Phone: 843-255-2055
 Email: bward@bcgov.net

If to CW, To:

CommunityWorks
 Attn: LaTorrie Geer
 PO Box 17826
 Greenville, SC 29606
 Phone: 864-235-6331
 Email: lgeer@cwcarolina.org

To CW, With Copy to:

Fox Rothschild LLP
 Attn: Henry M. Gallivan, Jr.
 2 W. Washington Street
 Suite 1100
 Greenville, South Carolina 29601
 Email: hgallivan@foxrothschild.com

- B. *Default.* Pursuant to the terms and conditions of this Agreement, in the event of a default by either Party, the non-defaulting Party may seek any available remedy in equity or at law as a result of such failure to perform, including but not limited to, any action for specific performance of obligations recited in this Agreement; but the Parties mutually agree that the County or the Participating Government Entities shall not be forced to appropriate funding for the Fund. The defaulting party shall thereafter not be entitled to any additional compensation arising under this Agreement.
- C. *Relationship of Parties.* The Parties hereto intend that no master/servant employer/employee, or principal/agent relationship will be created by this Agreement. Nothing contained herein creates any relationship between the Parties other than that which is expressly stated herein. The agents and employees of CW and the methods utilized by CW in fulfilling its obligations hereunder shall lie solely and exclusively with CW; and CW's agents and employees shall not be considered agents or employees of the County for any purpose. No person employed by CW shall have any benefits, status, or right of employment with the County.
- D. *Indemnification.* The Parties mutually agree that to the fullest extent provided by law, each party shall indemnify, defend, and hold harmless, and its respective agents, employees, and volunteers, from and against any and all claims, demands, lawsuits, or other actions that may arise out of this Agreement from the actions or negligence of its employees, agents, or volunteers that may be the basis for such claim, demand, lawsuit, or other similar action.
- E. *Entire Agreement.* This Agreement contains the entire agreement between the Parties pertaining to the subject matter contained herein and fully supersedes all prior written or oral agreements and understanding between the Parties pertaining to such subject matter.
- F. *Captions.* The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit, or define the test of any section or any subsection hereof.
- G. *Amendment.* This Agreement cannot be amended orally or by a single party. No amendment or change

to this Agreement shall be valid unless in writing and signed by both Parties.

- H. *Counterparts.* This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The Parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that the scanned or photographed signatures and initials to this Agreement shall be deemed valid and binding upon the Parties as if the original signatures and initials were present on the Agreement.
- I. *Binding Nature and Assignment.* This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs, administrators, representatives, and assigns. However, this provision shall not be construed to permit or allow assignments not otherwise allowed under this Agreement.
- J. *Waiver.* No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either Party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either Party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.
- K. *Governing Law and Severability Clause.* This Agreement is governed and interpreted in accordance with the laws of the State of South Carolina. Any and all disputes between the Parties that may arise pursuant to this Agreement shall be brought in the courts of the State of South Carolina in Beaufort County or, if it has or can acquire jurisdiction, in the United States District Court for the District of South Carolina. If for some reason a court finds any provision of the Agreement, or portion thereof, unenforceable, that provision of the Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have affixed their signature hereto the date first written hereinabove.

COUNTY OF BEAUFORT


 Eric L. Greenway
 Beaufort County Administrator

COMMUNITYWORKS


 LaTorie Geer
 Chief Executive Officer

EXHIBIT A

STATE OF SOUTH CAROLINA)	
)	INTERGOVERNMENTAL AGREEMENT
COUNTY OF JASPER)	REGARDING AFFORDABLE HOUSING
COUNTY OF BEAUFORT)	

THIS INTERGOVERNMENTAL AGREEMENT is entered into with an effective date of October 28, 2022 by and among Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, the City of Beaufort, the Town of Port Royal, the City of Hardeeville and the Town of Yemassee (collectively referred to as "the Parties").

WHEREAS, the member Parties of Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, and City of Hardeeville belong to a regional association that seeks to identify problems and opportunities that face the entire southern low country as identified by each member jurisdiction known collectively as the Southern Lowcountry Regional Board ("SoLoCo"); and

WHEREAS, the member Parties of Beaufort County, Jasper County, the Town of Hilton Head Island, the Town of Bluffton, and the City of Hardeeville, known collectively as the Southern Lowcountry Regional Board ("SoLoCo"), desired to expand the regional housing trust fund study area by inviting the member parties making up the Northern Regional Plan Committee of City of Beaufort, Town of Port Royal and Town of Yemassee to also participate in the initiative; and

WHEREAS, the Parties recognize that decent, affordable housing is important in that it fulfills a basic human need for shelter, contributes to the well-being of families, provides stability which may lessen the catalysts of physical illness and mental illness and stress, and is a critical component of the economic vitality of the region to attract and retain employees in the local workforce; and

WHEREAS, private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent; and

WHEREAS, the Parties commissioned an analysis of regional housing needs and a recommendation report which was completed August 2021 by Asakura Robinson and presented to SoLoCo; and

WHEREAS, the Asakura Robinson report recommended the establishment of a non-profit 501c(3) Regional Housing Trust Fund ("RHTF") in accordance with legislation passed by the South Carolina State Legislature known as the "William C. Mescher Local Housing Trust Fund Enabling Act" which, inter alia, allows for the establishment of Regional Housing Trust Funds among local governments; and

WHEREAS, the purpose of this intergovernmental agreement (hereinafter "Agreement") is to authorize the parties to jointly create, fund, and operate a regional housing trust fund and an Oversight board to improve affordable housing;

NOW, THEREFORE, for and in consideration of these premises and the mutual covenants set forth below, the Parties hereto hereby agree as follows:

Section 1 Definitions.

For purposes of this Agreement:

- a. "Affordable housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed one hundred percent (100%) of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD). Projects serving households with income at or below 60% of the Annual Median Income will receive priority consideration.
- b. "Regional housing trust fund" (RHTF) means a multi-jurisdictional government fund separate from the general fund and established jointly by the governing authorities of one or more municipalities or county governments with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.
- c. "Special needs housing" means housing or shelter provided by private or public entities including privately operated elderly housing, nursing homes, community residential care facilities, and other special needs population housing facilities regardless of purpose or type of facility.

Section 2 Priorities.

The priorities identified in the Asakura Robinson study of August 2021 are hereby adopted as follows:

- a. Providing accessible, affordable housing to the region to support the workforce in the service economy, as well as others with high housing cost burdens.
- b. Overcoming barriers to affordable development, such as financial gaps and land availability.
- c. Ensuring a regional approach for affordable housing that addresses the needs of each jurisdiction, while meeting important strategic goals for housing location.
- d. Understanding the tools and resources available to Housing Trust Funds through various state and federal laws and regulations.
- e. Identifying a stable and reliable dedicated revenue source.

Section 3 Funding.

- a. SC Code Section 31-22-30, as amended, provides that "a local government, including a municipality or county, may jointly form a regional housing trust fund by ordinance. A regional housing trust fund created under this chapter is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government".
- b. The Parties agree the RHTF established by this Agreement shall be funded for a period of ten (10) years with annual contributions by the Parties apportioned based on annual census population numbers. See Attachment A for Year 1 apportionment. Apportionment for Years 2-9 shall be

updated annually after the population census numbers are released and documented via written amendment to this Agreement to be signed by all the Parties.

- c. Funding shall be committed via the Parties' budgeting authority. Sources of these funds include, but are not limited to, one or more of the following:
 - i. donations;
 - ii. bond proceeds; and
 - iii. grants and loans from a state, federal, or private source.
 - iv. any other public funds which may be lawfully used to support Affordable Housing.

- d. Alternate sources of funding for the RHTF
The Parties may alter a source of funding for the regional housing trust fund by amending the ordinance(s) that establish financing for the regional housing trust fund, but only if sufficient funds exist to cover the projected debts or expenditures authorized by the regional housing trust fund in its budget. State law does not create, grant, or confer a new or additional tax or revenue authority to a local government or political subdivision of the State unless otherwise provided by the law of this State. Each Party will make an initial contribution to the RHTF based on the Chart outlined in Attachment A.

- e. The Parties shall safeguard the fund in the same manner as the general fund or a separate utility fund established for specific purposes. The RHTF may be included in the required financial expense reports or annual audit for each local government.

- f. The Parties may allocate funds to a program that promotes the development or rehabilitation of affordable housing as defined in the state enabling legislation. Regarding the distribution of funds from a regional housing trust fund, preference must be given to a program or project that promotes the development or rehabilitation of affordable housing for an individual or family with an annual income at or below one hundred percent of the median income with priority consideration being given to projects serving those individuals or families with incomes at or below sixty (60) percent of the median income for the local area, adjusted for family size according to current data from HUD, the development or rehabilitation of special needs housing, or the development or rehabilitation of homeless housing.

- g. RHTF funds may be used to match other funds from federal, state, or private resources, including the State Housing Trust Fund. The Parties shall seek additional resources for housing programs and projects to the maximum extent practicable. The Parties shall administer the RHTF through a new or existing nonprofit organization to encourage private charitable donation to the funds. Where a regional housing trust fund receives such a donation, the donation must be used and accounted for in accordance with the purpose as established by the RHTF Oversight Board and in accordance with State statutes.

- h. A regional housing trust fund established, utilized, or funded under this Agreement and enabling ordinances must provide an annual report to the Parties that created the fund and attested to this agreement. Minimum requirements for such said report is outlined in Attachment B. The

regional housing trust fund director must offer to present to each Parties' Council the annual report details and make the report available to the public by posting it on the appropriate website of the member local governments. Any alteration or amendment to such governing documents must conform to the provisions of the enabling legislation

- i. The Parties agree that projects funded by the RHTF will be judged on their merits and that funding and location of those projects will vary from year to year; and

Section 4 Operations.

- a. Each Party shall appoint one (1) representative to serve a two-year term on the Regional Housing Trust Oversight Board ("the Board") for so long as they remain a financial contributing party. The director of the regional housing trust fund will serve as Ex Officio member of the Board. The ninth appointee would be an at large representative agreed upon by the Parties making the membership a total of nine representatives. Board Members shall represent a diverse field of experts familiar with affordable housing, real estate, and local government housing priorities. No elected officials may serve on the Oversight Board.
- b. Meetings will be held six times per year.
- c. Board responsibilities include:
 - i. Providing feedback on community needs, serving as an advocate for affordable housing and the RHTF, connecting the Administrative Operating Contractor with community resources, and acting as a direct liaison between the RHTF and the local government entity.
 - ii. Drafting and adopting bylaws for the operation of the Board within six (6) months of the creation of the RHTF; By-laws shall address how a member Party may terminate their participation and funding, including how that termination will or could impact RHTF projects in their jurisdiction, and the methodology for complete dissolution of the RHTF if a voting majority of the Parties agree; By-laws shall address how a quorum is established, a meeting and reporting schedule, and any other requirements as defined by State statute
 - iii. Make decisions on how the RHTF will operate to include whether to establish a 501(c)3, hire employees, contract with a Certified Development Financial Institution (CDFI), or other method agreed upon by a majority of the Board, manage the operations of the RHTF to include hiring, firing, potential contracts, and other items that require approval as outlined in adopted bylaws.
 - iv. Allocating other permissible funds to projects including, but not limited to, impact fee waivers, water and sewer impact fees,
 - v. Develop an annual budget with projected revenues and expenditures.
 - vi. Define types of projects eligible for funding.

Section 5 Term and Termination.

The term of this Agreement shall be ten (10) years from the date of full execution by the Parties which shall be understood to be the date first set forth above. This Agreement may be renewed for another ten (10) year term as agreed to in writing by the Parties. Termination of the Agreement in whole may only occur via dissolution of the RHTF.

Section 6 Fiscal Agent.

Beaufort County will contract with Community Works to serve as the fiscal agent and will manage the financial relationship with the Parties, Community Works and the Board. Beaufort County will provide financial reports on a quarterly basis to the Parties.

Section 7 Notices.

All notices required or permitted under this Agreement shall be in writing. All notices and payments shall be sent to the official main address of the member parties or to such other address as may from time to time be designated by written notice or via email with confirmation of email delivery receipt. Notices shall be deemed delivered when five (5) days after deposit in U.S. registered mail, postage prepaid, addressed to the other party or upon confirmation of email delivery receipt.

Section 8 Governing Law and Severability Clause.

This Agreement is governed and interpreted in accordance with the laws of the State of South Carolina. Any and all disputes between the Parties that may arise pursuant to this Agreement shall be brought and fully litigated in a court of competent jurisdiction located in Beaufort County, South Carolina. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such term, covenant or condition of this Agreement shall be valid and enforceable to the full extent permitted by law. The stricken provision of this Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

Section 9 Assignment.

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs, administrators, representatives, and assigns. However, this provision shall not be construed to permit or allow assignments not otherwise allowed under this Agreement.

Section 10 Miscellaneous.

This IGA expresses the complete agreement and understanding of the undersigned parties, and any and all prior or contemporaneous oral agreement or prior written agreement regarding the subject matter hereof shall be merged herein and then extinguished. The captions and headings used in this IGA are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this IGA. As used in this IGA, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. This IGA may be executed in multiple counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute the same instrument.

Section 11 Authorization and Execution.

This AGREEMENT is signed by the authorized representatives of the Parties set forth below, and is effective as of the date first set forth above.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth below.

BEAUFORT COUNTY Erik L. Greenway date: 10-28-22

JASPER COUNTY: [Signature] date: 11/21/2022

THE TOWN OF HILTON HEAD ISLAND: [Signature] date: 11-7-2022

THE CITY OF BEAUFORT: [Signature] date: 10-28-22

THE TOWN OF BLUFFTON: [Signature] date: 11/9/2022

THE TOWN OF PORT ROYAL: [Signature] date: 11/1/22

THE CITY OF HARDEEVILLE: [Signature] date: 11/14/2022

THE TOWN OF YEMASSEE: [Signature] date: 11/21/2022

Attachment A

Year Sum	Beaufort County	Hilton Head Island	Bluffton	Port Royal	City of Beaufort	Jasper County	Hardeeville	Yemassee	
Y1*	\$2,035,058	\$1,119,523	\$156,815	\$59,474	\$197,669	\$200,671	\$175,240	\$108,699	\$16,967

***Year 1 = 3% of American Rescue Plan funds**

Y2	\$515,000	\$228,605	\$86,559	\$63,702	\$32,683	\$31,274	\$57,117	\$12,579	\$2,482
Y3	\$530,750	\$235,596	\$89,206	\$65,650	\$33,682	\$32,230	\$58,864	\$12,964	\$2,558
Y4	\$546,672	\$242,664	\$91,882	\$67,619	\$34,693	\$33,197	\$60,629	\$13,353	\$2,635
Y5	\$563,072	\$249,944	\$94,639	\$69,648	\$35,734	\$34,193	\$62,448	\$13,753	\$2,714
Y6	\$579,965	\$257,442	\$97,478	\$71,737	\$36,806	\$35,219	\$64,322	\$14,166	\$2,795
Y7	\$597,363	\$265,165	\$100,402	\$73,889	\$37,910	\$36,275	\$66,251	\$14,591	\$2,879
Y8	\$615,284	\$273,120	\$103,414	\$76,106	\$39,047	\$37,364	\$68,239	\$15,028	\$2,966
Y9	\$633,743	\$281,314	\$106,517	\$78,389	\$40,218	\$38,485	\$70,286	\$15,479	\$3,055
Y10	\$652,755	\$289,753	\$109,712	\$80,741	\$41,425	\$39,639	\$72,395	\$15,944	\$3,146
Sum	\$7,269,662	\$3,443,127	\$1,036,623	\$706,955	\$529,866	\$518,548	\$755,791	\$236,555	\$42,197

Attachment B

Reporting Requirements

The annual report will be provided to RHTF Oversight Board by the Operating Administrator and/or staff responsible for managing and administering the Fund as outlined in a separate operating agreement between the two parties. The annual report must include, at a minimum, the following metrics:

- 1) **Impact Data:** the project names and location funded in each participating jurisdiction, the amount of funding provided per project, the number and type of dwelling units built/or preserved in each funded project along with an affordability percentage breakdown, and demographic data where available.
- 2) **Financial Data:** the accounting of revenues and expenditures of the fund, additional funding raised to support the RHTF including additional project capital and operating investments, project leveraging amounts and other inkind or financial support provided to support the purpose of the fund.
- 3) Where feasible and available, success stories and project highlights, including pictures and testimonials.

Exhibit B
Minimum Annual Contributions

Year Sum	
Y1	\$2,035,058
Y2	\$515,000
Y3	\$530,750
Y4	\$546,672
Y5	\$563,072
Y6	\$579,965
Y7	\$597,363
Y8	\$615,284
Y9	\$633,743
Y10	\$652,755
Sum	\$7,269,662

**BEAUFORT JASPER HOUSING TRUST
BYLAWS**

**Beaufort Jasper Housing
Trust ByLaws**

ARTICLE ONE

ARTICLES OF INCORPORATION, LOCATION, CORPORATE SEAL, AND FISCAL YEAR

Articles of Incorporation. BEAUFORT JASPER HOUSING TRUST

The powers of the CORPORATION and the board and officers, and all matters concerning the conduct and regulation of the organization's affairs shall be subject to its Articles of Incorporation as amended from time to time. The South Carolina "William C. Mescher Local Housing Trust Fund Enabling Act" authorizes a local government to create, fund, and operate a local or regional housing trust fund to promote affordable housing development individually or jointly.

1.1. Purpose.

Beaufort Jasper Housing Trust, Inc. (hereafter "Housing Trust") is organized and always shall be operated exclusively for purposes within the meaning of Section 501 (C) (3) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code" or "Internal Revenue Code" which shall include any subsequent corresponding Code of Federal Tax Law.) The Housing Trust was organized by an Intergovernmental agreement approved by Beaufort and Jasper Counties, the Town of Hilton Head Island, Port Royal, Bluffton, Hardeeville, Yemassee and the City of Beaufort. Through its agreement, appointed members serve as an Oversight Board authorizing the parties to jointly create, fund, and operate a regional housing trust fund to support affordable housing in the region and to:

- A. Finance and help facilitate new affordable and workforce housing units, or rehabilitate or preserve existing housing units, for households whose income does not exceed one hundred percent (100%) of the area median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD). Projects serving households with income at or below 60% of the Annual Median Income will be prioritized.
- B. Provide the financing, funding, and resources necessary to support the production and preservation of affordable and workforce housing for the growing Beaufort County and Jasper Counties.
- C. Increase awareness of existing and new funding and financial products that serve:
 - a. Jasper County, Beaufort County, Town of Hilton Head, Town of Port Royal, City of Hardeeville, Town of Bluffton, Town of Yemassee, and the City of Beaufort.
- D. Define and implement dedicated, stable, and reliable revenues to support the fund's sustainability and future financing opportunities for affordable and workforce housing production and preservation.
- E. Leverage other funding from banks, corporations, philanthropic institutions, and federal, state, and local governments.
- F. Consider and implement innovative ways to finance and address the growing demand for workforce housing needs, including but not limited to employer-based housing initiatives and mixed-income and mixed-use projects that promote new housing, jobs and transportation hubs.
- G. Pursue all charitable activities related to the preceding specific purposes.
- H. All activities of the Corporation shall support the following priorities:
 - a. Providing accessible, affordable housing to the region to support the area's essential workforce and others with high housing cost burdens.
 - b. Overcoming barriers to affordable development, such as high-cost financing, financial gaps, and land availability.
 - c. It ensures a regional approach for affordable housing that addresses the needs of each jurisdiction while meeting critical strategic goals for housing location.
 - d. It understands the tools and resources available to housing trust funds through various state and federal laws and regulations.
- I. Notwithstanding any other provision of the Articles or the Bylaws, the Corporation shall not carry on any activities not permitted (a) by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1986 as amended (or the corresponding provision of any future United States Internal Revenue Law), or (b) by corporation contributions which are deductible under Section 170 (c) (3) of the Internal

Revenue Code of 1986 as amended (or applicable provisions of any future United States Internal Revenue Code, law or regulation).

1.3 Location. The principal office of the Corporation is in Beaufort County or Jasper County, South Carolina. The directors may change the location of the main office effective upon filing a notice of such change with the Secretary of State of South Carolina.

1.4 Corporate Seal. The Board of directors may adopt and alter the seal of the Corporation.

1.5 Fiscal Year. The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

ARTICLE TWO

MEMBERS AND BOARD ACTIONS

The Corporation may have members, who will be non-voting members but entitled nonetheless to notice of all regular meetings of the Board to be kept apprised of Corporation activities, provide appropriate input to the Board and the like. The Board shall take all corporate action per the nonprofit corporation laws of the State of South Carolina, the Articles of Incorporation, and these Bylaws. The above notwithstanding, the Board is authorized to adjust this Article from time to time regarding its members' rights, duties, and obligations.

ARTICLE THREE

MEMBER SPONSORSHIP

3.A. Certain entities have provided or may provide support to fund the creation and operation of the Corporation. These organizations shall be deemed Sponsors of the Corporation and shall each be authorized to nominate a member to Board Membership. The Corporation intends that the Board members represent the entire geographic region. Founding Sponsors are the City of Beaufort, Beaufort County, Town of Bluffton, City of Hardeeville, Town of Hilton Head, Town of Port Royal, and Town of Yemassee, and Jasper County, Additional Sponsors may be added from time to time upon Board approval.

ARTICLE FOUR

BOARD MEMBERS, BOARD POWERS, MEMBERSHIP, TERMS

POWERS AND MEMBERSHIP

4.A.1. Powers. All corporate powers and the affairs of the Corporation shall be exercised by or under the authority of the Board of Directors. The Officers of the Corporation will be a Chairman, Vice Chairman, Treasurer/Secretary, and such other officers as the Board prescribes.

4.A.2. Board of Directors: Number, Appointment, and Eligibility

- a. The Corporation's Board of Directors is comprised of nine (9) members.
- b. Each Sponsor of the Corporation outlined in section 3.A of these bylaws shall appoint one (1) representative to serve a three-year term on the Housing Trust Oversight Board ("the Board") for so long as they remain a financial contributing party. The Director of the Housing Trust will serve as an Ex Officio member of the Board. The ninth appointee shall be an at-large representative who is agreed upon by the combined sponsors to make the membership of the board a total of nine representatives. Board Members shall represent a diverse field of experts familiar with affordable housing, real estate, and local government housing priorities. No elected officials may serve on the Oversight Board.
- c. The Oversight Board will be comprised of the following:

AFFILIATION

Beaufort County Appointee
 Jasper County Appointee
 Town of Hilton Head Appointee
 Town of Bluffton Appointee

City of Hardeeville Appointee
 City of Beaufort Appointee
 Town of Port Royal Appointee
 Town of Yemassee Appointee
 Southern Lowcountry Regional Board Appointee (at large)

d. The Corporation is committed to a policy of fair representation on the Board of Directors, which does not discriminate based on race, physical handicap, sex, color, ethnicity, religion, sexual orientation, or age.

4.A.3. Terms of Office: The terms of office of the initial Directors shall be staggered so that approximately one-third (1/3) of the Directors shall serve an initial term of one (1) year, approximately one-third (1/3) of the initial Directors shall serve an initial term of two (2) years. The remaining Directors shall serve initial terms of three (3) years. Any Directors elected after that would serve a three (3) year term or until a qualified successor is elected. Directors can be appointed for successive terms. The Board shall elect a Chair, Vice-Chair, and a Secretary/Treasurer by a majority vote of the Board of Directors at its annual meeting.

4.A.4. Resignation and Replacement of Resigning Board Members. A Board Member may resign at any time by delivering written notice to the Board of Directors, the Chairman, or the Secretary. A resignation is effective when the notice is received unless the notice specifies a later effective date. The Chairman may fill the vacancy with guidance from the Sponsoring entity from which a Board member vacated the seat. The Sponsor is asked to appoint a person to be considered for election to the Board to complete any unexpired portion of the then-current term of the resigning Director.

4.A.5. Removal of Board Members. The sponsoring jurisdiction will be notified of the removal of a board member. A director may be removed without cause by a majority vote of the Board. Failure of a director to be present at three (3) three regularly scheduled Board meetings in any 12 months period will result in their removal from the Board by a vote of fifty-one percent (51%) members of the Board of Directors.

4.A.6. Compensation. No Board Member will receive directly or indirectly any salary, payment, or gift from the Housing Trust Fund or its partnering jurisdictions.

B. MEETINGS AND ACTION OF THE BOARD

4.B.1 Regular and Special Meetings. If the date, time, and place of a Board of Directors meeting is fixed by the bylaws or the Board, then the meeting is a Regularly Scheduled meeting. All other meetings are Special Meetings. The Board of Directors may hold regular or special meetings in or out of the State of South Carolina at times and places as the Board may determine.

4.B.2. Meeting Conduct. Meetings of the Board and all committees shall be conducted per Roberts Rules of Order.

4.B.3. Manner of Board Participation. The Board may permit any or all Directors to participate in a regular or special meeting through any means of communication by which all Directors participating may hear each other simultaneously during the session. A Director participating in a discussion by this means is deemed to be present at the meeting.

4.B.4. Action without Meeting. Action required or permitted to be taken at a Board of Directors meeting may be taken without a meeting if all members of the Board act. The action must be evidenced by using one or more written consents describing the action to be taken, signed by each Director, and included in the minutes filed with the corporate records reflecting the action taken. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

4.B.5. Notice of Meetings. At least two (2) days' notice of all regular and special meetings shall be provided to each Director in writing via email or verifiable delivery service. Such information shall include the meeting's time, date, and location.

4.B.6. Waiver of Notice. A Director may waive any notice required by law or these Bylaws, and a Director's attendance at or participation in a meeting waives any required notice of the meeting.

4.B.7. Quorum.

At any Directors' meeting, a majority of Directors in office and present immediately before a session begins shall constitute a quorum. Any meeting may be adjourned by a majority of the votes cast upon whether or not a quorum is present, and the meeting may be postponed and continued without further notice.

4.B.8. Action by Vote. When a quorum is present at any meeting, the act of a majority of the Directors current and voting shall be the act of the Board unless otherwise provided herein.

4.B.9. Assent at Meeting. A Director who is present at a meeting of the Board when corporate action is taken is considered to have assented to the action unless the Director votes against the motion.

C. STANDARDS OF CONDUCT

4.C.1. General Standards for Directors. A Director shall discharge his/her duties as a Director, including as a member of the committee:

- a. in good faith.
- b. with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and
- c. in a manner the Director reasonably believes to be in the best interests of the Corporation.

4.C.2. Reasonable Reliance. In discharging his duties, a Director is entitled to rely on information and opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by officers of the Corporation, legal counsel, public accountants, or a committee of the Board, provided the Director is reasonably confident in the expertise and competence of the parties preparing information.

4.C.3. Unwarranted Reliance. A Director is not acting in good faith if the Director knows the matter that makes reliance otherwise permitting under section 4.C.2. unwarranted.

4.C.4. Exoneration.

A Director should not be liable to the Corporation or any other person for any action taken as a Director if the Director complied with the preceding provisions of this Sub article C.

4.C.5. Director is not a Trustee. A Director shall not be deemed a trustee concerning the Corporation or any property held or administered by the Corporation, including, without limit, property subject to restrictions imposed by the donor or transferor of the property.

4.C.6. Limitation Period. An action against a Director asserting the Director's failure to comply with this Sub article and consequent liability must be commenced within three years after the loss complained of.

4.C.7. Board Member Conflict of Interest.

a. A conflict-of-interest transaction is a transaction with the Corporation in which a Director, the Director's family, or any entity in which the Director or the Director's family has a direct or indirect interest. A Conflict of Interest (COI) form is to be signed by each Board Member, and the Board Member must recuse himself/or herself if he/she were to have a housing project selected from which he or they would benefit. A conflict-of-interest transaction is also deemed to include any

transaction with a Sponsor as defined herein in which the Director or the Director's family has a direct or indirect interest.

- b. A transaction that is a conflict of interest as defined herein may be authorized, approved, or ratified by a vote of the Board of Directors or an authorized committee of the Board if:
 - i. the material facts of the transaction and the Director's interest are disclosed and known to the Board or committee; and
 - ii. the Directors approving the transaction in good faith reasonably believe that the transaction is fair to, and in the best interests of, the Corporation.
- c. For purposes of this section 4.C.7., a Director of the Corporation has an indirect interest in a transaction if:
 - i. another entity of which the Director is a director, officer, or trustee is a party to the transaction; or
 - ii. another entity in which the Director has a material interest or in which the Director is a general partner, member, material shareholder, or owner is a party to the transaction.
- d. For purposes herein, a conflict-of-interest transaction is authorized, approved, or ratified only if it receives an affirmative vote of the majority of the Directors on the Board or committee who have no direct or indirect interest in the transaction.
- e. The Corporation shall adopt and maintain a Conflict-of-Interest Policy that imposes additional requirements concerning conflict-of-interest transactions.
- f. Each Director shall complete and deliver to the Corporation a statement disclosing all transactions in which that Director is, or has been, engaged that might be considered a potential conflict of interest. Each Director shall complete such a statement upon request but at least annually.

4.C.8. Loans or Guarantees. The Corporation shall not directly or indirectly lend money to or guarantee any obligation of a Director or Officer of the Corporation.

4.C.9. Immunity from Suit. Under South Carolina law, the Directors of the Corporation are immune from suit arising from the conduct of the affairs of the Corporation unless the conduct amounts to willful, wanton, or gross negligence.

D. OFFICERS AND COMMITTEES

4.D.1. Required Officers. The Officers of the Corporation shall include a Chair, Vice Chair, a Secretary/Treasurer, and such other officers as are appointed by action of the Board. Except for Chair and Vice Chair, an officer may but need not be a Director. A single individual may simultaneously hold more than one office in the Corporation.

4.D.2. Duties and Authority of Officers. Each officer shall have the authority and shall perform the duties outlined in this section and, to the extent consistent with this section, the responsibilities, and authority prescribed in a resolution of the Board or by direction of an officer authorized by the Board to define the duty and control of other officers.

- a. The officers of the Corporation will be elected annually by the members of the Board at its initial meeting each year. Each officer will serve a one-year term or until reelection or replacement at the first regularly scheduled meeting.
- b. Any officer may be removed with or without cause by a vote of a majority of the Board of Directors then in office. The matter of removal may be acted upon at any meeting of the Board, if notice of intention to consider said removal has been given to the officer affected at least seven (7) days before the meeting date.
- c. A majority vote of the Board for the remainder of the unexpired term of the removed officer may fill a vacancy in any office.
- d. The Chair will preside at all meetings of the Board, exercise general supervision of the affairs of the Corporation, execute on behalf of the Corporation, as authorized by the Board, all contracts, deeds, conveyances, and other instruments in writing for the proper and necessary transaction of the business of the Corporation.
- e. The Vice Chair shall act in the absence or the disability of the Chair to perform such duties as may be assigned by the Chair. In the absence of the Chair, the execution by the Vice Chair on behalf of the Corporation will have the same force and effect as if the Chair executed it.

- f. The Treasurer/Secretary will be responsible for keeping the corporate records and giving or causing to be given all notices of meetings and other information as required by law or by these Bylaws. At each meeting of the Board, the Secretary will present the minutes of the previous session.
- g. The Treasurer/Secretary will have a general charge of the finances of the Corporation. The Treasurer/Secretary will endorse all corporation checks, drafts, notes, and other obligations and evidence of payment of money into the Corporation. This Person shall present the Corporation's financial position status to the Board at each meeting.
- h. Any officer, in addition to these Bylaws' powers and responsibilities conferred upon him/or her, will have additional duties as the Board may prescribe occasionally.

4.D.3. Standards of Conduct for Board Members. An officer with discretionary authority shall discharge their duties, in good faith, with the care an ordinarily prudent person in a like position would exercise in a manner the officer reasonably believes to be in the best interests of the Corporation.

4.D.4. Committees. The Standing Committees of the Corporation shall include an Executive Committee, a Governance Committee, a Finance Committee, Development Committee, and a Project Evaluation Committee. The Chair may, at his/her discretion, appoint such other Committees as he/she deems necessary to do the work of the Corporation. The Chair shall have the authority to dissolve such committees without seeking Board approval. A majority of the Board will decide who serves on a committee.

4. E. INDEMNIFICATION

4.E.1. Definitions. For purposes of this Sub Article, the following defined terms shall have the meanings set forth herein:

- a. "Covered Person" means an individual:
 - i. who is or was a Director or officer of the Corporation, or was a volunteer appointed in writing by the Board to perform services to the Corporation, and
 - ii. who was or is threatened to be made Party to a Proceeding because of his or her position.
 - iii. Covered Person shall also include a Covered Person's estate or personal representative.
- b. "Expenses" includes, without limitation, liabilities, amounts to be paid to satisfy judgments, compromises, fines, penalties, and legal and accounting fees.
- c. "Liability" means the obligation to pay a judgment, settlement, penalty, fine or reasonable expenses incurred concerning a Proceeding.
- d. "Official Capacity" means the Board Member, officer, or volunteer acting in his or her official capacity on behalf of the Corporation.
- e. "Party" includes an individual who was or is a defendant or respondent in a Proceeding or who was or is threatened to be made a named defendant or respondent in a Proceeding.
- f. "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative.

4.E.2. Obligation to Indemnify.

- a. Except as provided in section 4.E.2.b., the Corporation shall indemnify against liability incurred in the Proceeding if a Covered Person is made Party to a Proceeding because that Person is a Covered Person if:
 - i. He or she acted in good faith; and
 - ii. He/she reasonably believed that his/her action was in the best interests of the Corporation; and
 - iii. He/she had no reasonable cause to believe his/her conduct was unlawful.
- b. The Corporation shall not indemnify a Covered Person if:
 - i. the Person is adjudged liable to the Corporation, or
 - ii. the Person has adjudged liable on the basis that that Person received the personal benefit.

4.E.3. Advances for Expenses.

The Corporation shall pay for reasonable expenses incurred by a Covered Party who is a party to a Proceeding in advance of the final disposition of the Proceeding if a determination is made that the facts then known to those making the determination would not preclude indemnification.

4.E.4. Insurance. If sufficient funds are available and deemed advisable by the Board, the Corporation may purchase and maintain insurance on behalf of each Covered Person against liability.

4.E.5. Other Expenses. This Sub Article does not limit the Corporation's obligation to pay or reimburse reasonable expenses incurred by a Covered Person in connection with his appearance as a witness in a Proceeding at a time when the Covered Person has not been made a named defendant or respondent in the Proceeding. Such expenses shall include the reasonable fees and costs payable by the Covered Person to independent counsel if and to the extent that the engagement of independent counsel by the Covered Person is necessary for connection with the Proceeding.

4.E.6. Coverage under South Carolina Law. The provisions of these Bylaws shall be construed to provide the most significant degree of indemnification which can be provided under South Carolina law; provided, however, any provision of these Bylaws or a portion thereof, which is unlawful shall be severable from the remaining provisions which shall remain in full force and effect.

ARTICLE FIVE

AMENDMENT OF BYLAWS

These Bylaws may be altered or amended by a vote of a majority of the currently serving Board of Directors.

ARTICLE SIX

INVESTMENTS, LIMITATIONS ON ACTIVITIES, NONDISCRIMINATION

6.1. Investments. The Corporation shall have the right to retain all or part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Directors, without being restricted to the class of investments, provided, however, that no action shall be taken by or on behalf of the Corporation if such action is a prohibited transaction or would result in the denial of the tax exemption under Section 503 or 507 of the Internal Revenue Code of 1986, or any subsequent applicable Federal tax laws.

6.2. Limitations on Activities. Notwithstanding any provision of these Bylaws, no Director, officer, employee, or representative of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501 (C) (3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, or any subsequent applicable Federal tax laws and regulations.

6.3. Prohibition Against Private Inurement. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its Directors, officers, or other private persons, except that the Corporation, subject to Board approval, shall be authorized and empowered to pay reasonable compensation for services rendered, to reimburse reasonable expenses incurred for the benefit of the Corporation, and to make payments and distributions in furtherance of the purposes of the Corporation.

6.4. Prohibition Against Discrimination. The Corporation shall provide equal opportunity for all qualified persons regardless of race, color, ethnicity, religion, gender, national origin, familial status, age, disability, sexual orientation, or veteran status.

ARTICLE SEVEN

DISSOLUTION

In the event of dissolution of the Corporation, after payment of all necessary expenses thereof, all the assets and property of the Corporation shall be distributed as the Board of Directors may determine to any other or successor organization then in existence, if such organization then qualifies for tax-exempt status under section 501 (C)(3) of the Code, as amended, and the Regulations promulgated hereunder. Such distribution shall be made per all applicable State of South Carolina laws and provisions.

Bylaws adopted this day 5 of March 2023.

BEAUFORT JASPER HOUSING TRUST

BY: Wendy Garcia

ITS: Chairman

ATTEST: MICHELLE ANSTON

BY: Michelle Anston

ITS: Secretary

May 31, 2023

Articles of Incorporation

Item 6.

Filing ID: 230531-1416025

Filing Date: 05/31/2023

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

May 31 2023
REFERENCE ID: 1320613

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

ARTICLES OF INCORPORATION
Nonprofit Corporation – Domestic
Filing Fee \$25.00

Pursuant to S.C. Code of Laws Section 33-31-202 of the 1976 S.C. Code of Laws, as amended, the undersigned corporation submits the following information

1. The name of the nonprofit corporation is

Beaufort-Jasper Housing Trust, Inc.

2. The initial registered office (registered agent's address in SC) of the nonprofit corporation is
2015 Boundary Street, Suite 317

(Street Address)

Beaufort, South Carolina 29902

(City, State, Zip Code)

The name of the registered agent of the nonprofit corporation at that office is

Richard H. Stewart

(Name)

I hereby consent to the appointment as registered agent of the corporation.

(Agent's Signature)

3. Check "a", "b", or "c", whichever is applicable. Check only one box.

- a. The nonprofit corporation is a public benefit corporation.
b. The nonprofit corporation is a religious corporation.
c. The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b" whichever is applicable

- a. This corporation will have members.
b. This corporation will not have members.

5. The principal office of the nonprofit corporation is
2015 Boundary Street, Suite 317

(Street Address)

Beaufort, South Carolina 29902

(City, State, Zip Code)

Form Revised by South Carolina Secretary of State, August 2016
F0014

SC Secretary of State
Mark Hammond

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

May 31 2023
REFERENCE ID: 1320613

Beaufort-Jasper Housing Trust, Inc.

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Name of Corporation

Corporation is either a **public benefit** or **religious corporation** complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation. **If you are going to apply for 501(c)(3) status, you must complete section "a".**

a.

Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

If you choose to name a specific 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

OR

b. If the dissolved corporation is not described in Section 501(c)(3) of the Internal Code, upon dissolution of the corporation, the assets shall be distributed to one or more public benefit or religious corporation or to one or more of the entities described in (a) above.

If you chose to name a specific public benefit, religious corporation or 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

7. If the corporation is mutual benefit corporation complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a. Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows [See S.C. Code of Laws Section 33-31-202(c)].

None

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

May 31 2023
REFERENCE ID: 1320613

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Beaufort-Jasper Housing Trust, Inc.

Name of Corporation

9. The name and address of each incorporator is as follows (only one is required, but you may have more than one).

Richard H. Stewart

(Name)

2015 Boundary Street, Suite 317

(Business Address)

Beaufort, South Carolina 29902

(City, State, Zip Code)

(Name)

(Business Address)

(City, State, Zip Code)

(Name)

(Business Address)

(City, State, Zip Code)

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles.

Richard H. Stewart

(Name – only if names in articles)

Richard H. Stewart

(Signature of Director)

(Name – only if names in articles)

(Signature of Director)

(Name – only if names in articles)

(Signature of Director)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

May 31 2023
REFERENCE ID: 1320613

Beaufort-Jasper Housing Trust, Inc.

Name of Corporation

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

11. Each incorporator listed in #9 must sign the articles

Richard H. Stewart

(Signature of Incorporator)

(Signature of Incorporator)

(Signature of Incorporator)

12. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is:

Beaufort Jasper Housing Trust, Inc.

**Financial Statements - Unaudited
(Cash Basis)
September 30, 2023**

Beaufort Jasper Housing Trust, Inc.
CONSOLIDATED STATEMENT OF FINANCIAL POSITION
As of September 30, 2023

	9/30/2023
Assets:	
Cash and Cash Investments	-
Investments	-
Funds Held by CommunityWorks	1,831,552
	1,831,552
Total Assets	
Liabilities	
Accounts Payable	-
Notes Payable	-
	-
Total Liabilities	
Net Assets:	
With Donor Restrictions	1,831,552
	1,831,552
Total Net Assets	
Total Liabilities and Net Assets	1,831,552
	-

Beaufort Jasper Housing Trust, Inc.
CONSOLIDATED STATEMENT OF ACTIVITIES
For the 9 Months Ended September 30, 2023

Revenues:	<u>9/30/2023</u>
Government Grants	2,035,058
Investment Income	-
Total Revenues	<u>2,035,058</u>
Expenses:	
Compensation & Benefits	-
Professional Fees	203,506
Training and Travel	-
Other	-
Total Expenses	<u>203,506</u>
Net Operating Income (Loss)	<u>1,831,552</u>
CHANGE IN NET ASSETS	<u><u>1,831,552</u></u>
NET ASSETS, 1/1/2023 - UNAUDITED	-
NET ASSETS, 09/30/2023 - UNAUDITED	<u><u>1,831,552</u></u>

Beaufort Jasper Housing Trust, Inc.
CONSOLIDATED STATEMENT OF CASH FLOWS
For the 9 Months Ended September 30, 2023

	9/30/2023
Operating Activities	
Change in Net Assets	1,831,552
(Increase)/Decrease In Funds Held by CW	(1,831,552)
Net Cash Flow from Operating Activities	-
Investing Activities	
(Increase)/Decrease In Investments	-
Net Cash Flow from Investing Activities	-
Financing Activities	
Increase/(Decrease) In Notes Payable	-
Net Cash Flow from Financing Activities	-
Net Increase/(Decrease) In Cash	-
Cash at the Beginning of the Period	-
Cash at the End of the Period	-

Beaufort Jasper Housing Trust, Inc.
 Summary of 2023 Funding Transactions

Date Funds Received	Funding Source	Amount	% of Total Funding
06/05/2023	Port Royal	\$ 197,669.00	10%
06/14/2023	Town of Hilton Head Island	\$ 156,815.00	8%
06/14/2023	City of Hardeeville	\$ 108,699.00	5%
06/15/2023	Beaufort County	\$ 1,119,523.00	55%
06/26/2023	Jasper County	\$ 175,240.00	9%
06/29/2023	Town of Yemassee	\$ 16,967.00	1%
07/03/2023	Town of Bluffton	\$ 59,474.00	3%
07/13/2023	City of Beaufort	\$ 200,671.00	10%
Total Funding Sources		\$ 2,035,058.00	A

Date Funds Received	Vendor Expense	Amount
07/20/2023	Community Works Admin Fee (10%)	\$ 203,505.80
Total Expenditures		\$ 203,505.80

A : At 09/30/2023, the balance of funds are held at Self-Help Credit Union.

**COUNTY OF GREENVILLE
POLICY TO INCENTIVIZE
AFFORDABLE AND WORKFORCE
HOUSING THROUGH
MULTI-COUNTY PARK**

Greenville County, South Carolina

Policy Providing Incentives to Induce the Development of Workforce/Affordable Housing

Statement of Policy:

The County Council of Greenville County (the “County Council”), the governing body of Greenville County, South Carolina (the “County”), has previously recognized that there is a significant deficit in workforce housing options within the County and an ongoing need to continuously add new affordable housing units.¹ The County Council has further acknowledged the importance of workforce housing to the County’s ability to attract and retain business.² Through the Greenville County Affordable Housing Study and the Greenville County 2020 Comprehensive Plan, the County Council has considered a number of strategies to promote the creation of affordable housing within the County, including encouraging the development of workforce housing units within multi-family developments and providing financial incentives to developers to construct or rehabilitate affordable housing.³

Promotion of Workforce and Affordable Housing as a Public Purpose:

The Supreme Court of South Carolina has previously held that the use of public funds to incentivize private development projects, including the use of public funds to provide credits against or reductions of *ad valorem* property taxes, may constitute a valid public purpose,⁴ and has further held that providing safe and sanitary housing on an affordable basis is a valid public purpose.⁵

By virtue of this legal precedent, the County Council may, in its discretion, provide economic development incentives to private developers in order to induce the creation of workforce and affordable housing within the County, provided that the benefits that accrue to the public are greater than the financial incentives provided to developers and the incentives are structured to require the completion of the applicable project and the ongoing provision of workforce and affordable housing.

Defined Terms:

In addition to the terms defined above, as used in this Policy, the terms below shall have the following meanings:

“40% AMI Housing Unit” means a dwelling unit within a Project that is occupied by or reserved for a resident with an annual household income that is less than or equal to 40% of the County’s AMI and that has an annualized rental rate that does not exceed 30% of the applicable income level as a percentage of AMI.

¹ Greenville County, South Carolina Affordable Housing Study, March 2018, p. 7.

² Greenville County 2020 Comprehensive Plan, *Plan Greenville County*, January 2020, p. 127.

³ Greenville County 2020 Comprehensive Plan, pp. 153-54; Greenville County Affordable Housing Study, p. 29.

⁴ *WDW Properties v. City of Sumter*, 342 S.C. 6, 15 (2000).

⁵ *Bauer v. S.C. State Hous. Auth.*, 271 S.C. 219, 227 (1978).

“60% AMI Housing Unit” means a dwelling unit within a Project that is occupied by or reserved for a resident with an annual household income that is less than or equal to 60% of the County’s AMI and that has an annualized rental rate that does not exceed 30% of the applicable income level as a percentage of AMI.

“80% AMI Housing Unit” means a dwelling unit within a Project that is occupied by or reserved for] a resident with an annual household income that is less than or equal to 80% of the County’s AMI [and that has an annualized rental rate that does not exceed 30% of the applicable income level as a percentage of AMI].

“Workforce/Affordable Housing Unit(s)” means a dwelling unit within a Project that is a 40% AMI Housing Unit, a 60% AMI Housing Unit, or an 80% AMI Housing Unit.

“AMI” means, for any year for which a calculation is made, the most recently reported annual median household income for the County, as reported by the United States Census Bureau, the South Carolina Revenue and Fiscal Affairs Office, or any other reputable reporting agency or entity that is acceptable to the County.

“Incentive Agreement” means an agreement entered into between the County and a Sponsor pursuant to this Policy and the Multi-County Park Act.

“Multi-County Park Act” means, collectively, Sections 4-1-170 through 4-1-175 of the Code of Laws of South Carolina 1976, as amended.

“Multi-County Park” means a multi-county business park established by the County pursuant to the Multi-County Park Act and Section 13 of Article VIII of the South Carolina Constitution.

“Policy” means this Policy Providing Incentives to Induce the Development of Workforce and Affordable Housing.

“Project” means a multi-family housing project or a predominantly residential mixed-use project wherein the requisite percentage of Workforce/Affordable Housing Units have been set-aside and meeting the Eligibility Criteria hereof.

“Proposal” means the proposal submitted by a Sponsor in order to apply for Special Source Credits, which shall include the information required hereunder.

“Set-Aside Ratio” means the ratio of total Workforce/Affordable Housing Units to Total Housing Units in a Project, expressed as a percentage.

“Sponsor” means an entity, and qualified affiliates of such entity, responsible for carrying out a Project and entering into an Incentive Agreement.

“Special Source Credits” means the annual special source revenue credits against fees in lieu of *ad valorem* property taxes due from a Sponsor with respect to the real property

improvements in connection with a Project pursuant to the Multi-County Park Act and an Incentive Agreement, and expressed as a percentage equal to the Weighted Credit applicable to a Project.

“*Total Housing Units*” means the total number of housing units within a Project, including Workforce/Affordable Housing Units.

Authorization:

The County Council is authorized pursuant to the Multi-County Park Act to place a Project within a Multi-County Park whereby the Sponsor would pay fees in lieu of *ad valorem* property taxes with respect to real and personal property situated within such Multi-County Park and receive Special Source Credits against such fees in lieu of *ad valorem* property taxes as a reimbursement for investments in certain infrastructure enhancing the economic development of the County.

In order to induce Sponsors to include workforce housing within Projects, the County Council may, by ordinance, authorize the County to enter into an Incentive Agreement with a Sponsor to provide Special Source Credits with respect to such Project. County Council’s decision to authorize an Incentive Agreement shall be made on a case-by-case basis, and the presentation of Proposals to County Council for consideration shall be conditioned upon the Project’s compliance with the provisions of this Policy, including the Eligibility Criteria set forth below.

Eligibility Criteria:

In order to be eligible for consideration to receive Special Source Credits, a Project must meet the following minimum eligibility criteria:

1. The Project must, at a minimum, set aside the requisite percentage of Workforce/Affordable Housing Units to Total Housing Units within the Project for the term of the Incentive Agreement and requisite percentage mix of AMI level mix;
2. The Project must involve an investment in real property improvements of at least \$7.5 million;
3. The Project must be consistent with the Comprehensive Plan;
4. The real property constituting the Project must be “commercial property” assessed at a 6% assessment ratio and must remain commercial property for the duration of the term of the Incentive Agreement;
5. Workforce/Affordable Housing Units must be (1) constructed before or concurrent with market-rate units; (2) distributed throughout the Project, not clustered; and (3) comparable in size, exterior appearance, interior fixtures, furnishings and appliances, and overall quality of construction to the market rate units in the Project as a whole;
6. The mixture of bedrooms per-unit set-aside for each level of AMI Housing Unit available within a Project shall be reasonably equivalent to the mixture of bedrooms per-unit of market-rate units within a Project (*i.e.*, if one-half of market-rate units are two-bedroom units, then roughly one-half of 60% AMI Housing Units should be two-bedroom units);

7. Housing affordability should be spread across all housing types within a development. For example, if there are garden flat apartments and townhomes within a development, affordability must be spread throughout both housing types and not concentrated within one housing type.
8. The Project may not allow for the rental of any unit or portion thereof for a period of less than 30 consecutive days;
9. The Project must comply with any and all eligibility requirements of the Multi-County Park Act and the placement of the Project within a Multi-County Park;
10. The Sponsor must enter into an Incentive Agreement with the County containing standard terms and conditions for the provision of Special Source Credits, including termination and clawbacks; and
11. If the Project is located within a municipality, the municipality must consent to the placement of the Project in a Multi-County Park and enter into an Intergovernmental Agreement with the County providing for the allocation and distribution of revenues of the Multi-County Park and the provision of Special Source Credits.

Incentives and Corresponding Set-Aside Ratios and AMI Set-Aside mix:

Incentive Structure

The County recognizes that its greatest need and greatest challenge is the creation of units that are affordable for families at lower income levels. Therefore, the incentives authorized under this Policy are structured to incentivize the development of Projects that set-aside a greater number of units that are accessible to those with incomes at 60% of AMI followed by 40% of AMI and 80% of AMI. To achieve this goal, this Policy adopts a structure that provide greater incentives to Projects that incorporate increased units of affordability above the required 20% into the project. This structure is described below, and example of how this structure may be applied to a Project is provided in **Appendix A**.

Requirements to qualify for incentive:

The minimum project investment to qualify for incentives is \$7,500,000.

The minimum Affordable Housing Units as a percentage of total units is 20%.

Minimum Investment \$7,500,000	
Affordable Housing Units as a percentage of Total Units	Tax Abatement
20%	50%
30%	53%
40%	55%
50%	58%
60%	60%
70%	63%
80%	65%
90%	68%
100%	70%

Required AMI unit mix at all levels of Affordable Housing Units %:

Average Median Income (AMI) Level	Required % of Each AMI Level
40%	20%
60%	60%
80%	20%

Administration:

Administration of Workforce/Affordable Housing Incentives: The administration of the application process for Special Source Credits and the continuous monitoring of Projects for compliance with applicable Incentive Agreements shall be the responsibility of the County Administrator or the County Administrator’s designee.

Application for Special Source Credits: To be eligible for Incentives, a prospective Sponsor must submit a Proposal. The Proposal must include a sufficient description of the Project, which shall include, at a minimum, (1) a legal description of the property or properties on which the Project will be located; (2) the total number of planned units for the Project, the planned phasing schedule for the Project, including the number of units in each phase, and a good-faith estimate of the commencement and completion dates of each phase; (3) a good-faith estimate of the total investment in real property improvements, and public infrastructure improvements to be made in connection with the Project, including an estimate of the investment for each phase; and (4) the proposed number of units within each phase of the Project that will be set aside as 40% AMI, 60% AMI and 80% AMI Housing Units, and the mixture of bedrooms per unit within each AMI level, and a good-faith estimate of the initial rental rates for such units. The County Administrator, or designee thereof, may request any additional information that may be necessary or helpful for County Council to evaluate and give due consideration to a Proposal.

Certifications Showing Compliance with Incentive Agreement: Special Source Credits shall not commence with respect to any Project until such time as the initial phase of the Project has been placed in service and the Sponsor has submitted an Investment Certification with respect to such phase, the form of which is attached to this Policy as Appendix B. In order to remain eligible for Special Source Credits in each year, the Project owner shall submit an Infrastructure Investment and Workforce/Affordable Housing Certification, the form of which is attached to this Policy as Appendix C, by no later than January 31st of each year.

Clawbacks:

Workforce/Affordable Housing Set-Asides: In order to remain eligible for Special Source Credits once the Project has been placed in service, the Sponsor must submit an Infrastructure Investment and Workforce/Affordable Housing Certification to the County by no later than January 31st of each year that includes the rental roll for the Project showing the number of 40% AMI, 60% AMI and 80% AMI Housing Units within the Project for the preceding 12-month period, the mixture of bedrooms per unit at each AMI level, and the rental rate applicable to such units. If the Project does not contain the requisite percentage of 40% AMI, 60% AMI and 80% AMI Housing Units during the period in question, the Sponsor shall have 90 days to cure. In the event that the Sponsor fails to cure, the Special Source Credits shall terminate and the Sponsor shall be required to repay any Special Source Credits that were previously provided during the period of noncompliance.

Project Completion; Cessation of Operations: Projects must be completed, and the requisite minimum investment made, within a five-year investment period. Upon completion, the Sponsor must continuously operate the Project during the term of Special Source Credits. Incentive Agreements shall contain provisions concerning the termination of the Incentive Agreement and the clawback of previously granted Special Source Credits in the event the Sponsor fails to complete the Project or ceases operation for a continuous period of 12 months.

Other Incentives:

The County Council may consider or support the Sponsor's efforts to obtain other types of incentives permitted under State law on a case-by-case basis, including incentives provided under the South Carolina Abandoned Buildings Revitalization Act (Title 12, Chapter 67 of the South Carolina Code) and the South Carolina Textiles Communities Revitalization Act (Title 12, Chapter 65 of the South Carolina Code), and the special property tax assessments applicable to rehabilitated historic properties and low and moderate income rental properties pursuant to Section 4-9-195 of the South Carolina Code.

Appendix A

Example – Calculation Special Incentive:

Total Investment:	\$20,000,000	
Total Housing Units:	200	
<u>Total Work/Affordable Housing Units:</u>	<u>100</u>	
		20 units @ 40% AMI
		60 units @ 60% AMI
		20 units @ 80% AMI
Set Aside Ratio:	50%	

Step 1: Determine Level of Special Credit on From Table 1:

50% Set Aside with requisite AMI% = 58% Special Source Credit for 20 Years

Appendix B

INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the "Company"), do hereby certify in connection with Section _____ of the Fee in Lieu of Tax and Special Source Credit Agreement, dated as of _____, 20__, between Greenville County, South Carolina and the Company (the "Incentive Agreement"), as follows:

(1) The total investment made by the Company and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__, was \$ _____.

(2) The cumulative total investment made by the Company and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period), and ending December 31, 20__, is \$ _____.

All capitalized terms used but not defined herein shall have the meaning set forth in the Incentive Agreement.

IN WITNESS WHEREOF, I have set my hand this ____ day of _____, 20__.

By: _____
Its: _____

Appendix C

INFRASTRUCTURE INVESTMENT AND WORKFORCE/AFFORDABLE HOUSING CERTIFICATION

I _____, the _____ of _____ (the "Company"), do hereby certify in connection with Section _____ of the Fee in Lieu of Tax and Special Source Credit Agreement, dated as of _____, 20__, between Greenville County, South Carolina and the Company (the "Incentives Agreement"), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Credits previously received by the Company and any Sponsor Affiliates is \$ _____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period is not less than \$ _____.

(3) Of the total amount set forth in (2) above, \$ _____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

<u>Personal Property Description</u>	<u>Investment Amount</u>
--------------------------------------	--------------------------

(4) Attached as Schedule 1 is a copy of a true and correct copy of the rent roll applicable to the Project for the year ending December 31, 20__, which sets forth (1) the number of 40% AMI, 60% AMI and 80% AMI Housing Units within the Project[, the mixture of bedrooms per unit at each AMI level][, and the rental rate applicable to such units], with respect to the calendar year ended December 31, 20__ (the "Measurement Period"); (2) the number of dwelling units in the Project that have been continually leased to residents with an annual household income that is less than or equal to 40% of the County's AMI, 60% of the County's AMI and 80% of the County's AMI, respectively, during the Measurement Period; and (3) the number of dwelling units in the Project that have been continually reserved for residents with an annual household income that is less than or equal to 40% of the County's AMI, 60% of the County's AMI and 80% of the County's AMI, respectively, during the Measurement Period.

All capitalized terms used but not defined herein shall have the meaning set forth in the Incentive Agreement.

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 20__.

By: _____
Its: _____

**CITY OF GREENVILLE
RESOLUTION AUTHORIZING USE
OF ANNUAL AFFORDABLE AND
WORKFORCE HOUSING
CONTRIBUTION FOR
DEBT SERVICE ON LOANS**



Affordable housing, Community, News

Greenville backs \$13.4M loan to accelerate affordable housing development

Megan Fitzgerald · September 25, 2023



A rendering of the proposed Southernside Senior Apartment Homes. Rendering provided by city of Greenville/Studio 8 Design Architecture

Here's a recap of Greenville City Council's Sept. 25 meeting:

Approved: Greenville Housing Fund contribution agreement

The **Greenville Housing Fund** aims to accelerate the creation of affordable and workforce housing in the city of Greenville. The organization plans to enter into a \$13.4 million loan agreement with Truist Bank and leverage the city's annual contribution to repay the loans starting in 2026.

With the added borrowing power, the affordable projects that can be accelerated include:

Item 6.

Southernside Senior Apartments: A project to create 147 affordable units for seniors near Unity Park

Parkside Lofts at Unity Park: A project to create 242 affordable housing units

Riley at Overbrook: A project to create 88 affordable housing units

Gateway at the Green: A project to create 72 affordable housing units



The Greenville Housing Fund plans to develop Southernside Senior Apartments near Unity Park which will include 147 units of affordable housing.
Photo by Megan Fitzgerald

Council approved a resolution authorizing City Manager Shannon Lavrin to execute a contribution agreement in support of the GHF. Through this agreement, the city's affordable housing contributions can extend for fiscal years 2026 to 2033.

The city has given approximately \$17 million in financial support to the organization since 2017. The city's fiscal year 2024-27 capital improvement plan also includes \$2.5 million in planned funding to support affordable housing.

Approved: State funding for pedestrian and road safety projects

Council unanimously approved a resolution to use state funds for eight city projects aimed at improving pedestrian and traffic safety. The city received a \$20 million allocation from the South Carolina 2023-24 fiscal year budget for public space upgrades and safety improvements.

The funding will be parceled out for the following city projects:

- Cultural corridor/Academy bypass, \$6 million
- Wade Hampton corridor safety improvement, \$2.5 million
- Queen Street bridge design phase 1, \$130,000
- Pedestrian safety action plan, \$2.5 million
- East North Street gateway design, \$370,000
- Pendleton/Vardry intersection, \$1.3 million
- Augusta Street utility undergrounding, \$5.8 million
- Stone Avenue corridor safety improvements, \$1.4 million



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

16g

TO: Honorable Mayor and Members of City Council

FROM: Shannon Lavrin, City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: September 25, 2023

ORDINANCE/RESOLUTION CAPTION:

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRIBUTION AGREEMENT IN SUPPORT OF THE GREENVILLE HOUSING FUND

SUMMARY BACKGROUND:

The Greenville Housing Fund ("GHF") desires to accelerate the development of affordable and/or workforce housing by utilizing the city of Greenville's (the "City") annual Contribution beginning in FY26, subject to annual appropriation, during the term of the Contribution Agreement, to pay (i) debt service on the Loan, (ii) debt service on subsequent loans and (iii) for GHF projects within the City.

This Resolution indicates City Council support for the City's participation in this deal and authorizes the City staff to work with GHF and their attorneys on finalizing the agreement, which will then be executed by the City Manager on behalf of the City.

IMPACT IF DENIED:

The City will not provide a Contribution Agreement in support of GHF's acquisition of the apartments.

FINANCIAL IMPACT:

The City's planned contributions to GHF in FY26 through FY33 will be utilized to fund the reserve funds associated with this project, subject to future appropriation by City Council.

REQUIRED SIGNATURES

Department Director

DocuSigned by:
Patricia Dennis
3F292597F562498...

City Attorney

DocuSigned by:
Ligh Padletti
5CBFADF322244F8...

OMB Director

City Manager

DocuSigned by:
Shannon Lavrin
B6D12FA1F89A405...

RESOLUTION NO. 2023-___

A RESOLUTION

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRIBUTION AGREEMENT IN SUPPORT OF THE GREENVILLE HOUSING FUND

WHEREAS, the city of Greenville, South Carolina (the “City”) supports the creation and preservation of affordable and workforce housing within the City; and

WHEREAS, the City has committed approximately \$17,000,000 in financial support for the Greenville Housing Fund (“GHF”) since 2017; and

WHEREAS, the City’s FY24-FY27 Capital Improvement Plan (CIP) includes planned funding of \$2,500,000 in annual funding for supporting affordable housing (the “Annual Appropriation”), as recommended by the GVL2040 Comprehensive Plan; and

WHEREAS, GHF plans to develop certain affordable and/or workforce apartment communities within the City currently including but not limited to Southernside Senior, Parkside Lofts at Unity Park, and Riley at Overbrook (collectively, the “Project”); and

WHEREAS, pursuant to a competitive bid process, GHF selected Truist Bank as the lender to provide financing for the acquisition and construction of the Project (the “Loan”) contingent on a Contribution Agreement between the City and GHF (the “Contribution Agreement”), attached hereto and incorporated herein by reference as Attachment 1, with respect to the Annual Appropriation (as more fully set forth in the Contribution Agreement); and

WHEREAS, pursuant to the Contribution Agreement, GHF will utilize the City’s Annual Appropriations beginning in FY26, subject to annual appropriation of such funds by the City Council during the term of the Contribution Agreement, to pay (i) debt service on the Loan, (ii) debt service on subsequent loans, and (iii) for GHF projects within the City, and the City will have no further obligation to GHF; and

WHEREAS, the City will enter into an Escrow Agreement among the City, GHF, and Truist Bank, as escrow agent, (the “Escrow Agreement”) attached hereto and incorporated herein by reference as Attachment 2 whereby the City will deposit the Annual Appropriation, subject to annual appropriation of such funds by the City Council, into an escrow fund for the purposes enumerated in the Contribution Agreement; and

WHEREAS, all parties have acknowledged that this use is in place of, and not in addition to, the City’s planned annual contributions to support GHF activities beginning in FY26 and thereafter;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, as follows:

Section 1. City Council, recognizing the need for investment in the preservation and generation of affordable and/or workforce housing units through GHF’s efforts, is supportive of entering into a Contribution Agreement and an Escrow Agreement in substantially the same form as the agreements attached hereto and incorporated herein as Attachment 1 and Attachment 2, respectively, in furtherance of such purposes.

Section 2. City Council is supportive of the use of future GHF allocations to fund the debt service for the Loan associated with this Project, the debt service on subsequent loans as well, and other uses within the City as described in the Contribution Agreement, subject to future annual appropriations by the then-sitting City Council.

Section 3. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the attached documents as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by Council, then the matter shall be presented to Council for further review before the final execution. The City Manager is authorized to take such further action and to execute and deliver such additional agreements, documents, and certificates as may be reasonably necessary to effect the delivery of the Contribution Agreement and the Escrow Agreement in accordance with the terms and conditions set forth in this Resolution.

Section 4. This Resolution shall become effective upon date of passage.

RESOLVED THIS ____ DAY OF _____, 2023.

MAYOR

Attest:

CITY CLERK

ATTACHMENT 1

*HSB draft dated September 30, 2023***CONTRIBUTION AGREEMENT
(GREENVILLE HOUSING FUND SUPPORT)**

This CONTRIBUTION AGREEMENT (this "Agreement"), dated September 28, 2023, by and between the City of Greenville, South Carolina (the "City"), a body corporate and politic and a municipal corporation organized under the laws of the State of South Carolina (the "State"), and Greenville Housing Fund ("GHF"), a South Carolina nonprofit corporation.

WHEREAS, GHF has committed to the City to develop one or more affordable, workforce or mixed income housing developments as may be approved by GHF's Board of Directors, which may include, but shall not be limited to, any one or more of the housing developments known to GHF as Southernside Senior, Parkside Lofts at Unty Park and Riley at Overbrook (collectively, the "Project") located in the City and has accepted a term sheet from Truist Bank (the "Lender"), to finance the Project;

WHEREAS, the City seeks to promote the development of affordable housing within the City for the benefit of its citizens and intends to appropriate (subject to the usual annual appropriation and budgeting process of the City Council of the City (the "City Council")) up to \$2.5 million per year beginning September 1, 2025 (such contributions referred to herein whether in the aggregate or per individual payment as the "City Contribution") to GHF by depositing the City Contribution with Truist Bank, as escrow agent (the "Escrow Agent"), pursuant to the terms of an Escrow Agreement (the "Escrow Agreement") dated September 28, 2023 among the City, GHF and the Escrow Agent to provide for debt service payments under (i) that certain Loan Agreement (the "Loan Agreement") dated September 28, 2023 among GHF, Truist Bank, as Lender (the "Lender"), and the Escrow Agent and (ii) any subsequent loan agreements, letters of credit, or other instruments between GHF and a subsequent lender and for other capital projects of GHF located in the City; and

WHEREAS, the City Contribution is in lieu of and not in addition to the City's planned annual contributions to GHF;

NOW, THEREFORE, FOR VALUE RECEIVED, in consideration of the mutual covenants and agreements herein contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Section 1. City Obligations.

(a) Subject to Sections 1(c) hereof, the City Contribution shall be payable via wire transfer or as otherwise determined by the City at the designated office of the Escrow Agent by September 1 of each year commencing September 1, 2025 with a final payment being September 1, 2033. All such payments shall be in immediately available funds or in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. The Escrow Agent shall hold the funds in accordance with the terms of the Escrow Agreement.

(b) If the specified date for any City Contribution shall be a day other than a Business Day (as defined in the Escrow Agreement), then such payment may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the specified date for such payment.

(c) The City Contribution is subject to annual appropriation by the City Council. In the event the City Council fails or determines not to, for any reason budget or appropriate funds for the payment of any portion of the City Contribution with respect to a particular fiscal year in which a City Contribution

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payment would otherwise be required to be paid hereunder, there shall be no recourse to or default on the part of the City.

(d) This Agreement shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the City. No funds of the City are expressly or impliedly pledged hereunder.

(e) The City shall send to the Lender a copy of (i) the City's audited financial statements for each Fiscal Year within 270 days of the completion of such Fiscal Year and (ii) the City's annual budget within 30 days of its adoption.

Section 2. GHF Obligations. GHF agrees to the following conditions in order to receive the City Contribution described above.

(a) The City Contribution shall first be used to satisfy the debt service payments of GHF pursuant to the Loan Agreement and any subsequent loan agreement, letter of credit, or other instrument financing one or more projects of GHF, on a parity basis. Payments under the Loan Agreement are attached hereto and incorporated herein by reference as *Exhibit A*.

(b) The City Contribution can only be used for projects that are within the boundaries of the City.

(c) Any portion of the City Contribution released to GHF pursuant to the terms of the Escrow Agreement (the "Excess Contribution") will be deposited into a separate account of GHF. GHF will provide to the City monthly bank statements with reconciliation of such account.

(d) GHF may charge administrative expenses annually against available contributions received from the City, including the Excess Contribution, pursuant to the limitations and provisions of that certain Agreement for Affordable Housing Initiatives and Services dated February 16, 2023 among the City, GHF and Greenville Affordable Housing Trust.

(e) GHF will provide quarterly updates to the City concerning the Project and any subsequent project during construction and will provide quarterly updates to the City on any use of the Excess Contribution during the term of this Agreement.

Section 3. Miscellaneous.

(a) This Agreement is made under and shall be construed in accordance with and governed by the laws of the State.

(b) This Agreement shall terminate upon the earlier to occur: (1) the City's payment of the entire City Contribution as described in Section 1(a) hereof, or (2) September 1, 2033. Upon such termination, the City shall have no further obligations under this Agreement. Notwithstanding the foregoing, if the Loan Agreement is not executed and delivered by December 31, 2023, then this Agreement shall automatically terminate, and the City shall have no further responsibilities or obligations of any kind hereunder.

(c) To the extent the City incurs any additional liability of any kind under or relating to this Agreement, other than its obligation to pay the City Contribution, GHF shall indemnify and hold harmless the City, to include its employees and elected officials, for any and all fees and costs, including attorney's fees, the City may incur in connection with any proceeding brought against the City in connection with its

execution hereof. GHF shall have no obligation to indemnify or hold the City harmless to the extent of any bad faith by the City or any occurrence resulting from the City's gross negligence or willful misconduct.

[Signature Page to Follow]

IN WITNESS WHEREOF, the City and GHF have caused this Agreement to be duly executed in their respective names, all as of the date first above written.

CITY OF GREENVILLE, SOUTH CAROLINA

By: _____
Its: City Manager

GREENVILLE HOUSING FUND

By: _____
Its: _____

[Signature Page to Contribution Agreement]

EXHIBIT A
DEBT SERVICE SCHEDULE

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ATTACHMENT 2

ESB draft dated September 20, 2023

ESCROW AGREEMENT

This ESCROW AGREEMENT (this "*Escrow Agreement*"), dated September 28, 2023, by and among the City of Greenville, South Carolina (the "*City*"), a body corporate and politic and a municipal corporation organized under the laws of the State of South Carolina, Greenville Housing Fund ("*GHF*"), a South Carolina nonprofit corporation, and Truist Bank (the "*Escrow Agent*"), as escrow agent.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

Section 1. Findings of Fact.

(a) Pursuant to a resolution adopted by the City Council of the City (the "*City Council*"), the governing body of the City, on September 25, 2023 (the "*City Resolution*"), the City Council intends to provide to GHF, subject to annual appropriation of the City Council, the sum of up to \$2,500,000 annually (the "*Contribution*") for use by GHF for certain GHF projects. GHF will use the Contribution (i) first to pay debt service on loans entered into, from time to time, by GHF to finance affordable housing located within the City and (ii) secondly as further provided in the Contribution Agreement dated of even date herewith (the "*Contribution Agreement*") between the City and GHF.

(b) The GHF Board of Directors (the "*Board*"), the governing body of GHF, has adopted a resolution pursuant to which GHF has agreed to make debt service payments payable solely from and secured by the Contribution received pursuant to the Contribution Agreement as security for: (i) a loan pursuant to a Loan Agreement (the "*Loan Agreement*") dated of even date hereof among GHF, as borrower, Truist Bank, as lender (the "*Lender*"), and the Escrow Agent in order to provide financing for one or more affordable, workforce or mixed income housing developments located within the City as may be approved by GHF's Board, which may include, but shall not be limited to, any one or more of the housing developments known to GHF as Southernside Senior, Parkside Lofts at Unity Park and Riley at Overbrook (the "*2023 Loan*"); and (ii) any subsequent loan secured by the Contribution.

(c) GHF intends to secure its obligations under the Loan Agreement by assigning its rights to the Contribution Agreement and its rights to receive the Contribution thereunder from the City to the Escrow Agent.

Section 2. Definitions. The following words, terms, or phrases, when used in this Escrow Agreement, have the following meanings respectively, unless the context clearly indicates a different meaning.

"*Additional Payments Account*" has the meaning given to it in Section 3(b).

"*Business Day*" means any day other than a Saturday, a Sunday or a day on which banking institutions in the State or in the State of New York are required or authorized by law (including executive orders) to close or any day that the payment system of the U.S. Federal Reserve is not operational.

"*City*" means the City of Greenville, South Carolina, its successors and assigns.

"*City Council*" means the governing body of the City.

"*Contribution Agreement*" means the Contribution Agreement, of even date herewith, between the City and GHF, as amended or supplemented from time to time.

"*Contribution*" has the meaning given to it in Section 1(a) above.

"*Debt Service Fund*" has the meaning given to such term in Section 3(b) below.

"*Escrow Agent*" means Trust Bank, acting in the capacity of escrow agent pursuant to the terms hereof and to the Loan Agreement, and any successor thereto appointed hereunder.

"*Escrow Fund*" means the fund by that name established pursuant to Section 3 hereof.

"*Interest Account*" has the meaning given to such term in Section 3(b) below.

"*Loan Agreement*" means the Loan Agreement among GHF, the Lender and the Escrow Agent dated as of the date hereof.

"*Loan Documents*" means, collectively, the Loan Agreement and any subsequent loan agreements, letters of credits, or other instruments, between GHF and a subsequent lender.

"*Principal Account*" has the meaning given to such term in Section 3(b) below.

"*State*" means the State of South Carolina.

Section 3. The Contribution and Escrow Fund.

(a) Upon the terms and conditions of the Contribution Agreement, the City agrees to pay, or cause to be paid, subject to the annual appropriation of the City Council, the Contribution to the Escrow Agent by the first day of each September or the next succeeding Business Day if the first day of September is not a Business Day (each a "*Deposit Date*"), commencing September 1, 2025 (the "*Initial Deposit Date*"), for the entire term of the Contribution Agreement.

(b) The following funds are hereby created and established with the Escrow Agent:

(i) a special fund to be designated "Greenville Housing Fund Escrow Fund" (the "*Escrow Fund*"), which shall be expended in accordance with paragraph (c) of this Section 3. Upon receipt by the Escrow Agent of any Contribution from the City pursuant to paragraph (a) of this Section 3, the same shall be deposited immediately into the Escrow Fund;

(ii) with respect to the 2023 Loan and any Additional Indebtedness, debt service funds (each a "*Debt Service Fund*"), within which there shall be established an interest account (each an "*Interest Account*"), a principal account (each a "*Principal Account*") and an additional payments account (each an "*Additional Payments Account*"); and

(iii) a special fund to be designated "Greenville Housing Fund Excess Contribution Fund" (the "*Excess Contribution Fund*"), which shall be expended in accordance with paragraph (c) of this Section 3.

(c) On October 1 of each year, commencing with the October 1 following the Initial Deposit Date, all moneys in the Escrow Fund shall be withdrawn by the Escrow Agent and shall be immediately transferred to the following accounts in the following order of priority:

(i) To the Interest Account of the applicable Debt Service Fund, an amount equal to the amount of the interest payments due during the next ensuing twelve-month period for the 2023 Loan and any Additional Indebtedness (defined below).

(ii) To the Principal Account of the applicable Debt Service Fund, an amount equal to the amount of the principal payment due during the next ensuing twelve-month period for the 2023 Loan and any Additional Indebtedness.

(iii) To the Additional Payments Account of the applicable Debt Service Fund, an amount equal to any outstanding Additional Payment liability, if any, of the Borrower due as of October 1 of each year and a project Additional Payment liability for the succeeding twelve months established pursuant to written notice from Lender to the Escrow Agent delivered at least three business days prior to October 1.

(iv) To the Excess Contribution Fund the amount of the Contribution received in excess of the amounts required by subsections (i) through (iii) of this Section 3.

(d) The Escrow Agent shall pay to the Lender, and to any other lender of Additional Indebtedness, the principal and interest due on the 2023 Loan and such Additional Indebtedness on or before the respective principal and interest payment dates of the 2023 Loan and such Additional Indebtedness from the funds available in the Principal Account and Interest Account (as applicable) of the respective Debt Service Funds. The Escrow Agent shall pay to the Lender any amounts constituting projected Additional Payments on or before each November 1, commencing November 1, 2025.

(e) No later than November 15 of each year commencing November 15, 2025 and provided the debt service payments and any Additional Payments due under the Loan Documents have been satisfied for the applicable twelve-month period commencing with the prior September 1, the Escrow Agent shall transfer all moneys remaining in the Excess Contribution Fund to GHF to be utilized pursuant to the terms of the Contribution Agreement.

(f) Any moneys held as part of the Escrow Fund, the Excess Contribution Fund or other funds or accounts described herein shall, at the written direction of and as specified by GHF, be invested and reinvested by the Escrow Agent to the extent practicable. Any investments shall be held by or under the control of the Escrow Agent and shall be deemed at all times a part of the applicable fund or account and the interest accruing thereon and any profit realized from said investments shall be credited to the applicable fund or account, and any loss resulting from the investments shall be charged to the applicable fund or account. The Escrow Agent is directed to sell and reduce to cash funds a sufficient amount of investments whenever the cash balance of the Escrow Fund is insufficient to make any necessary transfers or withdrawals from the Escrow Fund. The Escrow Agent shall value the investments in the Escrow Fund and the Excess Contribution Fund on the same occasions and under the same terms and conditions as it shall value funds held under the Loan Documents. The Escrow Agent may conclusively rely upon GHF's written instructions as to both the suitability and legality of all investments directed hereunder. The Escrow Agent shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Escrow Agent may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such investments. In the absence of written investment instructions from GHF, moneys held by the Escrow Agent hereunder will be held uninvested in cash. The Escrow Agent shall not be liable for any loss from any investments directed hereunder. Confirmations of investments are not required to be issued by the Escrow Agent for each month in which a monthly statement is rendered with respect to such investments.

(g) The parties hereto acknowledge and agree that GHF, upon compliance with Section 3.08(b) of the Loan Agreement, may incur additional indebtedness pursuant to one or more subsequent loan agreements, letters of credits, or other instruments, between GHF and a lender on a parity basis with the 2023 Loan ("Additional Indebtedness"). In the event GHF incurs such Additional Indebtedness, the Escrow Agent shall administer the Escrow Funds (including disbursements pursuant to Section 3(c) above) on a *pari passu* basis between or among (as the case may be) the Additional Indebtedness and the 2023 Loan, pursuant to the terms hereof and the applicable Loan Documents.

Section 4. Escrow Agent Fees. GHF shall pay directly to the Escrow Agent from the Contribution deposited with the Escrow Agent, promptly upon receipt of its statements therefor, all reasonable fees for its services hereunder and all reasonable expenses, charges and disbursements incurred by it in the performance of its duties hereunder. If the Escrow Agent is required by a governmental agency or action initiated by a third party to undertake efforts beyond that which is set forth herein but related thereto (other than due to the Escrow Agent's negligence or willful misconduct), the Escrow Agent shall notify each of the City and GHF of the same in writing before undertaking such efforts and upon the written approval given by the City and GHF for the performance by the Escrow Agent of such efforts. GHF shall promptly pay the Escrow Agent, from the Contribution deposited with the Escrow Agent, for such extraordinary fees, costs and expenses reasonably and necessarily incurred in connection therewith.

Section 5. Representatives and Responsibilities of Escrow Agent. It is expressly understood and agreed that the Escrow Agent's duties and obligations in connection with this Escrow Agreement are confined to those expressly defined herein and no additional covenants or obligations shall be read into this Escrow Agreement against the Escrow Agent. The Escrow Agent shall not be held to any personal liability whatsoever in tort, contract, or otherwise in connection with the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the acceptance of moneys and securities deposited in the Escrow Fund, or any payment, transfer, or other application of money or securities by the Escrow Agent, or any act, omission, or error of the Escrow Agent made in good faith in the conduct of its duties and not involving negligence or willful misconduct.

Notwithstanding any provision herein to the contrary, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action. The Escrow Agent may consult with counsel with respect to any question relating to its duties or responsibilities hereunder or otherwise in connection herewith and shall not be liable for any action taken, suffered or omitted by the Escrow Agent in good faith upon the advice of such counsel. The Escrow Agent shall not be required to expend its own funds for the performance of its duties hereunder. The Escrow Agent may act through its agents and attorneys and shall not be responsible for any misconduct or negligence on the part of any such person so appointed with due care. The Escrow Agent may conclusively rely upon and shall be fully protected in acting and relying upon any notice, order, requisition, request, consent, certificate, order, opinion (including an opinion of counsel), affidavit, letter or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. The Escrow Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Escrow Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Escrow Agent shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

Section 6. Resignation or Removal of Escrow Agent. The Escrow Agent may resign and thereby become discharged from the duties and obligations hereby created, by notice in writing given to the City and GHF not less than sixty (60) days before the date the resignation shall take effect. The Escrow Agent may be removed by the City upon sixty (60) days written notice to the Escrow Agent by an instrument executed and signed by a duly authorized officer of the City. The resignation or removal shall take effect upon the appointment of a successor Escrow Agent that shall accept the duties and obligations hereof. If at any time the Escrow Agent shall resign or be removed and no appointment of a successor Escrow Agent shall be made pursuant to the provisions of Section 8 hereof within sixty (60) days of the date of resignation or removal of the Escrow Agent, then the Escrow Agent, the City or GHF, may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. The court may thereupon, after any notice as it may deem proper and

prescribed, appoint a successor Escrow Agent. Upon the resignation or removal of the Escrow Agent, all moneys, securities, or other obligations shall be transferred immediately to the successor Escrow Agent without the execution or filing of any instruments or any further act, deed, or conveyance on the part of the parties hereto, anything herein to the contrary notwithstanding.

Section 7. Successor Escrow Agent. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust or escrow business and assets as a whole or substantially as a whole, or any corporation or association resulting from any conversion, sale, merger, consolidation, or transfer to which it is a party shall be and become successor Escrow Agent hereunder and vested with all of the powers, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8. Appointment of Successor Escrow Agent. In case the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the City by an instrument executed and signed by the duly authorized officer thereof.

Section 9. Miscellaneous.

(a) All notices, certificates, requests, or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when either (i) hand delivered, (ii) sent via overnight delivery service, (iii) deposited in the United States mail, certified mail, return receipt requested, with postage pre-paid, or (iv) sent via electronic transmission and addressed to the party or parties for whom intended as follows:

If to the City:

City of Greenville
P.O. Box 2207
Greenville, SC 29602
Attention: Chief Financial Officer
pdennis@greenvillesc.gov

If to GHF:

Greenville Housing Fund
1615 Wade Hampton Blvd, Suite A
Greenville, SC 29609
Attention: President & CEO
bbrown@greenvillehousingfund.com

If to the Escrow Agent:

Truist Bank
2713 Forest Hills Road
Wilson, NC 27893
Attention: Corporate Trust Services
cristina.rhodebeck@truist.com

A duplicate copy of each notice, certificate, request, or other communication given hereunder to the City, GHF or the Escrow Agent, shall also be given to the others. The City, GHF and the Escrow Agent, by

notice given hereunder, may designate any further or different address as to which subsequent notices, certificates, requests, or other communication shall be sent.

(b) No covenant, obligation, or agreement contained herein shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent, or employee, of the City, GHF or the Escrow Agent, in any other than his or her official capacity, and neither the members of City Council or GHF's Board, nor any official executing this Escrow Agreement shall be personally liable thereon or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the City, GHF or the Escrow Agent contained in this Escrow Agreement.

(c) This Escrow Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the City, GHF, the Escrow Agent and their respective successors and assigns.

(d) This Escrow Agreement may not be effectively amended, changed, modified, altered, or terminated, except in accordance with the express provisions of this Escrow Agreement or with the written consent of all parties hereto.

(e) This Escrow Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

(f) If any provision of this Escrow Agreement, or any covenant, obligation, or agreement contained herein, is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation, or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the fullest extent permitted by law.

(g) This Escrow Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State without regard to conflict of law principles.

(h) Upon termination of this Escrow Agreement, at the termination of the Contribution Agreement, the Escrow Agent shall transfer all moneys held in the Escrow Fund pursuant to instructions provided in writing by GHF to the Escrow Agent and other funds hereunder pursuant to joint written direction from GHF, Lender, and any subsequent lender as contemplated in Section 3(f) hereof, to GHF pursuant to the terms of the Contribution Agreement.

Section 10. Effective Date. This Escrow Agreement will become effective as of the date first above written.

[Signature page follows]

IN WITNESS WHEREOF, the City, GHF and the Escrow Agent have caused this Escrow Agreement to be duly executed in their respective names, all as of the date first above written.

CITY OF GREENVILLE, SOUTH CAROLINA

By: _____
Its: City Manager

GREENVILLE HOUSING FUND

By: _____
Its: _____

TRUIST BANK, as Escrow Agent

By: _____
Its: _____

[Signature Page to Escrow Agreement]

**CITY OF GREENVILLE
SPECIAL TAX ASSESSMENT
FOR LOW AND MODERATE INCOME
RENTAL PROPERTY**

ARTICLE V. SPECIAL TAX ASSESSMENT FOR LOW AND MODERATE INCOME RENTAL PROPERTY

Sec. 40-155. General provisions.

- (a) Pursuant to the provisions of S.C. Code 1976, § 4-9-195, and made applicable to municipalities by S.C. Code 1976, § 5-21-140, as those sections are from time to time amended, the city grants a special property tax assessment to real property which qualifies as low and moderate income rental property, under the provisions of this article. Unless otherwise specified by resolution of city council, the special assessment period shall be ten years. City council may, by resolution, approve a longer special assessment period, up to an aggregate period not to exceed 20 years. To qualify for a special assessment period greater than ten years for a special tax assessment under section 40-156(b), city council must find that granting an assessment period greater than ten years for the subject property will foster the economic viability of the surrounding community and is in the best interest of the city. To qualify for a special assessment period greater than ten years for a special tax assessment under section 40-156(c), city council must find that the proposed rehabilitation of the subject property is extensive in scale and scope, and that granting an assessment period greater than ten years for the subject property will foster the economic viability of the surrounding community and is in the best interest of the city.
- (b) The city council, by resolution, shall determine whether property is to be designated as a "Low and Moderate Housing Rehabilitation District" for special tax assessment purposes, whether a property is a "low and moderate income rental property" and whether all statutory requirements have been met. Accordingly, city council may create a Low and Moderate Housing Rehabilitation District and designate a property as being within a Low and Moderate Housing Rehabilitation District if the property provides accommodations to persons and families of moderate to extremely low income. Once a Low and Moderate Housing Rehabilitation District is created, additional property may be added to the district by resolution; district property is not required to be contiguous.
- (c) As set forth in section 40-155(b), "Persons and families of moderate to low income" means those individuals who are members of households whose gross income falls between zero and 150 percent of the "median gross income" of all households in the City of Greenville as determined on the basis of the latest available statistics furnished to the South Carolina State Housing, Finance, and Development Authority by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office. Gross income means income derived from any source whatsoever. An allowance for each member of the family equal to an amount for personal exemptions as defined by Internal Revenue Code Section 151, as defined in S.C. Code 1976, §12-6-4910, must be deducted from gross income in order to qualify a person or family as a member of the "beneficiary class".

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-156. Certification; criteria for low and moderate income rental housing designation.

- (a) In order to be eligible for the special property tax assessment, low and moderate income rental property must receive certification from the city in accordance with sections 40-156(b) or (c) below.
- (b) A property is eligible for certification for the special property tax assessment as low and moderate income rental property if the property provides accommodations under the Section 8 Program as defined in the

United States Housing Act of 1937 and amended by the Housing and Community Act of 1974 for low and moderate income families and persons as defined by Section 31-13-170(p).

- (c) A property is eligible for preliminary and final certification for the special property tax assessment as low and moderate income rental property if, in the case of income-producing real property, the expenditures for rehabilitation exceed the appraised value of the property, and the property is located in an area designated by the city as a Low and Moderate Housing Rehabilitation District.
- (1) Prior to the commencement of any work, the property must receive preliminary certification from the city manager.
 - (2) In order to receive final certification under this section 40-156(c), upon completion of work, a property must have met the following conditions:
 - a. The property has received preliminary certification;
 - b. The completed rehabilitation receives approval from city council; and
 - c. The minimum expenditures for rehabilitation were incurred and paid.
 - (3) If the property owner desires to have the property qualified as "historic" as defined in article IV, then the rehabilitation work must be approved by the appropriate reviewing authority as provided in article IV.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-157. Standards for review of rehabilitation work for final certification under section 40-156(c).

- (a) *Minimum expenditures for rehabilitation.* As set forth in this section, "Minimum expenditures for rehabilitation" means the owner rehabilitates the building, with expenditures for rehabilitation exceeding the appraised value of the property. The term "appraised value" means, in the discretion of the property owner applicant, the appraised value as certified to the city by a real estate appraiser licensed by the state; the sales price as delineated in a bona fide contract of sale within six months of the time it is submitted; or the most recent appraised value published by the county tax assessor.
- (b) *Expenditures for rehabilitation* means the actual costs of rehabilitation relating to one or more of the following:
 - (1) Improvements located on or within the existing building and exterior improvements to the real property;
 - (2) Architectural and engineering services attributable to the design of the improvements; or
 - (3) Costs necessary to maintain the character or integrity of the building.
- (c) *Scope.* The special tax assessment may apply to the following:
 - (1) Structures rehabilitated; and/or
 - (2) Real property on which the building is located.
- (d) *Time limits.* Upon preliminary certification, the property will be assessed for two years on the appraised value of the property at the time the preliminary certification was made. If the project is not complete after two years, but the minimum expenditures for rehabilitation have been incurred, the property continues to receive the special assessment until the project is complete, but not for more than five years. The total special tax assessment period shall not exceed ten years without city council approval.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Sec. 40-158. Process.

- (a) *Applications.* A property owner seeking certification for a property shall submit applications in a format provided by the city.
- (1) A property owner seeking approval under section 40-156(b) above must submit a completed application for final certification for special tax assessment, with supporting documentation showing that the property meets the requirements of section 40-156(b) including, but not limited to, one of the three forms of documentation of for determining the appraised value of the property, in the discretion of the property owner applicant, as stated in section 40-157(a).
 - (2) Prior to beginning work, a property owner seeking approval of rehabilitation work under section 40-156(c) must submit a completed application for preliminary certification for special tax assessment, with supporting documentation, including, but not limited to, one of the three forms of documentation for determining the appraised value of the property, in the discretion of the property owner applicant, as stated in section 40-157(a). After completion of the project, the property owner must submit an application for final certification as set forth in section 40-158(c).
 - (3) A property owner seeking approval under section 40-156 (b) shall provide documentation from the appropriate authority confirming that accommodations under the Section 8 program are being provided.
- (b) *Preliminary certification under section 40-156(c).* Within 30 calendar days of receipt of the completed application for preliminary certification under section 40-156(c), the city manager shall provide the owner with written notification of its decision for preliminary certification under section 40-156(c). Upon receipt of this determination, the owner may:
- (1) If the application is approved, obtain required permits and begin rehabilitation;
 - (2) If the application is not approved, revise such application in accordance with comments provided by the city; or
 - (3) If the application is not approved, appeal the decision to city council.
- (c) *Substantive changes.* Once preliminary certification is granted to an application under section 40-156(c), substantive changes must be approved by the city manager. Unapproved substantive changes are conducted at the risk of the property owner and may disqualify the project from eligibility. Additional expenditures will not qualify the project for an extension on the special tax assessment.
- (d) *Final certification under section 40-156(b).* Upon receipt of the application for certification under section 40-156(b), the city shall determine whether or not the property meets the requirements under section 40-156(b). The city may take whatever necessary steps are required to confirm certifications made by the property owner in the application. City council will provide certification when it determines that the requirements set forth in section 40-156(b) are met. Upon certification, the property will be assessed on the appraised value of the property at the time the certification was made.
- (e) *Final certification under section 40-156(c).* Upon completion of the project under section 40-156(c), the owner of property must submit a completed application for final certification for special tax assessment in order to be eligible for the special tax assessment. The owner shall certify that the completed project is consistent with the approval granted by the city. The city may take whatever necessary steps are required to confirm such certifications. City council will provide final certification when the completed work meets the standards and verification is made that expenditures have been made in accordance with section 40-157(b) and (c). Upon final certification, the property will be assessed for the remainder of the special assessment

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period on the appraised value of the property at the time the preliminary certification was made. If the completed project does not comply with all requirements for final certification, final certification must not be granted and any monies not collected by the county tax collector due to the special assessment must be returned to the county tax collector. The city shall notify the county tax collector if final certification is not granted.

- (f) *Decertification.* The city may decertify property in the following cases, and the property becomes immediately ineligible for the special tax assessments provided for low and moderate income rental property. When the property has received final certification and assessed as rehabilitated low and moderate income rental property, it remains so certified and must be granted the special assessment until the property becomes disqualified by any one of the following actions:
- (1) Written notice by the owner to the city and the county auditor to remove the preferential assessment;
 - (2) Removal of low and moderate income rental property designation by the city council due to the owner of any property certified as "low and moderate income rental property" taking actions which city council deems to cause the property to be unsuitable for such a designation; and
 - (3) Decertification of the property by the city council as low or moderate income rental property for persons and families of moderate to low income as defined by S.C. Code § 31-13-170(p) (in the case of certification under Section 40-156(b)) or persons and families of moderate to low income as defined by section 40-155(c)(in the case of certification obtained under section 40-156(c)).

Notification of any change affecting eligibility must be given immediately to the county assessor and the county tax collector. The owner shall provide the notification if the owner initiates the decertification; the city shall provide the notification if the city initiates the decertification.

- (g) *Notification.* Upon preliminary certification and final certification of a property, the owner of the property shall notify the county assessor and the county tax collector that such property has been duly certified and is eligible for the special tax assessment. The owner has the responsibility to confirm the special assessment status on an annual basis with the county.
- (h) *Date effective.* If an application for preliminary certification is approved by August 1, the special assessment authorized herein is effective for that year. Otherwise, it is effective beginning with the following year. The special assessment only begins in the current or future tax years as provided for in this section. In no instance may the special assessment be applied retroactively.

(Ord. No. 2018-48 , § 1, 6-25-2018)

Secs. 40-159—40-170. Reserved.