

Greenville County, South Carolina

Policy Providing Incentives to Induce the Development of Workforce 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 workforce 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 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 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 housing.

Defined Terms:

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

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.

“*120% 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 120% 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 the AMI.

“*AMF*” 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 Department of Housing and Urban Development, 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.

“*Eligibility Criteria*” shall mean the criteria for receiving and retaining the Special Source Credits as set forth in this Policy under the heading “Eligibility Criteria” or elsewhere.

“*Incentive Agreement*” means an agreement between the County and a Sponsor approved by the County Council under which a Sponsor agrees to, among other things, the development of a Project which will satisfy the Eligibility Criteria of this Policy, and the County agrees to provide Special Source Credits to the Sponsor as described herein under the authority of the Multi-County Park Act.

“*Infrastructure Investment and Workforce Housing Certification*” means such certification or certifications as may be required by the terms of an Incentive Agreement for the purpose of evidencing compliance by the Project with the Eligibility Criteria and the requirements of the Incentive Agreement applicable to the Project.

“*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 joint county industrial or 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 Housing.

“*Project*” means a multi-family housing project or a predominantly residential mixed-use project wherein the requisite percentage of Workforce Housing Units have been set aside, and which otherwise meets 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 Housing Units to Total Housing Units in a Project, expressed as a percentage.

“*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 comprising all or a portion of a Project pursuant to the Multi-County Park Act and an Incentive Agreement, expressed as a percentage of such fees in lieu of *ad valorem* property taxes as described herein.

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

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

“*Workforce Housing Unit(s)*” means a dwelling unit within a Project that is a 60% AMI Housing Unit, a 80% AMI Housing Unit, or an 120% AMI Housing Unit.

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 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 in amounts as described herein for up to the first twenty (20) years of tax or fee in lieu of tax payments to be made with respect to such Project. The Incentive Agreements to be entered into under this policy shall provide for Special Source Credits as described herein and shall be in such form as may be approved by the County Administrator from time to time, but will not include a negotiated fee-in-lieu of tax under Title 12, Chapter 44 of the Code, or other similar or successor fee-in-lieu of tax statutes, and shall not include such arrangements as fixed millage rates or property values. County Council’s decision to authorize an Incentive Agreement for Projects 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, subject to any waivers of nonconformity as may be deemed appropriate by the County Administrator in presenting a Proposal to County Council, including the Eligibility Criteria set forth below. Eligibility of a Project for an Incentive Agreement under the terms of this Policy shall in no way obligate the County to enter into an Incentive Agreement with the Sponsor, or to provide Special Source Credits to the Sponsor or Project.

Eligibility Criteria:

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

1. The Project must, at a minimum, set aside the requisite percentage of Workforce Housing Units to Total Housing Units within the Project for the term of the Incentive Agreement and requisite percentage mix of AMI level mix as set forth below. At a minimum, a Project must set aside not less than 20% of the Total Housing Units as Workforce Housing Units to qualify for Special Source Credits;
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 Housing Units must be (1) constructed before or concurrent with market-rate units; (2) distributed throughout the Project, not clustered; and (3) similar 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 submit yearly rent rolls that contain resident income verification and rent paid;
10. 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;
11. The Project may not have already received an occupancy permit;
12. 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;

13. If the Project is located within a municipality, the municipality must consent to the placement of the Project in a Multi-County Park; and
14. The Project must be located in an area with reasonable access to public transportation, schools, essential goods (such as pharmaceuticals and groceries) and medical services as determined by the County Administrator.

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

Incentive Structure

The County recognizes that workforce housing for employees in public service sectors such as law enforcement, fire, teachers, emergency workers and members of the service industry and in low supply and high demand especially with municipalities. 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 80% of AMI and 120% 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 examples of how this structure may be applied to a Project are provided in **Appendix A**.

The amount of Special Source Credits provided with respect to a given Project under this Policy shall correspond to and depend upon the Workforce Housing Units committed to by the Sponsor as a percentage of the Total Housing Units as set forth below:

Minimum Investment \$7,500,000	
Workforce Housing Units as a percentage of Total Housing Units	Credit Against Annual Fee-in-Lieu of Tax Payment
20%	20%
30%	22%
40%	25%
50%	28%
60%	30%
70%	35%
80%	40%
90%	45%
100%	50%

To qualify as a Workforce Housing Unit under this Policy, a unit must at least qualify as a 120% AMI Housing Unit. Further, of the Workforce Housing Units in a Project: (a) at least 60% shall constitute 60% AMI Housing Units; and (b) at least 80% shall constitute 80% AMI Housing Units.

Administration:

Administration of Workforce 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 60% AMI, 80% AMI and 120% 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 the Infrastructure Investment and Workforce Housing Certification(s) required by the Incentive Agreement (in such form as the County Administrator may approve from time to time) to the County Administrator. In order to remain eligible for Special Source Credits in each year, the Project owner shall continue to submit such Infrastructure Investment and Workforce Housing Certification(s) as may be required by the applicable Incentive Agreement to the County Administrator no later than January 31st of each year. Sponsors shall also provide to the County Administrator such additional certifications as to income level of tenants, and rent roll information, as may be required under the Incentive Agreement. The County Administrator will provide an annual report to County Council on the current approved Projects.

Clawbacks:

Workforce 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 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 60% AMI, 80% AMI and 120% AMI Housing Units within the Project for the preceding calendar year, 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 total number of Workforce Housing Units, or the requisite amount of 60% AMI Housing Units and 80% AMI Housing Units within the Workforce Housing Units, during the period in question, the Sponsor shall have 90 days to cure such failure. In the event that the Sponsor fails to cure during the cure period, 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 commencing from the effective date of the Incentive Agreement. 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 timely complete the Project or ceases operation for a continuous period of 12 months.

Additional Provisions: Incentive Agreements may be presented to County Council for approval by the County Administrator with such additional termination and clawback provisions as the County Administrator may be deem appropriate.

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. Notwithstanding the foregoing, this policy is not intended to be applied to provide Special Source Credits to Projects which also benefit from federal or state low income housing tax credits or which are financed with bonds or other debt instruments the interest on which are exempt from federal income taxation.

[remainder of page intentionally blank]

Appendix A

Calculation of Special Source Credit

Example #1

Total Investment:	\$20,000,000	
Total Housing Units:	200	
<u>Total Workforce Housing Units:</u>	<u>100</u>	
		60 units @ 60% AMI
		20 units @ 80% AMI
		20 units @ 120% AMI
Set Aside Ratio:	50%	

50% Set Aside Ratio with requisite AMI% = 28% Special Source Credit for 20 Years

Example #2

Total Investment:	\$20,000,000	
Total Housing Units:	200	
<u>Total Workforce Housing Units:</u>	<u>100</u>	
		100 units @ 60% AMI
		0 units @ 80% AMI
		0 units @ 120% AMI
Set Aside Ratio:	50%	

50% Set Aside Ratio with requisite AMI% = 28% Special Source Credit for 20 Years

Example #3

Total Investment:	\$20,000,000	
Total Housing Units:	200	
<u>Total Workforce Housing Units:</u>	<u>40</u>	
		30 units @ 60% AMI
		9 units @ 80% AMI
		1 unit @ 120% AMI
Set Aside Ratio:	20%	

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

Example #4

Total Investment:	\$20,000,000	
Total Housing Units:	200	
<u>Total Workforce Housing Units:</u>	<u>40</u>	
		20 units @ 60% AMI
		4 units @ 80% AMI
		16 units @ 120% AMI
Set Aside Ratio:		Does Not Qualify

Example #4 does not qualify for Special Source Credits because less than 60% of the Workforce Housing Units constitute 60% AMI Housing Units, and less than 80% of the Workforce Housing Units constitute 80% AMI Housing Units.

