

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.

“*AMF*” means, for any year for which a calculation is made, the most recently reported median annual 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.

“*Point(s)*” means the numerical value assigned to a Workforce/Affordable Housing Unit based on the applicable percentage of AMI.

“*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 Actual Points*” means the sum of Points assigned to all Workforce/Affordable Housing Units in the Project.

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

“*Total Possible Points*” means the product of the number Workforce/Affordable Housing Units within a Project multiplied by the Point value assigned to 40% AMI Housing Units.

“*Unweighted Credit*” means the highest percentage of Special Source Credits available to Projects based solely on the Project’s level of investment and Set-Aside Ratio, as set forth in Table 1.

“*Weighted Credit*” means a value, expressed as a percentage, that reflects the Unweighted Credit, weighted based upon the mixture of Workforce/Affordable Housing Units within a Project at various AMI levels, which is equal to the Special Source Credit applicable to a Project.

“*Weighted Value*” means a value, expressed as a percentage, that reflects the mix of Workforce/Affordable Housing Units within a Project at various AMI levels based upon the points-based system set forth herein.

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;
2. The Project must involve an investment in real property improvements of at least \$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 withing 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. The Project may not allow for the rental of any unit or portion thereof for a period of less than 30 consecutive days;
8. 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;
9. 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
10. 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 Investment Requirements:

Weighted 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 40% and 60% of AMI. To achieve this goal, this Policy adopts a weighted structure that uses a points-based system to provide greater incentives to Projects that incorporate more 40% and 60% Workforce/Affordable Housing Units. This structure is described below, and example of how this structure may be applied to a Project is provided in **Appendix A**.

Special Source Credit and Weighted Credit

The Special Source Credits provided under this Policy will be for a term of 20 years, which will commence with respect to each phase of a Project when it has been placed in service. The Special Source Credit provided to a Project (as a percentage of the fees in lieu of *ad valorem* taxes that would otherwise be due in each year) is equal to the Weighted Credit. The Weighted Credit for a Project is the product of its Unweighted Credit multiplied by its Weighted Value (each of which is expressed as a percentage).

$$\text{Weighted Credit} = \text{Unweighted Credit} \times \text{Weighted Value}$$

Unweighted Credit

The Unweighted Credit provides greater incentives to Projects that that set-aside a greater overall percentage of units for workforce and affordable housing and that have higher levels of investment. The Unweighted Credit is expressed as a percentage, and is determined by the level of investment and the overall percentage of units set-aside for workforce and affordable housing in the Project using the matrix in Table 1 below.

Table 1

Set-Aside Ratio (Workforce/Affordable Housing Units as a % of Market-Rate Units)	Level of Investment				
	\$ 5,000,000	\$ 10,000,000	\$ 15,000,000	\$ 25,000,000	\$ 50,000,000
	<i>to</i> \$ 9,999,999	<i>to</i> \$ 14,999,999	<i>to</i> \$ 24,999,999	<i>to</i> \$ 49,999,999	<i>and</i> <i>Above</i>
	Unweighted Credit				
20% to 29%	10%	15%	20%	25%	30%
30% to 39%	15%	20%	25%	30%	35%
40% to 49%	20%	25%	30%	35%	40%
50% to 59%	25%	30%	35%	40%	45%
60% to 69%	30%	35%	40%	45%	50%
70% to 79%	35%	40%	45%	50%	55%
80% to 89%	40%	45%	50%	55%	60%
90% to 99%	45%	50%	55%	60%	65%
100%	50%	55%	60%	65%	70%

Weighted Value

The Weighted Value provides greater incentives to Projects that set-aside a greater percentage of Workforce/Affordable Housing Units as 40% and 60% AMI Housing Units using a points-based system. To calculate the Weighted Value, a Project is assigned (1) Total Possible Points, representing the amount of Points attainable by a Project if all Workforce/Affordable Housing

Units were 40% AMI Housing Units; and (2) Total Actual Points, representing the actual number of Points for a Project based upon the actual number of Workforce/Affordable Housing Units at each AMI level. Points are assigned to each Workforce/Affordable Housing Unit within a Project as follows:

<u>Housing Unit</u>	<u>Points</u>
40% AMI	3
60% AMI	2
80% AMI	1

Weighted Value is expressed as a percentage and is calculated as the product of the Project's Total Actual Points divided by the Total Possible Points.

$$\text{Weighted Value} = \text{Total Actual Points} \div \text{Total Possible Points}$$

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 [**] 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 [**] 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 [**] [days/months] 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 of Weighted Credit:

Total Investment:	\$20,000,000	
Total Housing Units:	200	
Total Work/Aff Housing Units:	60	
		30 units @ 40% AMI
		20 units @ 60% AMI
		10 units @ 80% AMI
Set Aside Ratio:	30%	

Step 1: Determine Unweighted Credit using Table 1:

Total Investment	Set Aside Ratio	=	
\$20,000,000	30%		25%

Step 2: Determine Total Possible Points:

Total Work/Aff Units @ 40% AMI			
	60 units × 3 points	=	180

Step 3: Determine Total Actual Points:

30 units @ 40% AMI	30 units × 3 points	=	90
20 units @ 60% AMI	20 units × 2 points	=	40
10 units @ 80% AMI	10 units × 1 points	=	10
Total			140

Step 4: Determine Weighted Value:

Total Actual Points	=	$\frac{140}{180}$	=	78%
Total Possible Points				

Step 5: Calculate Weighted Credit:

Unweighted Credit	×	Weighted Value	=	
25%	×	78%	=	20% 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>
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(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: _____