

Greenville County, South Carolina

Statement of Policy as to Incentives for 100% Affordable Housing Developments

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 affordable 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 affordable 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 affordable housing units within multi-family developments and providing financial incentives to developers to construct or rehabilitate affordable housing.³

Promotion of 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 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 affordable housing.

The County recognizes that a great need and 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 and lower.

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.

“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

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).

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.

“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 annual median household income for the County, as reported by the United States Department of Housing and Urban Development, 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.

“Eligibility Criteria” means the criteria for receiving 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 Affordable 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 Eligibility Criteria and the requirements of the Incentive Agreement applicable to the Project.

“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.

“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.

“Policy” means this Statement of Policy as to Incentives for 100% Affordable Housing Developments.

“Project” means a multi-family housing project or a predominantly residential mixed-use project wherein all units have been set aside as Affordable Housing Units and with respect to which the Eligibility Criteria hereof are otherwise satisfied.

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

“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, and 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.

“*Supportive Services*” means services offered at the housing development or through the housing development that would be free to residents and provide wrap-around services such as budgeting and financial literacy classes, child development classes, tutoring, healthy eating and nutrition classes, and employment-focused-classes. These services would meet the needs of most or all residents with their focus on education, employment and well-being. Supportive services may also, if recommended by the County Administrator and approved by County Council for a particular Project, include aspects of the Project intended to improve the quality of life and recreational opportunities for the residents of the Project such as parks, basketball courts, swimming pools and other amenities typically offered in market-rate developments.

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 affordable 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 of up to fifty percent (50%) 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. 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; Incentive Agreements:

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 set aside one hundred percent (100%) of the housing units comprising the Project as Affordable Housing Units for the term of the Incentive Agreement, and such Affordable Housing Units, and not less than eighty percent (80%) of the housing units must qualify as 60% AMI Housing Units or 40% AMI Housing Units.
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 County’s most recently approved 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. Affordable Housing Units must be comparable in size, exterior appearance, interior fixtures, furnishings and appliances, and overall quality of construction to market rate units in surrounding areas as a whole.

6. There shall be an approximately equal mixture of bedrooms per-unit set-aside for each level of AMI (i.e., 40% AMI Housing Units, 60% AMI Housing Units and 80% AMI Housing Units) available within the Project.

7. AMI mix should be spread across all housing types within a development. For example, if there are garden flat apartments and townhomes within a development, 40% AMI Housing Units, 60% AMI Housing Units and 80% AMI Housing Units must be spread evenly throughout both housing types and not concentrated within one housing type.

8. The Project must submit a plan with a total estimated cost of Supportive Services offered to residents which is equal to at least 50% of the anticipated dollar value of the total estimated Special Source Credits to be received throughout the term of the Incentive Agreement. Annual reports or certifications of ongoing Supportive Services and their respective costs may be required by the County throughout the term of the Incentive Agreement, and clawback provisions may be incorporated in Incentive Agreements related to a failure to satisfy benchmark requirements with respect to Supportive Services.

9. The Project may not allow for the rental of any unit or portion thereof for a period of less than 30 consecutive days.

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 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.

12. If the Project is located within a municipality, the municipality must consent to the placement of the Project in a Multi-County Park.

13. The revenue generated from the Multi-County Park will be distributed to the affected taxing entities in proportion to the millage rates of those entities.

Incentive Agreement Form and Content

Incentive Agreements for Projects satisfying the Eligibility Criteria shall provide for Special Source Credits equal to up to 50% of the fees in lieu of tax paid with respect to the real property components of the applicable Project for a period of up to twenty (20) years, and shall be in such form and contain such provisions, covenants, representations and warranties, including clawback and termination provisions, as may be approved by County Council in its discretion.

Administration:

Administration of 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 to the office of the County Administrator or the County Administrator's designee. 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 and confirmation that all planned units will be Affordable Housing Units as defined in this Policy, 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; (4) the proposed number of units within each phase of the Project that will be set aside as 40% AMI Housing Units, 60% AMI Housing Units 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; and (5) a line-item budget of costs to the developer including a calendar of events, offerings, resources and scope, goals and objectives of Support Services to be provided which would meet the needs of most or all residents (that focus on education, employment, well-being and financial literacy).

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. Before a Project will be presented to the Finance Committee of Greenville County and subsequently County Council, it must first be reviewed for satisfaction of the Eligibility Criteria and all requirements of this Policy by the County Administrator and other County staff, and by legal counsel for the County.

Any approval of Special Source Credits for Projects under or in connection with this Policy is discretionary, and nothing herein will bind County Council to approving Special Source Credits for any Project.

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 Infrastructure Investment and Affordable Housing Certification (and/or such other certification(s) as may be deemed necessary by the County to ensure compliance with the intent of this Policy as described in the Incentive Agreement) with respect to such phase, the form of which shall be attached to the applicable Incentive Agreement. In order to remain eligible for Special Source Credits in each year, the Project owner shall submit an updated Infrastructure Investment and Affordable Housing Certification (and/or such other certification(s) as may be deemed necessary by the County to ensure compliance with the intent of this Policy as described in the Incentive Agreement) by no later than January 31 of each year. The County Administrator will provide an annual report to County Council on the status and compliance of then currently approved Projects.

Clawbacks:

Satisfaction of Eligibility Criteria: 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 Affordable Housing Certification to the County by no later than January 31 of each year that includes the rental roll for the Project evidencing that all units are Affordable Housing Units, the number of 40% AMI, 60% AMI and 80% AMI Housing Units within the Project for the preceding 12-month period and the mixture of bedrooms per unit at each AMI level, wage verification in connection with the foregoing, and the rental rate applicable to such units. If the Project does not satisfy the Eligibility Criteria on a continuing basis, the Sponsor shall have 90 days to cure such deficiency or failure. In the event that the Sponsor fails to cure such deficiency or failure, 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. Additional or different clawback provisions may also be required by the County and included in Incentive Agreements at the discretion of County Council.

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 twelve 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.