



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

16b

TO: Honorable Mayor and Members of City Council
FROM: John F. McDonough, City Manager

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

AGENDA DATE REQUESTED: June 12, 2023

ORDINANCE/RESOLUTION CAPTION:

RESOLUTION APPROVING THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF GREENVILLE, SOUTH CAROLINA OF ITS NOT TO EXCEED \$20,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CHEROKEE LANDING APARTMENTS PROJECT), IN ONE OR MORE SERIES, PURSUANT TO SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE

SUMMARY BACKGROUND:

This Resolution provides the required City consent to the issuance of multi-family housing revenue bonds by the Housing Authority of the city of Greenville, South Carolina. There is no financial obligation being created on the part of the City.

IMPACT IF DENIED:

The consent will be withheld.

FINANCIAL IMPACT:

None.


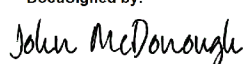
REQUIRED SIGNATURES

Department Director _____

OMB Director _____

City Attorney _____

City Manager _____

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A RESOLUTION

APPROVING THE ISSUANCE BY THE HOUSING AUTHORITY OF THE CITY OF GREENVILLE, SOUTH CAROLINA OF ITS NOT TO EXCEED \$20,000,000 MULTIFAMILY HOUSING REVENUE BONDS (CHEROKEE LANDING APARTMENTS PROJECT), IN ONE OR MORE SERIES, PURSUANT TO SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Cherokee Landing, LP, an Indiana limited partnership, or its successors or assigns (the “Borrower”), has represented to the City Council (the “City Council”) of the City of Greenville, South Carolina (the “City”) that it desires to finance the costs of acquiring, constructing, developing and equipping an approximately 128-unit multifamily housing development and related real estate to be known as the Cherokee Landing Apartments Project (the “Project”) to be located on approximately 16 acres of raw land located at the Northwest side of Berea Heights Road in Greenville County, South Carolina (the “County”); and

WHEREAS, the Borrower has further represented to the City Council that substantial cost savings would be recognized by financing the Project through a plan of financing consisting of the issuance by the Housing Authority of the City of Greenville, South Carolina (the “Issuer”) of its multifamily housing revenue bonds, in one or more series, in the aggregate principal amount not to exceed \$20,000,000 (the “Bonds”) to finance the Project; and

WHEREAS, the Borrower has further represented to the City Council that a portion of the proceeds of the Bonds would be used for the purpose of (a) financing the cost of acquisition, construction, development and equipping of the Project and (b) paying a portion of the costs of issuance of the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended, including the U.S. Treasury Regulations promulgated thereunder (collectively, the “Code”), requires as a condition of the issuance of private activity bonds, as defined in Section 141(a) of the Code, that the Bonds be approved, after a public hearing following reasonable public notice, by the governmental unit on behalf of which such bonds are to be issued (the “Issuer Approval”) and the governmental unit having jurisdiction over the area in which the bond-financed property is located (the “Host Approval”); and

WHEREAS, the City Council constitutes the elected legislative body of the City and the Borrower has represented to the City Council that it is the applicable elected representative required to provide the Issuer Approval for the issuance of the Bonds to finance the Project within the meaning of Section 147(f) of the Code; and

WHEREAS, the Borrower has represented to the City Council that each of the Issuer and governing body of the County (as to the Host Approval), has approved, or will approve prior to the issuance of the Bonds, the issuance of the Bonds and the financing of the Project consistent with all applicable requirements of federal and state law (including, but not limited to, Section 147(f) of the Code); and

WHEREAS, the Borrower has requested the City Council, pursuant to Section 147(f) of the Code, provide the Issuer Approval to approve the issuance by the Issuer of the Bonds for the purpose of providing funds to the Borrower to finance the Project; and

WHEREAS, on April 24, 2023, the Issuer published on its website a notice of public hearing to be held on May 1, 2023, at 10:00 a.m. or as soon thereafter as such matters may be heard by means of a telephonic meeting conducted by the Issuer to consider the issuance by the Issuer of the Bonds and nature of the Project to be financed with a portion of the proceeds of the Bonds; and

WHEREAS, the public hearing was duly held by the Issuer on May 1, 2023, during which public hearing members of the public were afforded the opportunity to express their views on the issuance by the Issuer of the Bonds and the use of the proceeds thereof to finance the Project as indicated by the Certificate as to Telephonic Public Hearing attached hereto as Attachment A;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Members of the City Council of the City of Greenville, South Carolina, in Council duly assembled:

Section 1. The issuance by the Issuer of the Bonds in an aggregate amount not to exceed \$20,000,000 for the purpose of providing funds to the Borrower to finance the Project is hereby approved pursuant to and in accordance with Section 147(f) of the Code.

Section 2. A telephonic public hearing open to the public was held on May 1, 2023, for which the Borrower has represented to the City Council that due and reasonable public notice, as described above, was given by or on behalf of the Borrower in accordance with the provisions of applicable law and procedures established therefor.

Section 3. Such approval by the City Council shall not be construed as (i) an endorsement of the creditworthiness of the Issuer, the Borrower or the financial viability of the Project, (ii) a recommendation to any prospective purchaser to purchase the Bonds, (iii) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (iv) approval of any building or other regulatory permits relating to the Project, and the City Council shall not be construed by reason of its adoption of this Resolution to make any such endorsement, finding or recommendation, to have waived any rights of the City, or to have caused the City to be estopped from asserting any rights or responsibilities it may have in such regard. Further, the Bonds shall not constitute an indebtedness of the State of South Carolina, the City or any political subdivision thereof, but shall be payable solely from revenues of the Borrower pledged to the payment of the Bonds. The approval by the City Council of the issuance of the Bonds by the Issuer to finance the Project shall not be construed to obligate the City to incur any liability, pecuniary or otherwise, in connection with either the issuance of the Bonds of the acquisition, construction or equipping of the Project.

Section 4. This Resolution shall take effect immediately upon its adoption.

Section 5. That the provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision shall, for any reason, be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 6. That all ordinances, resolutions or orders or parts thereof in conflict with the provisions of the Resolution are, to the extent of such conflict, hereby superseded.

RESOLVED THIS _____ DAY OF _____, 2023.

MAYOR

Attest:

CITY CLERK

ATTACHMENT A

**CERTIFICATE AS TO TELEPHONIC PUBLIC HEARING
(CHEROKEE LANDING APARTMENTS)**

I, the undersigned, on behalf of the Housing Authority of the City of Greenville, South Carolina ("TGHA"), the City of Greenville, South Carolina, and Greenville County, South Carolina do hereby certify as follows:

1. Attached hereto is the Notice of Telephonic Public Hearing (the "Notice") published on the TGHA website on April 24, 2023, related to a telephonic public hearing (the "Public Hearing") held by TGHA in connection with the issuance by TGHA of its not exceeding \$20,000,000 aggregate principal amount Multifamily Housing Revenue Bonds (Cherokee Landing Apartments Project) ("Bonds"), the proceeds of which will be made available to Cherokee Landing, LP, an Indiana limited partnership (the "Borrower"), to assist it with (i) the costs of acquiring, constructing and equipping of a 128-unit multifamily housing development and related real estate located at located at Northwest side of Berea Heights Road in Greenville County, South Carolina 29617 (the "Project") including amenities functionally related and subordinate thereto, and (ii) paying a portion of the costs of financing.

2. A representative of TGHA was present at the Public Hearing described in the above-mentioned Notice, which hearing was held at the time and manner specified therein. The Public Hearing was conducted telephonically, and the public was provided a toll-free access number to provide comments or listen to the Public Hearing and provided an email and mailing address to submit written comments. All persons desiring to do so were given a reasonable opportunity to speak and, if requested, to present their opinions in writing regarding the issuance by TGHA of the Bonds and the use of the proceeds for the purposes described in paragraph 1 above. There were no written comments received and there was no opposition to the issuance of the Bonds for the purposes described in paragraph 1 above.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May 2023.

Shawn Williams
Shawn Williams, Chief Executive Officer

Exhibit A
(Notice of Telephonic Public Hearing)

NOTICE OF TELEPHONIC PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Housing Authority of the City of Greenville, South Carolina (the "*Issuer*") on behalf of the Issuer, the City of Greenville, South Carolina ("*City*") and Greenville County, South Carolina ("*County*"), **on May 1, 2023 at 10:00 a.m.**, or as soon thereafter as the matter can be heard (the "*Public Hearing*"), and will be held telephonically by the Issuer, in connection with the issuance by the Issuer of its Multifamily Housing Revenue Bonds (Cherokee Landing Apartments Project) Series 2023, in one or more tax-exempt and/or taxable series, in an aggregate principal amount not to exceed \$20,000,000 (the "*Bonds*"), as part of a plan of financing. The Bonds will be an issue of "exempt facility bonds" issued to finance a "qualified residential rental project" as defined in Section 142(a)(7) of the Internal Revenue Code of 1986, as amended.

Principal User of Bonds and Project. The proceeds of such Bonds, when and if issued, will be loaned by the Issuer to Cherokee Landing, LP, an Indiana limited partnership (the "*Borrower*") to (i) provide funds to finance the costs of acquiring, constructing and equipping an approximately 128-unit multifamily housing development and related real estate located in the County, to be known as the Cherokee Landing Apartments ("*Project*"), and (ii) pay the costs of issuance of the Bonds. The Issuer will issue the Bonds pursuant to the provisions of Chapters 3 and 13 of Title 31 of the Code of Laws of South Carolina, 1976, as amended.

The Project will be located on approximately 16 acres of raw land located at the northwest side of Berea Heights Road, Greenville, South Carolina 29617 bearing a property identification number of B05000100204. The Project will be initially owned and operated by the Borrower.

Limited Obligations. The Bonds will be special, limited obligations of the Issuer and will be secured by and payable solely and exclusively out of loan repayments to be made by the Borrower to the Issuer and certain other funds and accounts established and pledged for the Bonds. The Bonds will not constitute an indebtedness of the Issuer, the State of South Carolina, or any political subdivision thereof within the meaning of any South Carolina constitutional provision or statutory limitation (other than indebtedness payable only from a revenue-producing project or special source) nor give rise to a pecuniary liability of the Issuer, the State of South Carolina, the County, the City or any political subdivision of any of the foregoing. The Bonds will not constitute a charge against the general credit or taxing powers of the Issuer, the State of South Carolina, the County, the City, or any political subdivision of any of the foregoing. The Issuer has no taxing authority.

Teleconference Only. The Public Hearing will be conducted by the Issuer telephonically. All persons who wish to provide comments or listen to the Public Hearing may join by calling toll free at **800.753.1965 (US Toll Free) Access code: 4673083**. Members of the public may submit oral or written comments to the Issuer to express their views for or against the proposed issuance of the Bonds or the location and nature of the Project. **All persons who wish to submit oral comments during the Public Hearing must contact the Issuer, not less than 24 hours prior to the Public Hearing, via email to shawnw@tgha.org to inform the Issuer of their desire to speak at the Public Hearing.** Those who present comments during the Public Hearing will be permitted to address the Issuer regarding the Project or the Bonds for no more than five (5) minutes. Members of the public may submit written comments to the Issuer via mail to Shawn Williams, CEO, Housing Authority of the City of Greenville, South Carolina, 122 Edinburgh Court, Greenville, South Carolina 29607, or via email to shawnw@tgha.org. The Issuer will not prepare a transcript of the Public Hearing.

HOUSING AUTHORITY OF THE CITY OF GREENVILLE, SOUTH CAROLINA