



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

11f

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: March 23, 2020

ORDINANCE/RESOLUTION CAPTION:

ORDINANCE TO APPROVE A SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF GREENVILLE AND THE GREENVILLE HOUSING FUND FOR AFFORDABLE HOUSING INITIATIVES AND SERVICES

SUMMARY BACKGROUND:

The city of Greenville entered into an agreement with the Greenville Housing Fund, a wholly owned subsidiary of CommunityWorks, dated September 10, 2018, (the "Operating Agreement") to provide \$1,944,000 in funding to support the establishment of the organization and provide for various uses including equity investments in the construction and rehabilitation of existing affordable housing and the acquisition of property for affordable housing development. The Operating Agreement also provided for the establishment of an escrow account into which city contributions would be deposited and disbursed according to a process agreed to by all parties. The Operating Agreement was amended on February 11, 2019, to include a second contribution in the amount of \$1,500,000 to be used for the same purposes as stated above.

To date, the Greenville Housing Fund has expended \$2,110,174 from the escrow account and committed \$2,218,375 in funding. Since the Operating Agreement was executed, city staff has closely monitored the types of projects funded and the manner in which those funds are disbursed to ensure that funding is used for the intended purpose. City staff reviewed the annual audit from CommunityWorks and determined that city monies are being expended in a manner consistent with the agreement and that appropriate internal controls are in place to monitor compliance. City staff recommends that the Operating Agreement be amended to include the \$1,000,000 appropriated in the fiscal year 2019-2020 City General Fund Budget, that the escrow account be closed, that funds be maintained by the Greenville Housing Fund and CommunityWorks in a separate interest-bearing account, that monthly bank statements be submitted to the City and that the existing disbursement review and approval process be maintained.

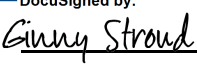
IMPACT IF DENIED:

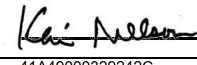
The Agreement between the City of Greenville and the Greenville Housing Fund will not be amended.

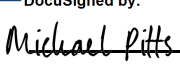
FINANCIAL IMPACT:


Appropriation was approved in the 2019-2020 City General Fund Budget.

REQUIRED SIGNATURES

Department Director 
DocuSigned by: FE9DC7E5A9C7477...

OMB Director 
DocuSigned by: 41A49000329242C...

City Attorney 
DocuSigned by: 5E0F2A267E2D413...

City Manager 
DocuSigned by: FDC2AC15040F440...

A N O R D I N A N C E

TO APPROVE A SECOND AMENDMENT TO THE AGREEMENT BETWEEN
THE CITY OF GREENVILLE AND THE GREENVILLE HOUSING FUND FOR
AFFORDABLE HOUSING INITIATIVES AND SERVICES

WHEREAS, the city of Greenville entered into an agreement with the Greenville Housing Fund, a wholly owned subsidiary of CommunityWorks, dated September 10, 2018, (the "Operating Agreement") to provide \$1,944,000 in funding to support the establishment of the organization and provide for various uses including equity investments in the construction and rehabilitation of existing affordable housing and the acquisition of property for affordable housing development; and

WHEREAS, since the Greenville Housing Fund was a new start-up entity, the Operating Agreement also provided for the establishment of an escrow account into which city contributions would be deposited and disbursed according to a process agreed to by all parties; and

WHEREAS, the Operating Agreement was amended on February 11, 2019, to include a second contribution into the Greenville Housing Fund in the amount of \$1,500,000 to be used for the same purposes as stated above; and

WHEREAS, to date, the Greenville Housing Fund has expended \$2,110,174 from the escrow account and committed \$2,218,375 in funding; and

WHEREAS, since the Operating Agreement was executed, city staff has closely monitored the types of projects funded and the manner in which those funds are disbursed to ensure that funding is used for the intended purpose; and

WHEREAS, city staff reviewed the annual audit from CommunityWorks and determined that city monies are being expended in a manner consistent with the agreement and that appropriate internal controls are in place to monitor compliance; and

WHEREAS, city staff recommends that the Operating Agreement be amended to include \$1,000,000 appropriated in the fiscal year 2019-2020 City General Fund Budget; and

WHEREAS, city staff further recommends that the escrow account be closed and that funds be maintained by Greenville Housing Fund and CommunityWorks in a separate interest-bearing account, that monthly bank statements be submitted to the City and that the existing disbursement review and approval process be maintained;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, City Council hereby approves the Second Amendment to Agreement for Affordable Housing Initiatives and Services in substantially the same form as Attachment 1, which is attached hereto and incorporated herein. 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 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 City Council, then the matter shall be presented to Council for further review before the final execution.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

ATTACHMENT 1

STATE OF SOUTH CAROLINA)	SECOND AMENDMENT TO AGREEMENT
)	FOR AFFORDABLE HOUSING
)	INITIATIVES AND SERVICES
COUNTY OF GREENVILLE)	

THIS SECOND AMENDMENT TO AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the City of Greenville, a duly constituted body politic of the State of South Carolina, with its principal offices located at 206 South Main Street, Greenville, South Carolina, 29601, hereinafter referred to as "CITY", and Greenville Housing Fund, LLC, hereinafter referred to as the "FUND".

In consideration of the mutual promises, covenants, and agreements stated here and for other good and valuable consideration, the legal sufficiency of which is hereby acknowledged by each of the parties and by consent of all of the parties, that certain contract entitled "AGREEMENT FOR AFFORDABLE HOUSING INITIATIVES AND SERVICES" dated September 10, 2018, as amended by the First Amendment dated February 11, 2019, shall be and is hereby amended, modified and altered, in the following respects only:

Delete Section V(a) in its entirety and replace with the following:

V(a) It is expressly agreed and understood that in no event will the sum to be paid by the CITY exceed the maximum of Four Million Four Hundred Forty-Four Thousand and 00/00 Dollars (\$4,444,000) in funding in accordance with the uses of funds set forth above in Section II(c).

Delete Section V(c) in its entirety and replace with the following:

V(c) Any funds remaining in that separate escrow account with Wyche P.A. established pursuant to the terms of the initial Agreement dated September 10, 2018, shall be transferred to CommunityWorks for the sole benefit of the FUND to be held in a separate interest-bearing account hereinafter referred to as the "Account". The additional funding referenced in section V(a), representing an amount that is \$1,000,000 greater than the First Amendment, shall be paid to CommunityWorks for the sole benefit of the FUND and held in the Account. Monthly bank statements in connection with the Account shall be provided to the City of Greenville's Community Development Manager and to the Director of the Office of Management and Budget as long as funding remains in the Account. CommunityWorks, on behalf of the FUND, shall make draw requests from the Account from time to time using the form attached hereto and made a part hereof as Exhibit A. Each draw request shall describe the specific project for which the money will be used in reasonable detail. The City will respond to each such draw request within five (5) business days, excluding the date of receipt. If the City does not respond in said timeframe, the draw request shall be deemed approved.

In all other respects, the Agreement remains unchanged and, as modified here, shall continue in full force and effect. The Agreement, as amended, is hereby adopted, ratified, and confirmed by the Parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals on the day and year first above written.

WITNESSES:

WITNESSES:

CITY OF GREENVILLE

BY: _____
John McDonough
ITS: City Manager

GREENVILLE HOUSING FUND LLC

BY: _____
F. Bogue Wallin
ITS: Chairman

COMMUNITYWORKS

BY: _____
Jennifer Derryberry
ITS: CFO

Approved as to Form:

Legal

Reviewed:

Community Development

Reviewed:

OMB Director

Reviewed:

Risk Manager

Received:

Purchasing Administrator

EXHIBIT A

Disbursement Request

To City of Greenville

Re: Agreement for Affordable Housing Initiatives and Services

Dear _____:

This is a request for disbursement of funds pursuant to the Agreement referenced above.

CommunityWorks, on behalf of the Greenville Housing Fund ("GHF") hereby requests disbursement of \$ _____ for the project described below:

Name of Project:
Address:

Description of Project:
(including number of housing units and distribution of affordability
quintiles)

Anticipated Schedule for Commencement
and Completion of Project:

We understand that you will either respond with specific objections or requests for additional information on or before _____, 20____ (five (5) business, excluding date of receipt). Otherwise, funds may be disbursed by CommunityWorks to GHF.

Executed this _____ day of _____, 20_____.

Copy: GHF

CommunityWorks

By: _____

Approved by City of Greenville

By: _____