

AGREEMENT

THIS AGREEMENT is made and entered into on January ___, 2018, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “County”), and the **HABITAT FOR HUMANITY OF GREATER CHARLOTTESVILLE, INC.**, a Virginia corporation, (“Habitat”) and its successors and assigns.

Recitals

- R-1** Southwood Charlottesville LLC, a limited liability company wholly-owned by Habitat, is the owner of those parcels identified as Tax Map Parcel Numbers _____, (the “Property”), which composes the Southwood Mobile Home Park (“Southwood”) in Albemarle County; and
- R-2** Habitat intends to redevelop Southwood, which currently has the largest concentration of substandard housing in Albemarle County, into a mixed income, mixed use development by removing the existing 341 mobile homes and replacing them with approximately 700 to 800 dwelling units composed of a variety of housing unit types, and doing so through a community-developed vision that will not displace Southwood’s current residents; and
- R-3** Habitat’s redevelopment of Southwood presents a unique opportunity to significantly improve the health and welfare of the largest concentration of County residents living in substandard housing; and
- R-4** The County has received a one-time funding request for 2018 from Habitat in the amount of \$675,000 to support a variety of work related to planning for the Phase I rezoning of the redevelopment of Southwood; and
- R-5** Habitat projects approximately \$75,000,000 in revenues toward the redevelopment of Southwood, of which approximately \$28,000,000 will be from outparcel sales, \$17,000,000 will be from direct or leveraged public funds, and \$30,000,000 will be from private source fundraising; and
- R-6** The build-out of Phase I of Southwood is currently scheduled to be completed on or around 2023 and the build-out of Phase II is currently scheduled to be completed on or around 2034; and
- R-7** Habitat and County staff are working closely with each other, with current Southwood residents and with surrounding communities to develop a plan that improves quality of life in the southern section of the County’s “urban ring” development area and, therefore, anticipate being able to move swiftly through the permitting process; however, given the desire to produce consensus, it may be necessary to extend certain deadlines in order to maximize community agreement and for other reasons; and the parties intend to negotiate in good faith at any time if a full or partial extension of any deadline in this Agreement is warranted; and
- R-8** The County is committed to timely review and act on all submittals related to this project including those related to land development activity, the release of funds, and any other aspect of the partnership as envisioned by this Agreement for which submittals are required.

Terms and Conditions for the County’s Contribution and Habitat’s Use of Funds

The parties agree as follows:

- 1. Authority.** The contributions by the County to Habitat as provided in this Agreement are made pursuant to Virginia Code § 15.2-953. The County, through its Board of Supervisors (the “Board of Supervisors”) is enabled by Virginia Code § 15.2-953 to appropriate funds to charitable institutions. Habitat is a charitable institution that is eligible to receive appropriations of public funds under Virginia Code § 15.2-953.

2. **Contribution by the County.** The County agrees to contribute to Habitat a total of \$675,000 as provided in Section 3 of this Agreement. The contribution by the County in any fiscal year is subject to nonappropriation by the Board of Supervisors as provided in Section 10 of this Agreement. Habitat warrants that this funding will be sufficient to achieve the deliverables herein and therefor agrees to not request further County funding contributions for this purpose for the remainder of calendar year 2018.
3. **Timing of the Contribution of Funds by the County to Habitat and the Purposes for Which the Contributed Funds May be Used.** The County will make 2 contributions to Habitat at the times stated below and the funds shall be used by Habitat solely for the purposes stated below:
 - A. *First contribution.* \$400,000 will be contributed by the County to Habitat on or before June 30, 2018. The contributed funds shall be used solely to pay for Habitat's cost, in whole or in part, to submit to the County before June 30, 2018 a complete application to amend the portion of the zoning map applicable to the Property for Phase 1 of the Southwood redevelopment project (the "Phase 1 Rezoning") and for related purposes. The related purposes for which the contributed funds may be used are those identified in the "FY 18 Traunch 1" column and its corresponding "Deliverables" column on Exhibit A, and as those deliverables are further described in Exhibit B. Exhibits A and B are incorporated into and made a part of this Agreement.
 - B. *Second contribution.* \$275,000 will be contributed by the County to Habitat between July 1, 2018 and December 30, 2018. The contributed funds shall be used solely to pay for Habitat's cost, in whole or in part, to prepare and submit a proposed application plan and code of development for the Phase 1 Rezoning, and for related purposes. The related purposes for which the contributed funds may be used are those identified in the "Q1 + Q2 FY 19 Traunch 2" column and its corresponding "Deliverables" column on Exhibit A, and as those deliverables are further described in Exhibit B.
4. **Return of Contributed Funds.** The County may require return of its contributed funds in part or in their entirety in either of the following circumstances:
 - A. Habitat does not submit a complete application for the Phase I Rezoning by June 30, 2018.
 - B. The County's Board of Supervisors is unable to take final action on the Phase I Rezoning by June 30, 2019 due to the actions or inaction of Habitat, its agents, or its independent contractors.Additionally, the County shall require return of its contributed funds in part or in their entirety in any of the following circumstances:
 - A. Habitat loses its status as a charitable institution under the rules of the United States Internal Revenue Service on or before the County's Board of Supervisors takes final action on the Phase 1 Rezoning.
 - B. Habitat ceases to own the Property on or before it expends all of the County's contribution, subject to the proviso in Section 7(C) of this Agreement.
5. **Prorated Return of Contributed Funds.** The County may require funds to be returned to the County on a prorated basis in the following circumstances:
 - A. If Habitat does not submit to the County at least one complete initial site plan or preliminary subdivision plat, or a combination thereof, for review and approval for the first village in Phase 1 by December 18, 2019 due to the actions or inactions of Habitat, its agents, or its independent contractors, the County may require Habitat or its successors or assigns to return to the County \$300,000 of the contributed funds.

- B. If Habitat does not submit to the County at least one complete initial site plan or preliminary subdivision plat, or a combination thereof, for review and approval for the entirety of Phase 1, which likely will include residential villages, mixed income housing, and neighborhood commercial uses, by December 18, 2021 due to the actions or inactions of Habitat, its agents, or its independent contractors, the County may require Habitat or its successors or assigns to return to the County \$200,000 of the contributed funds.
 - C. If Habitat does not obtain from the County final site plan or final subdivision plat approval or a combination thereof, due to the actions or inaction of Habitat, its agents, or its independent contractors, for the entirety of Phase 1 by December 18, 2022, the County may require Habitat or its successors or assigns to return to the County \$100,000 of the contributed funds.
 - D. If Habitat does not obtain from the County building permits for one or more dwelling units and/or one or more commercial structures by December 18, 2023 due to the actions or inaction of Habitat, its agents, or its independent contractors, the County may require Habitat or its successors or assigns to return to the County \$50,000 of the contributed funds.
- 6. Security for the County's Contribution in the Event of Habitat's Failure to Satisfy Section 4.** The County, in its sole discretion, may record an instrument against the Property to secure the return of its contributed funds under any of the circumstances described in Section 4 of this Agreement. Habitat will sign the documents necessary to allow the County to record its instrument, and will not otherwise prevent, or seek to prevent, the County from recording its instrument. The County instrument will be subordinate to any instrument recorded by one or more financial institutions to secure its funding provided to Habitat for Phase 1. The County will sign the documents necessary to subordinate its instrument to the instrument recorded, or to be recorded, by the financial institution, and will not otherwise prevent, or seek to prevent, the financial institution from recording its instrument. The County will promptly and timely release any instrument that it records to secure the return of its contributed funds as provided under this Section when Habitat is no longer obligated to return contributed funds as provided under Section 4 of this Agreement. The County shall also provide prompt and timely release or partial release of any instrument required for outparcel sales in the normal course of development, irrespective of any amount that may still be subject to return by Habitat to the County pursuant to this Agreement. Habitat shall not be responsible for any costs, including recording costs, incurred by the County for it to record any instrument under this Section.
- 7. Obligations of Habitat.** Habitat shall:
- A. Endeavor to submit to the County a complete application for the Phase I Rezoning by June 30, 2018.
 - B. Maintain its status as a charitable institution under the rules of the United States Internal Revenue Service through 2023.
 - C. Ensure that Southwood Charlottesville LLC continues to own the Property at least until December 31, 2018, provided that: (i) this subsection will be deemed to be satisfied if Habitat becomes an owner or a co-owner with Southwood Charlottesville LLC of the Property at least until December 31, 2018; (ii) this subsection will be deemed to be satisfied even though Southwood Charlottesville LLC or Habitat sells lots within the Property created by a subdivision plat approved by the County after the date of this Agreement; (iii) the Board of Supervisors may, in its sole discretion, determine that a change in the legal status of Habitat as a corporation (*e.g.*, from a corporation to another entity) is not a change in ownership for purposes of this Agreement, and (iv) in the normal course of development, should a restructuring of any or all of the ownership of the parcels of land in Southwood currently subject by this Agreement be required in order to achieve the goals envisioned by this Agreement, the Board of Supervisors may, in its sole discretion, determine that the restructuring will not cause a default and trigger a repayment of the funds provided under this Agreement.

- D. From the date of this Agreement and until the design and construction of Habitat's redevelopment of Southwood is 100% funded, diligently conduct a public and private capital campaign and sell outparcels, contribute Habitat Store revenue, obtain financing, and take other actions and engage in other activities to pay for the cost of the design and construction of Southwood.
- E. Not discriminate against any resident or potential resident of Southwood, or any other person or entity related in any way to the redevelopment and occupancy of Southwood, on any basis prohibited by federal or state law.
8. **No Goods or Services Received by the County.** The contribution of funds to be made by the County pursuant to this Agreement are solely to enable Habitat to plan and design Phase 1 of Southwood. The descriptions of the proposed redevelopment of Southwood state the public and charitable purposes that may be served by the County's contribution, and are not a description of any goods or services being procured by the County by this Agreement.
9. **No Agreement to Amend the Zoning Map.** Nothing in this Agreement constitutes an Agreement by the County or its Board of Supervisors to amend the portion of the zoning map applicable to the Property.
10. **Nonappropriation.** The obligation of the County to contribute funds as provided in Sections 2 and 3 of this Agreement is subject to, and dependent upon, appropriations being made from time to time by the Board of Supervisors. Under no circumstances shall this Agreement be construed to establish an irrevocable obligation on the County to contribute any funds to Habitat.
11. **Non-severability.** If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the entire Agreement is unenforceable.
12. **Entire Agreement.** This Agreement states all of the covenants, promises, agreements, conditions, and understandings between the County and Habitat regarding the County's contribution of funds.
13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
14. **Amendments.** This Agreement may be amended by a written amendment signed by the authorized representatives of the parties.
15. **Force Majeure.** In the event Habitat's timely performance of Section 4(A) or 4(B) (the first) of this Agreement is interrupted or delayed by any occurrence not occasioned by the conduct of either Habitat or the County, whether the occurrence is an Act of God such as lightning, earthquakes, floods, or other similar causes; a common enemy; the result of war, riot, strike, lockout, civil commotion, sovereign conduct, explosion, fire, or the act or conduct of any person or persons not a party to or under the direction or control of either Habitat or the County, then performance of Section 4(A) or 4(B)(the first) of this Agreement shall be excused for a period of time as is reasonably necessary after the occurrence to remedy the effects thereof.

WITNESS, the following authorized signatures:

SIGNATURES ARE ON THE FOLLOWING PAGE

**HABITAT FOR HUMANITY OF GREATER
CHARLOTTESVILLE, INC.**

Dan Rosensweig, President and Chief
Executive Officer

COUNTY OF ALBEMARLE, VIRGINIA

Ann H. Mallek, Chair
Albemarle County Board of Supervisors

Approved as to form:

County Attorney

EXHIBIT A **Sources and Uses of Funds**

		FY18		Q1 + Q2 FY19	
		Draw 1	Deliverables	Draw 2	Deliverables
	SOURCES OF FUNDS:				
1	Income from trailer park operations	63,900		54,785	
2	Public Fundraising (VHDA, DHCD)	105,000		175,000	
3	Private Fundraising	36,700		21,835	
4	County Grant Request*	400,000		275,000	
5	TOTAL SOURCES OF FUNDS	605,600		526,620	
7	USES OF FUNDS:				
8	Ongoing Community Engagement initiatives	179,130		206,430	
9	Office overhead	5,670		5,670	
10	Professional development and training for staff	5,200	7, 12	8,320	7, 12
11	Small business development consultant	30,000	13	0	
12	Community Surveys + interviews	21,000	7, 13, 16, 17	12,000	10, 11, 13, 16, 17, 20
13	Meeting facilitation for design consultants	4,110	1, 3, 4, 9	3,140	9, 11, 14, 15
14	Interpretation for design meetings	6,950	3, 4, 9	5,940	9, 11, 14, 15
15	Materials for workshops + redevelopment programming	21,490	3, 4, 6	18,220	6, 11, 14, 15
16	Leadership program development	25,600	6, 9, 13, 17	21,400	6, 9, 10, 13, 17
17	Tracking software	3,850	20	3,300	20
18	Community Engagement	303,000		284,420	
19	civil engineering	42,000	2, 3, 5, 8	36,000	14, 15, 18
20	environmental engineering	21,000	5, 8	24,000	14, 15, 18
21	architecture	105,000	1, 3, 4, 5, 8	90,000	11, 14, 18
22	landscape architecture	49,000	3, 5, 8	36,000	14, 15, 18
23	Engineering and Design	217,000		186,000	
24	permit fees	20,000	8	0	
25	ER, Phase I, traffic study	50,000	8	25,000	18
26	Parcel Development	70,000		25,000	
27	Trailer Acquisition	15,600	16	31,200	16
28	Release of land from seller financing	0		0	
29	Amenity Development	0		0	
30	Other soft costs	0		0	
31	TOTAL PLANNED USES OF FUNDS	605,600		526,620	
32					
33	NET ANNUAL PROJECT CASH FLOW	0		0	

SOUTHWOOD REDEVELOPMENT

Community Engagement
for Redevelopment

Land Development

*County Grant request items are highlighted in green and only include specific, direct redevelopment-related expenses that are necessary for producing the list of deliverables



Exhibit C

2018 Deliverables

1. **Action Plan** submitted to Albemarle County Board of Supervisors. The plan establishes a County-Habitat partnership structure, creating teams around the themes of Planning, Policy, Funding and Services. Cross-sectorial coordination is critical to holistic, sustainable redevelopment of Southwood, and each team will be staffed by the appropriate County and Habitat representatives in order to make innovative decisions in these fields.
2. **Traffic Study** completed by Habitat civil engineering consultant as part of the Phase I rezoning application.
3. **Conceptual Road Layout** for Phase I of redevelopment created by Habitat civil engineering consultant through work with Habitat landscape architecture consultant to create a logical, safe and interconnected roads system that respects the existing topography of the site and maintains a balance between development and preservation of existing natural features valued by Southwood residents
4. **Code of Development** written by Habitat architectural consultants in partnership with Albemarle County planning staff and reflecting the vision and goals of Southwood residents
5. **Phase I Application Plan** developed by Southwood residents and Habitat architectural, landscape architectural, civil engineering and environmental engineering consultants identifying uses, densities and other appropriate information for the development of Phase I of redevelopment
6. **Resident Planning + Leadership Development** through trainings and workshops led by Habitat Community Engagement staff and consultants to continue preparing residents to thoughtfully and intelligently interact with the rezoning and planning process
7. **Neighboring Community Outreach + Engagement** by Habitat Staff to incorporate the vision and aspirations of neighboring communities into the planning process and build a strong cohort of community support for Southwood rezoning and redevelopment
8. **Phase I Rezoning Application** submitted to Albemarle County by February with projected approval of Rezoning request by Albemarle County Board of Supervisors by December 2018.

9. **Planning 101** offered in partnership between Albemarle County Staff and Habitat Staff to inform residents on the County planning and approvals process to better equip community members to interact effectively with their local government
10. **Neighborhood Plan** Facilitated by Habitat Community Engagement staff through intensive work with Southwood residents as an expression of the community's future vision for a redeveloped neighborhood around themes like Amenities, Economic Opportunities, Education, Health, Housing, Safety, and Transportation.
11. **Expanded Housing Product Line** developed by Habitat staff and architectural consultants to ensure ample and innovative affordable housing solutions as well as solutions in the workforce and market rate housing spectrum
12. **Financial Coaching** by trained Habitat Community Engagement Staff working one-on-one with Southwood families to assess their housing goals and develop individual plans for homebuyer or rental readiness
13. **Entrepreneur and Microenterprise Identification** by Habitat staff and consultants through working with the aspirations and goals of Southwood small business owners to prepare them for success in the redeveloped Southwood, identifying potential economic development opportunities that may manifest in Phase I
14. **Conceptual Design of Multi-Modal Trail System** developed by Habitat environmental and civil engineering consultants in coordination with landscape architecture consultants that fit the Southwood resident vision for safe recreation and transportation routes that will also serve to connect the larger Albemarle County community to regional recreation opportunities like Biscuit Run State Park.
15. **Conceptual Design of Active and Passive Use Recreational Facilities** developed by Habitat environmental and civil engineering consultants in coordination with landscape architecture consultants that fit the Southwood resident vision for family-centered recreational amenities
16. **Resident Rehousing Strategy** development by Habitat staff, inclusive of likely proactive trailer acquisition, to ensure a redevelopment process that provides rehousing opportunities on site to ensure the retention of the existing Southwood community and culture

- 17. Early Adopters Cohort** self-identify and work directly with Habitat Community Engagement staff to prepare for moving into the first Model Village
- 18. Conceptual Design of First Model Village** developed by Habitat architectural, landscape architectural, civil engineering and environmental engineering consultants through direct partnership with Southwood Early Adopters
- 19. Resource Development Plan** finalized by Habitat staff, identifying individual, corporate and foundation fundraising opportunities as part of Habitat's Capital Campaign and utilizing visual materials produced by consultants as part of the land development process
- 20. Baseline Metrics** collected by Habitat staff and consultants to be able to demonstrate measurable improvement in resident quality of life through the process of Southwood redevelopment