

PIN # 9870907548

**Drafted by/Return to: Ralph D. Karpinos
Town of Chapel Hill
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27516**

NORTH CAROLINA

ORANGE COUNTY

AGREEMENT REGARDING

THE PROVISION OF AFFORDABLE HOUSING AND/OR FUNDING TO THE TOWN OF CHAPEL HILL FOR AFFORDABLE HOUSING IN ACCORDANCE WITH A PROPOSED REZONING AND SPECIAL USE PERMIT

This Agreement is made and entered into between William Bainster Wood and Virginia Wood ("Owner"), GLMH-2, LLC ("Developer") and the Town of Chapel Hill, a North Carolina Municipal Corporation ("Town"). Developer is the contract purchaser of the property identified as Orange County Parcel Identifier Number 9870907548 ("Property"). Owner, the owner of the Property, at the request of Developer, has joined in an application to the Town for conditional use rezoning of the Property. This Agreement is executed for the purpose of documenting that the parties hereto, for themselves, their successors and assigns, agree that the commitments made herein represent a voluntary exchange of sufficient consideration to bind the parties and their successors, heirs and assigns.

WITNESSETH:

WHEREAS, the Charter of the Town of Chapel Hill allows the Town to grant a density bonus to a developer of housing within the Town if the developer agrees to construct a percentage, as set out in the Charter, of a proposed housing development for persons of low or moderate income; and

WHEREAS, the Town of Chapel Hill Town Council has an adopted policy (see Resolution 2000-03-06/R-4, as modified by Resolution 2009-01-26/R-7) (the Policy) which provides that when an application for rezoning is submitted the Council has an expectation that the applicant will provide a percentage of affordable housing in the increased density allowed by rezoning; and

WHEREAS, the Parties agree that the Policy was adopted pursuant to valid legislative authority granted by the North Carolina General Assembly and constitutes a part of the Town's Comprehensive Plan; and

WHEREAS, the Owner and Developer have applied to the Town of Chapel Hill for conditional use rezoning of the Property ("Application") which, if granted by the Town Council, will increase the permitted density of residential development on the Property and enhance its fair market value; and

WHEREAS, pursuant to N.C.G. S. Sec. 160A-382(b), conditions may be proposed and agreed to by the Town and the property owner in conditional use rezonings which address the conformance of a development and use of property to an officially adopted comprehensive plan; and

WHEREAS, the Owner and Developer acknowledge and accept that they are receiving a density bonus by way of the rezoning of their property in exchange for their agreement to provide the affordable housing on site and / or the payment in lieu thereof to assist the Town in providing affordable housing elsewhere within the Town;

WHEREAS, the Developer, with the consent of the Owners and as an alternative to directly meeting the Policy expectation of providing affordable housing on the site of the Property for which the rezoning is being requested, has voluntarily proposed to the Town Council to make a payment to the Town's Affordable Housing Fund, which would be used by the Town to provide further opportunities for affordable housing in accordance with the Guidelines for Use of the Affordable Housing Fund adopted by the Chapel Hill Town Council in Resolution 2014-09029/R-8; and

WHEREAS, the Parties agree that their alternative, voluntary provision of funding for affordable housing is consistent with the Policy; indirectly meets the requirements for which the Town may grant a density bonus; and is an acceptable and voluntarily accepted method of achieving the goals of the Policy in exchange for the density bonus to be provided as a result of the requested rezoning; and

WHEREAS, the Council has determined that the offer of the Owner and Developer to make the payment to the Town's Affordable Housing Fund as an alternative to providing affordable housing on site fairly and reasonably helps to achieve the Town's affordable housing goals, as reflected in the Town's Comprehensive Plan, to develop and preserve affordable housing opportunities in Chapel Hill and the Council commits to using said funds provided to increase opportunities for affordable housing.

NOW THEREFORE the Owner, Developer and the Town agree as follows:

1. The Town's Policy on proposed residential rezonings includes an expectation of the Town, when considering a rezoning request to increase residential density, that an affordable housing component will be included. Under the Policy a payment may be offered, to be used for affordable housing, by an applicant as a substitute to the provision of the units on site and that said offer may be considered and accepted by the Town Council.
2. The Developer, with the consent of the Owners, does for itself and its successors, heirs and assigns hereby voluntarily offer and agree to make a contribution of \$315,000 to the Town's Affordable Housing Fund to be used by the Town to develop and preserve the Town's affordable housing programs or a contribution with a value equal to \$315,000 or some combination thereof, if the Town approves the Application as submitted.

3. The Developer, with the consent of the Owner, further acknowledges that it proposes to make the contribution described above as a voluntary contribution and not as an exaction of a monetary fee, contribution or tax which is subject to being returned pursuant to G.S. Sec. 160A-363(e). The Owner and Developer, for themselves, their heirs, successors and assigns, waive any and all claims for any return or refund of said voluntarily payment; and acknowledges that the Town has been induced to act to rezone said Property in part by the proposed payment for affordable housing; acknowledge that the Owner and Developer will have received, by their rezoning, a discretionary legislative action and increase in development opportunities to which they are not automatically entitled to in consideration, in part, for their voluntary offer; and that by agreeing to these terms and receiving the benefits of greater development density resulting from the herein referenced rezoning, agrees that they and their successors and assigns, including parties who may purchase the Property with the entitlements provided by the rezoning are equitably and legally estopped from subsequently seeking repayment from the Town of funds provided.
4. The Town finds that the amount offered and the units provided on site by the owner in their specific case and based on the specific circumstances involved in their application, meets the objectives and intent of the Policy and accepts said amount in lieu of the provision, and provision of, an affordable housing component being included on site in the proposed development associated with the rezoning and by meeting a policy objective of the Town Council supports a decision by the Council to exercise its Legislative authority to rezone the property The Town further agrees that said funds shall be used to create and preserve affordable housing opportunities within its jurisdiction.
5. A copy of this agreement shall be recorded as an attachment to the Special Use Permit accompanying the rezoning application and incorporated as a part thereof.

IN WITNESS WHEREOF, the Town of Chapel Hill and the Owner and Developer have executed this Agreement Regarding the Provision of Funding to the Town of Chapel Hill for Affordable Housing this the ___ day of ___, 20__.

Owners:

William Bainster Wood (SEAL)
William Bainster Wood

Virginia F Wood (SEAL)
Virginia Wood

STATE OF NORTH CAROLINA

Orange COUNTY

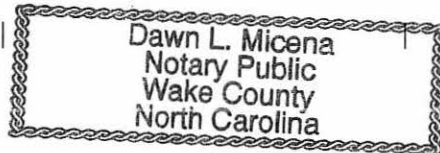
I, Dawn L. Micena a Notary Public of the County of Wake, State of North Carolina, do hereby certify that William Bainster Wood and Virginia Wood personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 3 day of December, 2018.

Dawn L. Micena

Notary Public

Place Seal within lines → |



My Commission expires: 2/3/20

Developer:

GLMH-2, LLC

BY:

Richard Gault

Title:

MEMBER

STATE OF NC

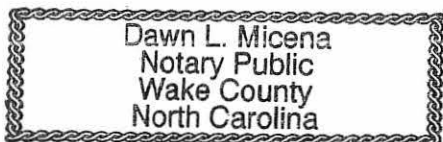
COUNTY OF ORANGE

I, a Notary Public of the State of NC and County of Wake, certify that Richard Gault personally came before me the day and acknowledged that he/she is the member of GLMH-2 LLC, and that he/she as member of GLMH-2 LLC, being authorized to do so, executed the foregoing on behalf of GLMH-2 LLC.

WITNESS my hand and official stamp (or seal) the 3 day of Dec., 2018

[NOTARIAL SEAL]

Dawn L. Micena (Seal)
Notary Public



Dawn L. Micena
Notary's Name, Printed or Typed

My commission expires: 2-3-20

TOWN OF CHAPEL HILL

BY: _____
Maurice T. Jones, Town Manager

ATTEST

_____ (TOWN SEAL)
Town Clerk

Approved as to form and authorization: _____
Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

_____ Date
Finance Director

NORTH CAROLINA
ORANGE COUNTY

I, _____, a Notary Public of _____ County, North Carolina, certify that _____ personally came before me the day and acknowledged that she is the (acting) Town Clerk of the Town of Chapel Hill, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by _____, its _____, sealed with its corporate seal and attested by her as its (acting) Town Clerk.

WITNESS my hand and official stamp (or seal), the _____ day of _____, 2018.

[NOTARIAL SEAL]

_____ (Seal)
Notary Public

Notary's Name, Printed or Typed
My commission expires: _____