

NORTH CAROLINA

CHATHAM COUNTY

THIS PAYMENT-IN-SUPPORT CONTRACT (this “Agreement”), made and entered into this ____ day of _____, 2021, by and between Chatham County, a body politic and corporate of the State of North Carolina (the “County”) and Vickers Bennett Group, LLC, a North Carolina limited liability company (“VBG”)(either the County or VBG may be referred to herein as a “Party” and collectively as the “Parties”);

W I T N E S S E T H:

WHEREAS, in 2004 the County, by and through its Board of Commissioners, adopted a Compact Communities Ordinance (the “Ordinance”) with an effective date of April 19, 2004; and

WHEREAS, Section 12.3 entitled, “Housing”, of the Ordinance provides options for developers in compact communities to address the housing needs of low- and moderate-income households (“LMI Households”); and

WHEREAS, VBG’s application for conditional rezoning was approved on or about the 15th day of November, 2021, which contained therein a condition addressing a contractual commitment between VBG and the County regarding affordable housing within VV; and

WHEREAS, Section 12.3(A)(3) allows the developer and the County to establish an alternative means to meet the Moderately Priced Dwelling obligations; and

WHEREAS, VBG and the County have worked together to develop a structure for meeting the Moderately Priced Dwelling obligations pursuant to which VBG will, among other things, pay a certain payment in support of affordable townhomes to be constructed and sold within Vickers Village (the “Payment-in-Support”) and the County, among other things, will enter into an agreement with its affordable housing designee (County’s Designee) to allow the County’s Designee to purchase the designated affordable townhomes and incorporate each of the affordable townhomes into its affordable housing program;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises and respective benefits flowing to the County and VBG, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated in this Agreement by this reference and shall constitute a part hereof.
2. Purpose. The purpose of this Agreement is to set forth the terms mutually agreeable to the Parties for the Payment-in-Support, satisfying the obligations set forth under the Ordinance.
3. Payment-in-Support to the County. The terms of the Payment-in-Support are as follows:
 - A. VBG will pay to the County a \$47,000 per lot Payment-in-Support for the twentieth (20th) lot out of every 20 entitled lots sold by VBG to a third-party

residential developer or builder (the “Eligible Lot”), which funds shall only be used by the County to provide Moderately Priced Dwellings within VV. Said Payment-in-Support will be paid to the County as part of each closing that includes an Eligible Lot. The \$47,000 Payment-in-Support amount is derived from \$43,500 per Eligible Lot plus an additional affordability contribution reflecting what would otherwise be an un-refunded \$3,500 impact fee per lot (the impact fee will later be paid by the townhome developer/builder and reimbursed by the County to the townhome developer in accordance with the County Impact Fee Reimbursement Policy Concerning Affordable Housing);

- B. When VBG closes on the sale of the last of its residential entitlements, so long as VBG has been able to sell at least 180 total residential entitled units total, VBG will pay enough to the County so that an aggregate total of ten (10) Payments in Support will have been paid to the County for the Vickers Village project;
- C. Once all VV lots are sold by VBG, if the final tally of entitled residential lots sold by VBG is less than 180 lots, VBG will only be required to contribute Payments in Support for 5% of that number (rounded down to the nearest whole number of Payments in Support);
- D. VBG will obligate the purchaser of the entitled lots to waive its portion of the seller’s sales commission on any affordable housing townhome sold to the County’s Designee;

- E. VBG will obligate the purchaser of the lots to sell the designated number of townhomes established by Paragraphs 3(A), (B) and (C) above to the County's Designee and agree that the maximum purchase price for any affordable housing townhome constructed within VV will be no more than the lesser of (i) the fair market value as agreed upon by the purchaser of the lots and the County's Designee or, if unable to agree, as determined by a qualified appraiser selected by agreement of said parties (said appraisal cost to be evenly shared by said parties) or (ii) the price affordable to a household earning 120% of the Area Median Income as determined by the most recently published and applicable Department of Housing & Urban Development Income Limits methodology as adjusted for a household of no less than two people (the "AMI Methodology") as of the date the purchase and sales agreement is executed (attached hereto as Exhibit A and incorporated herein by reference, is the current AMI Methodology showing the current maximum purchase price calculation corresponding to the number of persons per household in a household earning 120% of the Area Median Income);
- F. To avoid a concentration of townhome units, VBG will obligate the purchaser of the lots to ensure that no cluster (4 or 5 unit townhome structures) of townhomes shall have more than 2 affordable units therein;
- G. VBG will include within its sale contract with the lot purchaser a provision making Chatham County a third-party beneficiary to the contract for purposes

of enforcing the obligations set forth in Paragraph 3, Sections D., E. and F. above;

- H. The County will enter into an agreement with the County's Designee to allow the designee to purchase the designated affordable townhomes and incorporate each such townhome into its affordable housing program. The County's Designee intends that the interior finishes of the affordable townhome units be value engineered to reduce the construction cost of the affordable townhome units. VBG will obligate the purchaser to present interior finishes meeting this goal to the County's Designee prior to applying for building permits for the affordable townhome units and the purchaser and County Designee shall agree to such finishes, the County Designee's consent to such finishes not to be unreasonably withheld. In addition, VBG will obligate the purchaser to cooperate in good faith with the County Designee regarding matters arising during the construction process; ; and
- I. Notwithstanding anything else to the contrary herein, solely in the event and to the extent the "Payment-in-Support" model above cannot be implemented despite good faith efforts by the parties, it is agreed that VBG's payment of the required Payments-in-Support shall be deemed to have fully satisfied the Payment-in Lieu requirement of the Ordinance. VBG may request an accounting of the use to which all Payments-in-Support have been put by the

County and the County shall provide the same within thirty (30) days of request by VBG.

J. It is understood by the parties that the obligations set forth herein are zoning conditions that run with the land and may be enforced by the County by withholding any and all regulatory approvals.

4. County's Acknowledgment. The County acknowledges that compliance with the terms of this Agreement by VBG will satisfy VBG's affordable housing condition number __ approved as part of the rezoning and its obligations under the Ordinance for affordable housing. From and after complying with its obligations under this Agreement, VBG shall have no further obligation regarding affordable housing with respect to VV.

5. Notices. All notices, payments, or other correspondence given or made pursuant to this Agreement shall be in writing, delivered in person, mailed by certified mail, return receipt requested, or delivery by a recognized overnight courier, postage or fees prepaid, addressed to a Party at the address given below, and shall be deemed effective upon the date received, via personal delivery, certified mail, or overnight delivery. The Parties shall be responsible for notifying each other of any change of address. Mailing addresses for Parties are as follows:

If to the County:	Chatham County Attention: County Manager Post Office Box 1809 Pittsboro, North Carolina 27312
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And an additional copy (does not constitute notice) to

Stephanie Watkins-Cruz
Policy Analyst
Post Office Box 1809
Pittsboro, North Carolina 27312

If to VBG:

Vickers Bennett Group
Attention: Antonio McBroom

Chapel Hill, North Carolina 27516

And an additional copy (does not constitute notice) to

Nicolas P. Robinson
Bradshaw Robinson Slawter LLP
128 Hillsboro St. (overnight delivery)
P.O. Box 607 (USPS)
Pittsboro, NC 27312

6. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the Parties and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements, and agreements heretofore entered into between the Parties with respect to the matters contained herein are merged in this Agreement. This Agreement may not be changed orally, but only by a written document signed by the Parties. No waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the Party against whom it is sought to be enforced. The provisions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns. VBG may assign this Agreement.

The provisions of this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina, and any action brought under or concerning this Agreement shall be brought and maintained in the Superior Court of Chatham County, North Carolina. The headings contained in this Agreement are solely for the convenience of the Parties and do not constitute a part of this Agreement and shall not be used to construe or interpret any provisions hereof. This Agreement shall be considered for all purposes as having been prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of preparation, substitution, submission, or other event of negotiation. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument, and the Parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, Chatham County and Vickers Bennett Group, LLC have caused this Payment-In-Support Contract to be executed by their respective authorized representatives effective the day and year first above written.

CHATHAM COUNTY

By _____
Dan LaMontagne, County Manager

Vickers Bennett Group, LLC

By _____
_____, (Title)

EXHIBIT A

2021 AMI METHODOLOGY

2021 HUD INCOME LIMITS – Table A – Example: 65-120% AMI

	2	3	4
65% AMI	44980	50570	56160
70% AMI	48440	54460	60480
75% AMI	51900	58350	64800
80% AMI	55360	62240	69120
85% AMI	58820	66130	73440
100% AMI	69200	77800	86400
110% AMI	76120	85580	95040
120% AMI	83040	93360	103680

2021 Maximum Home Price Estimates based on HUD Income Limits –
Table B – Example: 65-120% AMI

	2	3	4
65% AMI	\$182,428.29	\$205,100.01	\$227,771.73
70% AMI	\$196,461.23	\$220,876.93	\$245,292.63
75% AMI	\$210,494.18	\$236,653.86	\$262,813.54
80% AMI	\$224,527.12	\$252,430.78	\$280,334.44
85% AMI	\$238,560.07	\$268,207.70	\$297,855.34
100% AMI	\$280,658.90	\$315,538.47	\$350,418.05
110% AMI	\$308,724.79	\$347,092.32	\$385,459.85
120% AMI	\$336,790.68	\$378,646.17	\$420,501.66