

BOARD AGENDA ITEM

August 13, 2013

SUBJECT:

North Augusta Amended Tax Incremental Financing District

BACKGROUND:

The District has undertaken considerable study and negotiation with the City of North Augusta's representatives and taken much public input on the consideration of the question of whether or not the Board should participate in a limited fashion in the Modified North Augusta Redevelopment Plan which involves Incremental Financing under the statute that enables the same. This program does not involve giving up any existing tax whatsoever, although this concept is not well understood by the general public. Rather, the taxes we presently receive from the unimproved property will continue, even if the Board elects to participate. The question before the Board is one of economic impact to the School District. If a TIF goes forward and an affected taxing entity agrees to participate in South Carolina, the theory is that public improvements in the area, financed by TIF revenues, will enhance economic development in the area and the increased tax base created by such investment, will result in an "incremental revenue increase" which is diverted from the respective entities whose millage is affected for a set time, in order to pay for the publicly owned improvements and infrastructure surrounding the project. Most projects depend on a lot of assumed investment that is not legally committed when the TIF is implemented. The TIF increased revenues, by statute, could include the increment under both operations and debt service millage. From the very start, the City has excluded the School District's debt service revenue on the projected increment so that is a given positive financial gain if the increment materializes as projected.

ADMINISTRATIVE CONSIDERATION:

The Board gave information to the City through discussions and otherwise that it did not want to be in the long term of participation that was proposed originally. The City came back to the Board with the present amended version of the proposed participation in the late spring. Since then the Board's legal counsel, comptroller, financial advisers, and bond counsel have had extensive involvement with the City's representatives to see if a contractual agreement authorized by statute as a way of achieving binding limitations on proposed participation could be satisfactorily resolved. These contracts which have been in use for several years and which were legislatively enabled in 2012, are referred to as Intergovernmental Agreements (hereafter, "IGA's").

After continuing exchanges, changes, conferences, and negotiations, including revisions right through August 2, 2013, the attached IGA Exhibit has been approved as an acceptable and comprehensive setting for the responsibilities of

recommended participation by the School District that is believed to afford clearly delineated limitations and specifics as to the extent of the District's incremental revenues that will be diverted by agreement into the City's TIF revenue fund which would be established if the County and the School District both agree to participate in the TIF. From presentations previously set forth, the Board has seen the numbers and the financial impact the TIF would have on its revenue stream. This TIF has the unique feature of a comprehensive set of investor commitments and other estimable income streams that will occur upon the City implementing the financing plan with the County and School District participating. This will result in a significant increase in non-diverted revenues to the School District even during the term of its participation. It will expressly allow the increment of the Districts debt service millage to be unaffected from the very start and therefore the beneficiary of a substantial amount of increase to the tax base and to that immediate revenue stream – revenue which the Board has no legal way under the present law to initiate under its own autonomy.

The recommendation also includes an authorizing Resolution for the Board which, among other things, sets forth the conditional nature of the action subject to anticipated coordination among the three governmental entities and to their respective commitments to the TIF.

The Administration recommends the approval of the limited participation under the contract because it will be beneficial, both immediately as well as after the District's participation.

RECOMMENDATION:

Approve the limited participation in the Modified North Augusta Redevelopment Plan and authorize the Resolution proposed.

ATTACHMENT:

- 1) Proposed IGA
- 2) Proposed Resolution

PREPARED BY:

William H. Burkhalter, Jr.

INTERGOVERNMENTAL AGREEMENT
**(Redevelopment Plan for the North Augusta Tax Increment Financing District
within the North Augusta Riverfront Redevelopment District)**

This **INTERGOVERNMENTAL AGREEMENT** (the “*Agreement*”) is dated as of this ____ day of _____, 2013, and is by and between **THE CONSOLIDATED SCHOOL DISTRICT OF AIKEN COUNTY**, a school district and political subdivision of the State of South Carolina (the “*School District*”), and the **CITY OF NORTH AUGUSTA, SOUTH CAROLINA**, a municipal corporation and a political subdivision of the State of South Carolina (the “*City*,” and together with the School District, the “*Parties*” and each individually, a “*Party*”).

WITNESSETH:

(a) Title 31, Chapter 6 of the Code of Laws of South Carolina, 1976, as amended (the “*Tax Increment Financing Law*” or “*TIF Law*”), authorizes incorporated municipalities of the State of South Carolina (the “*State*”) to provide incentives for redevelopment in areas which are, or threaten to become blighted, through the direct payment or financing of municipally-owned improvements pursuant to the provision of the Tax Increment Financing Law; and

(b) The Tax Increment Financing Law authorizes the City to establish a redevelopment project area (as defined in the TIF Law) and to adopt a redevelopment plan (as defined in the TIF Law) for the purpose of providing for the payment of the costs of redevelopment projects (as defined in the TIF Law), both on a pay-as-you-go basis or through the issuance of obligations, both payable from the amount of taxes attributable to the increase in the assessed valuation of real property in the redevelopment project area following the establishment of such redevelopment project area (such tax increment revenues sometimes being referred to as “*TIF Revenues*”), and to amend the redevelopment plan from time to time to accommodate new redevelopment projects or changes in the original redevelopment projects, as well as changes in the amount and maturity of any required financing secured in whole or in part by TIF Revenues, and changes in the term of the redevelopment plan by following specified procedures set forth in the TIF Law; and

(c) In connection with the authorizations contained in the TIF Law, the City approved its redevelopment plan by Ordinance No. 96-10 adopted December 16, 1996 (the “*Original North Augusta Redevelopment Plan*”), which contains, among other things, a statement of objectives of the City with regard to such Original North Augusta Redevelopment Plan and a general description of the redevelopment projects. The area of the City included within the Original North Augusta Redevelopment Plan consists of 457 acres located within the corporate limits of the City (the “*TIF District*”); and

(d) As described further below, the City has determined to adopt certain modifications to the Original North Augusta Redevelopment Plan, the Original North Augusta Redevelopment Plan as modified being referred to sometimes as the “*Modified North Augusta Redevelopment Plan*.” Set forth in Exhibit A attached hereto are the projects which are the subject of such modifications and which are to be undertaken pursuant to the Modified North

Augusta Redevelopment Plan (the “*Redevelopment Projects*”), together with the estimated costs thereof, which shall be included in the Modified North Augusta Redevelopment Plan; and

(e) The Modified North Augusta Redevelopment Plan provides a comprehensive program for the redevelopment of various areas of the TIF District, including a revised plan of development of an area within the TIF District comprising approximately twenty-five (25) acres along the City’s riverfront; and

(f) After its adoption of the Original North Augusta Redevelopment Plan and the establishment of the TIF District, the City issued its Tax Increment Revenue Bond, Series 2001 in the aggregate principal amount of \$5,000 (the “*2001 Bond*”) both to finance redevelopment projects described in the Original North Augusta Redevelopment Plan and to initiate the collection of TIF Revenues to fund such redevelopment projects on a pay-as-you-go basis. The 2001 Bond is payable only from TIF Revenues. The 2001 Bond matures on December 5, 2016; and

(g) Pursuant to the provisions of Act No. 267 adopted by the General Assembly on June 20, 2012, the TIF Law was modified to, among other things, add Section 31-6-85 which explicitly confirmed the ability of taxing districts to enter into intergovernmental agreements with a municipality to set forth the contractual terms under which they are consenting to participate in redevelopment plans; and

(h) Accordingly, in connection with the anticipated adoption of the Modified North Augusta Redevelopment Plan as noted above, the Parties negotiated terms and conditions on which the School District is willing to participate, on a limited basis, in the Modified North Augusta Redevelopment Plan. Specifically, to address concerns raised by the School District with respect to the length of the term of the Modified North Augusta Redevelopment Plan and the level at which collections of School District taxes may be utilized, the City proposed and the School District accepted the following commitments:

1. The School District consents to its participation in the Modified North Augusta Redevelopment Plan by contributing a specific amount of TIF Revenues derived exclusively from its levy of millage upon real property in the Sub-TIF District (as defined below). The specific years and amounts with respect to which the School District will participate are set forth in Sections 3(b) and 3(d), respectively, herein. The School District reserves the flexibility to allocate such contribution of TIF Revenues from its debt levy or its operational levy or from both, in its sole discretion.
2. The City will forego its claim, based on the Consent Order of Settlement and Dismissal, filed on March 14, 2000, in the Court of Common Pleas and General Sessions for Aiken County, C.A. No. 97-CP-02-14 (the “*TIF Revenue Settlement*”), to receive the remaining four years of the School District’s allocation of TIF Revenues on certain commercial properties in the TIF District totaling five (5) acres previously designated in the downtown area by the City.
3. All amounts received by the School District as a result of the imposition of its operating millage on all owner-occupied real properties assessed at the ratio of 4% (“*Owner-*

Occupied Properties”) will be excluded from the TIF Revenues and will be retained by the School District. These amounts specifically include State reimbursements of amounts equivalent to the School District’s operating levy on Owner-Occupied Properties.

4. The School District’s participation in the Modified North Augusta Redevelopment Plan will be limited to fifteen (15) consecutive tax-cycle years beginning on January 1 in the year of the first principal payment (1) included within the Debt Service Requirements (hereafter defined) on the first series of the Obligations (hereafter defined) or (2) evidencing the purchase of undivided interests in the Redevelopment Projects under the first series of Transactions consummated, whichever first occurs, and as more fully discussed herein.
5. The School District’s participation in the Modified North Augusta Redevelopment Plan will be limited to the parcel(s) of real property within the TIF District described in Exhibit B attached hereto and which area is hereafter referred to as the “***Sub-TIF District***.” This property is in lieu of the originally designated five acres of property(ies) in the TIF Revenue Settlement, as described in paragraph (2) above, and not in addition thereto.
6. All as set forth in Section 3(f) hereof, the City will provide a report to the School District each year detailing the receipts and setting forth the uses during that year of the TIF Revenues deposited into the North Augusta Special Tax Allocation Fund (as defined herein), together with parking revenues, hotel accommodation taxes, hospitality taxes, and baseball stadium revenues used to defray the costs of the Redevelopment Projects. The City’s back-up records of these revenues and project expenditures will be made available to the School District, upon written request, if the School District wishes to examine these records in more detail at its own expense; the City will fully cooperate in explaining the uses to which these funds have been put.

(i) In order to raise the moneys necessary to construct the Redevelopment Projects, the City anticipates issuing obligations within the meaning of the TIF Law (the “***Obligations***”) and undertaking installment purchase transactions (the “***Transactions***”) pursuant to the provisions of which the City will utilize TIF Revenues, together with parking revenues, hotel accommodation taxes, hospitality taxes, and baseball stadium revenues, to purchase an undivided interest in each of the Redevelopment Projects during the years the Obligations and the Transactions are outstanding; and

(j) The Parties hereto are now entering into this Agreement to memorialize the terms and conditions under which the City and the School District will participate in the Modified North Augusta Redevelopment Plan. Each Party acknowledges that this Agreement is supplemental and in addition to the Modified North Augusta Redevelopment Plan, and is expressly intended to create contractual rights enforceable by the City and the School District with respect to the Modified North Augusta Redevelopment Plan, all as provided in Section 8 hereof.

Section 1. Representations and Warranties of the Parties. Each of the Parties represents and warrants that:

(a) It has the full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement;

(b) It has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement; and

(c) This Agreement constitutes a legal, valid, and binding obligation of it, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

Section 2. Acknowledgments.

(a) The School District acknowledges and agrees that the City will adopt the Modified North Augusta Redevelopment Plan. The School District hereby waives any objection it may have under the TIF Law as to any procedure and method utilized by the City in adopting the Modified North Augusta Redevelopment Plan, and acknowledges receipt from the City of proper notice under the TIF Law and consents to its adoption subject to the terms and conditions set forth herein.

(b) The City acknowledges and agrees that the School District's participation in the Modified North Augusta Redevelopment Plan is conditioned upon the terms and conditions established herein, and that the School District would not consent to such participation in the absence of this Agreement.

Section 3. Participation; Term; Allocation; Annual Report.

(a) **Participation.** As used herein, the term "***Participation***," with respect to the School District means the level of annual funding as agreed to by the School District herein to be derived from collections of TIF Revenues attributable to the School District's annual millage rates imposed by it on taxable real property located exclusively within the Sub-TIF District and the term "***Participation***" with respect to the City means the level at which the City shall contribute collections of TIF Revenues attributable to its annual millage rates imposed by it on taxable real property within the TIF District, all of which will be deposited in the special fund created pursuant to the TIF Law and known as the special tax allocation fund (the fund created and held by the City shall be hereinafter referred to as the "***North Augusta Special Tax Allocation Fund***") and either applied to (1) the payment of Debt Service Requirements (as defined below), or (2) the direct payment of the costs of the Redevelopment Projects on a pay-as-you-go basis, or (3) the payment of purchasing undivided interests in the Redevelopment Projects under the terms of the Transactions on a pay-as-you-go basis. The term "***Debt Service Requirements***" means all payments of principal, interest, redemption premium (if any), and optional or mandatory redemptions of Obligations.

(b) Term. The Parties hereby consent to the deposit into the North Augusta Special Tax Allocation Fund of the collections of the TIF Revenues in the amounts set forth in paragraph (d) below: (i) in the case of the City, for a period co-terminus with the term of the Modified North Augusta Redevelopment Plan, and (ii) in the case of the School District, for a period of fifteen (15) consecutive tax-cycle years, commencing on January 1 in the year of the first principal payment (1) evidencing the purchase of undivided interests in the Redevelopment Projects under the terms of the first series of Transactions consummated, or (2) included within the Debt Service Requirements on the first series of Obligations issued, whichever first occurs, after the date of the adoption of the ordinance approving the Modified North Augusta Redevelopment Plan (the “*School District’s Actual Participation Term*”), and as further defined and as limited by paragraph (h)(4) of the preambles above.

(c) Payment of School District Millage Prior to and after the School District’s Actual Participation Term; Payment of TIF Revenue Settlement Amounts; Exclusion of Owner-Occupied Property.

(i) Prior to the commencement of and after the end of the School District’s Actual Participation Term, all amounts of the TIF Revenues, described in paragraph (d) below, attributable to the School District’s millage rates and collected by the Treasurer of Aiken County, South Carolina (the “*County Treasurer*”) shall be paid to the School District.

(ii) The City hereby agrees to forego its remaining claim, based on the TIF Revenue Settlement, to receive the School District’s share of TIF Revenues attributable to certain commercial properties in the TIF District totaling five (5) acres previously designated in the downtown area by the City, as more fully described in the TIF Revenue Settlement; all such amounts collected by the County Treasurer during the four year period beginning on January 1, 2013 and ending on December 31, 2016 shall be paid to the School District.

(iii) The Parties agree that the School District’s share of TIF Revenues attributable to Owner-Occupied Property in the Sub-TIF District (as in the remainder of the TIF District) shall be excluded from the School District’s Participation (as defined below) and any and all amounts resulting from millage levied by the School District on such real property and collected by the County Treasurer during the term of the Modified North Augusta Redevelopment Plan shall be paid to the School District.

(d) Participations.

(i) The City hereby agrees to its Participation in the Modified North Augusta Redevelopment Plan in the amount of one hundred percent (100%) of the collections of the TIF Revenues derived from the TIF District attributable to its millage imposed for general fund or operating purposes (the “*City TIF District Incremental Taxes*”).

(ii) The School District hereby consents to its Participation in the Modified North Augusta Redevelopment Plan as follows:

During the School District's Actual Participation Term, the "***School District's Participation***" shall be the annual monetary amount specified and set forth on Exhibit C attached hereto, as derived exclusively from the School District Sub-TIF District Incremental Taxes (as defined herein); and provided further that the School District's Participation shall not, in any event, include any revenue attributable to the reimbursement from the State pursuant to S.C. Code Ann. 11-11-156(D), all of which is to be remitted to the School District.

(iii) It is anticipated that Aiken County, South Carolina (the "***County***") will consent to its Participation in the Modified North Augusta Redevelopment Plan pursuant to a separate intergovernmental agreement between the City and the County (the "***County Intergovernmental Agreement***"), and the School District hereby agrees that it will interpose no objection to the methodologies or other provisions contained therein.

(e) Allocation Methodology for Sub-TIF District. In every year during the School District's Actual Participation Term, the Parties, together with the County Treasurer, by his acknowledgement and acceptance of this Agreement, hereby agree to implement the School District's Participation described above pursuant to the following methodology:

(i) Determination of the School District Sub-TIF District Incremental Taxes. In each tax year during the School District's Actual Participation Term, the County Treasurer shall first implement the provisions of Section 31-6-70(2)(b) of the TIF Law by determining that portion, if any, of tax revenues that are received from the Sub-TIF District and which are (i) attributable to the millage imposed by the School District, and (2) attributable to the increase in the then-current total equalized assessed valuation of all taxable real property in the Sub-TIF District over and above the total initial equalized assessed value of taxable real property in the Sub-TIF District (the amount of the increase in assessed value being referred to as the "***Increased Assessed Value in the Sub-TIF District***" and such incremental taxes being referred to as the "***School District Sub-TIF District Incremental Taxes***"). The School District's annual monetary contribution shall be derived therefrom exclusively. The Parties hereby agree that, for purposes of measuring the School District's Participation, the total initial equalized assessed value of taxable real property in the Sub-TIF District shall be equal to the total assessed value in the Sub-TIF District as of December 31, 2012.

(ii) Application of the School District Sub-TIF District Incremental Taxes; Deposit. Unless paid to the School District in accordance with the provisions of Section 3(c) hereof, as of May 1 of each tax year, the County Treasurer shall then allocate and distribute such School District Sub-TIF District Incremental Taxes as follows:

(A) The County Treasurer shall pay the specified annual installment of the School District Sub-TIF District Incremental Taxes, as set forth on Exhibit C attached hereto, to the City, and the sum equal to the School District's

Participation as set forth in Section 3(d)(ii) above shall be deposited into the North Augusta Special Tax Allocation Fund. In the event that the School District Sub-TIF District Incremental Taxes exceed the amount of said School District's Participation, such excess shall be promptly remitted by the City to the School District to be applied as provided by general law.

(B) If any portion of the School District Sub-TIF District Incremental Taxes is received after the initial annual distribution is made, then such funds shall be distributed by the end of the quarter in which received in accordance with the foregoing distribution method.

(iii) Use of TIF Revenues. The School District agrees that the City shall have the conclusive right to apply the City TIF District Incremental Taxes and the amount of the School District's Participation in the School District Sub-TIF District Incremental Taxes to (1) the payment of Debt Service Requirements, or (2) the direct payment of the costs of the Redevelopment Projects on a pay-as-you-go basis, or (3) the payment of purchasing undivided interests in the Redevelopment Projects under the terms of the Transactions on a pay-as-you-go basis.

(iv) No Responsibility for Shortfall. With respect to this Agreement and as provided by the TIF Law, the School District shall not be responsible for any shortfalls in the amounts relative to the projections contained in the Modified North Augusta Redevelopment Plan or relative to Debt Service Requirements or relative to the payment of purchasing undivided interests in the Redevelopment Projects under the terms of the Transactions on a pay-as-you-go basis.

(f) Annual Report. On or before _____ 1 of each year during the School District's Actual Participation Term, the City will provide to the School District a report detailing the receipts and setting forth the general uses during that year of the TIF Revenues deposited into the North Augusta Special Tax Allocation Fund together with parking revenues, hotel accommodation taxes, hospitality taxes, and baseball stadium revenues used to defray the costs of the Redevelopment Projects. The report will specifically provide all expenditures made to defray the costs of Redevelopment Projects including the allocable Debt Service Requirements and allocable payments of purchasing undivided interests of such Redevelopment Projects under the terms of Transactions in order to illustrate which Redevelopment Projects are being paid from School District Sub-TIF District Incremental Taxes. The report shall be in a format similar to the table/graph provided to the School District on or prior to the date of this Agreement in connection with the preparation of the City's financial model. The City's back-up records of these revenues and project expenditures will be made available to the School District, upon written request, if the School District wishes to examine these records in more detail at its own expense; the City will fully cooperate in explaining the uses to which these funds have been put.

Section 4. State Reimbursements. The City and, by his acknowledgement and acceptance of this Agreement, the County Treasurer hereby agree that each shall promptly remit to the School District, as and when received and in the full amount so received, any payments received pursuant to Section 11-11-156(D) of the Code of Laws of South Carolina, 1976, as

amended, and the City hereby waives any statutory right to receive such funds the City would have otherwise been granted under said Section 11-11-156(D).

Section 5. Project Costs. The Modified North Augusta Redevelopment Plan contains an itemized list of the Redevelopment Projects to be funded, in whole or in part, with TIF Revenues. To the extent that the cost of an individual Redevelopment Project is less than indicated in the Modified North Augusta Redevelopment Plan (either because the costs are less than estimated, because funds are available from sources other than TIF Revenues, or proceeds of Obligations, or proceeds of the Transactions, or otherwise), the City shall have the right to reallocate TIF Revenues or proceeds of Obligations or proceeds of the Transactions intended to pay such project costs to other Redevelopment Projects that are identified in the Modified North Augusta Redevelopment Plan.

Section 6. No Personal Liability. No obligation or agreement contained herein shall be deemed to be an obligation or agreement of any present or future member, officer, agent or employee of the City or the School District in any other than his or her official capacity, and neither the members of the City Council of the City or the School Board of the School District (as applicable), nor any official executing this Agreement shall be personally liable thereon or be subject to any personal liability or accountability by reason of the obligations or agreements of the City or the School District contained in this Agreement.

Section 7. Binding Nature of Agreement. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the governing bodies of the City and the School District and their respective successors in office.

Section 8. Effect of Agreement. This Agreement constitutes and is intended by the Parties to constitute the entire agreement between the Parties, and all obligations of the Parties, each to the other, contained in any memorandum and any other document or based upon any other communications prior to the execution of this Agreement have been satisfied or are superseded by this Agreement and are no longer valid and enforceable, provided this Agreement is properly executed and duly authorized by the Parties, and consented to by the County Treasurer. Accordingly, the Parties hereto are now entering into this Agreement to memorialize the terms and conditions on which each Party will participate in the Modified North Augusta Redevelopment Plan. Each Party acknowledges that this Agreement is supplemental and in addition to the Modified North Augusta Redevelopment Plan, and is expressly intended to create contractual rights enforceable by the City and the School District with respect to the Modified North Augusta Redevelopment Plan and the distribution of the School District's real property taxes and TIF Revenues received exclusively from the properties in the Sub-TIF District, as described in such Modified North Augusta Redevelopment Plan. As this Agreement addresses only those modifications included in the Modified North Augusta Redevelopment Plan relating specifically to the Sub-TIF District, the Parties acknowledge that the City will continue to collect real property taxes and TIF Revenues in the entire TIF District and, except as specifically provided herein, this Agreement shall have no effect on the City's rights or actions with respect to the entire TIF District. As between the Parties, the terms and provisions of this Agreement shall be controlling with respect to any conflicting or inconsistent provisions found in the Original North Augusta Redevelopment Plan, the Modified North Augusta Redevelopment Plan,

the TIF Revenue Settlement and/or any implementing ordinances or resolutions previously or hereafter enacted or promulgated. As to the School District, this Agreement supersedes any prior commitments or liabilities under any former tax increment financing redevelopment plans, ordinances, implementing resolutions, agreements, settlements, or settlement documents inconsistent herewith and constitutes exclusively the obligations of the School District with respect to both the Original North Augusta Redevelopment Plan and the Modified North Augusta Redevelopment Plan.

Section 9. Amendments. This Agreement may not be effectively amended, changed, modified, altered or terminated, except in accordance with the express provisions of this Agreement or with the written consent of all Parties hereto.

Section 10. Captions; Sections; Headings. The sections, headings and other titles to paragraphs of this Agreement are inserted solely for the convenience of reference. None shall in any way define, limit, extend or aid in the construction of the scope, extent, meaning or intent of this Agreement.

Section 11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 12. No Construction Against Drafter. The Parties hereby acknowledge that they have reviewed this Agreement, that each of the Parties has offered suggested changes, many of which are incorporated herein, and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of any provision of this Agreement.

Section 13. Severability. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

Section 14. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State, and by their signatures herein below, the Parties consent to the exclusive jurisdiction of the courts of the State, in the County, for resolution of any dispute arising hereunder. To the extent permitted by State law, the Parties waive their rights, if any, to seek or have a trial by jury of any dispute arising under this Agreement. The Parties agree to promptly submit to non-binding mediation any dispute that might otherwise have to be litigated, with each Party paying one-half of the costs of the mediator's services and necessary expenses.

Section 15. Further Resolutions or Ordinances. To the extent required by the laws of the State, including, but not limited to, the TIF Law, the City and the School District agree to adopt one or more resolutions or to enact one or more ordinances as necessary to effect the agreements provided for in this Agreement and such resolutions and ordinances shall be given the full force and effect of law.

IN WITNESS WHEREOF, the City and the School District, by their authorized representatives, have hereunto set forth their hands as of the day first above written.

**CITY OF NORTH AUGUSTA, SOUTH
CAROLINA**

By: _____
Its: _____

**THE CONSOLIDATED SCHOOL DISTRICT
OF AIKEN COUNTY**

By: _____
Its: _____

ACKNOWLEDGEMENT AND AGREEMENT

The undersigned, Treasurer of Aiken County, South Carolina, hereby acknowledges receipt of an executed, duplicate original of this Intergovernmental Agreement (Redevelopment Plan for the North Augusta Tax Increment Financing District within the North Augusta Riverfront Redevelopment District) and further agrees to comply with the provisions thereof.

TREASURER OF AIKEN COUNTY, SOUTH CAROLINA

By: _____

Dated: _____, 2013

Exhibit A

Description of Redevelopment Projects and Estimated Costs

<u>Project</u>	<u>Description</u>	<u>Estimated Cost</u>
Municipal Stadium	5,000 seat stadium, intended to serve primarily as the home field of the GreenJackets minor league baseball team (but available for other athletic and entertainment events from time to time), to be owned by the City and located in the Sub-TIF District	\$25 million
Parking Garage(s)	One or more parking garages, with related surface parking for a total capacity of approximately 900 parking spaces, to be owned by the City and located in the Sub-TIF District	\$11 million
Conference Center	18,000—22,000 square-foot conference center to be owned by the City and constructed in or in close proximity to a new hotel which will be privately developed in the Sub-TIF District	\$7 million

Exhibit B

Description of Sub-TIF District

Exhibit C

School District's Participation Schedule

<u>Participation Year</u>	<u>Year Ending June 30¹</u>	<u>School District Participation</u>
1	2016	\$ 750,431
2	2017	772,944
3	2018	796,132
4	2019	820,016
5	2020	844,616
6	2021	869,955
7	2022	896,054
8	2023	922,935
9	2024	950,623
10	2025	979,142
11	2026	1,008,516
12	2027	1,038,772
13	2028	1,069,935
14	2029	1,102,033
15	2030	1,135,094

¹ While the City currently anticipates the payment schedule to commence in the year ending June 30, 2016, the actual payment schedule may commence before, at, or after that time as provided in Section 3(b) of the Agreement, and thereafter will continue for a term of fifteen (15) consecutive years.

STATE OF SOUTH CAROLINA)	RESOLUTION APPROVING AN
)	INTERGOVERNMENTAL AGREEMENT
)	BETWEEN THE CITY OF NORTH AUGUSTA,
)	SOUTH CAROLINA, AND THE AIKEN
)	COUNTY BOARD OF EDUCATION (EX
)	OFFICIO: TRUSTEES OF THE CONSOLIDATED
)	SCHOOL DISTRICT OF AIKEN COUNTY),
COUNTY OF AIKEN)	SOUTH CAROLINA

WHEREAS, the City of North Augusta, South Carolina (the “City”) adopted a tax increment financing (“TIF”) redevelopment plan (the “Original TIF Plan”) and designated a certain portion of the City as a TIF redevelopment district (the “TIF District”) by the terms of Ordinance No. 96-10, adopted on December 16, 1996; and

WHEREAS, the City has determined to adopt certain modifications to the Original TIF Plan (as modified, the “Modified TIF Plan”) to provide a comprehensive program for the continuing redevelopment of the TIF District, and in particular, an area comprised of approximately twenty-five (25) acres along the City’s riverfront, as more fully described and detailed in the Modified TIF Plan; and

WHEREAS, pursuant to the provisions of Act No. 267 adopted by the General Assembly on June 20, 2012, Title 31, Chapter 6 of the Code of Laws of South Carolina, 1976, was amended, among other matters, by adding Section 31-6-85 which explicitly confirmed the ability of taxing districts to enter into intergovernmental agreements with a municipality to provide the terms under which they would participate in redevelopment plans; and

WHEREAS, the City and the Aiken County Public School District, South Carolina (the “School District”) have negotiated terms and conditions under which the School District is willing to participate, on a limited basis, in the Modified TIF Plan, as more specifically set out in that certain Intergovernmental Agreement between the School District and the City (the “IGA”); and

WHEREAS, the City has provided data to the Board of Education, the School District’s governing board, as to certain commitments of funds that the respective entities who will be participating in the Modified TIF Plan are making (including the City); and

WHEREAS, the Board of Education is taking this action contingent upon its understanding that unless the School District and Aiken County choose to participate, and unless the City approves and implements the Modified North Augusta Redevelopment Plan substantially as has been presented to the Board of Education, after final study, hearing, and due diligence on the City’s part prior to such action by the City, there will be no obligations on the part of the School District with respect to the Original TIF Plan and the Modified TIF Plan other than those set forth in the Consent Order of Settlement and Dismissal, filed on March 14, 2000, in the Court of Common Pleas and General Sessions for Aiken County, C.A. No. 97-CP-02-14.

NOW, THEREFORE, the Board of Education of the Aiken County Public School District (the "Board"), the governing body of the School District, has determined the following:

1. The Board approves and adopts the IGA, the form and substance of which is attached hereto as Exhibit A.

2. The Board hereby authorizes the execution and delivery of the IGA substantially in the form attached hereto as Exhibit A. The IGA shall be executed on behalf of the Board by the Chair of the Board (the "Chair"), and the Board grants authority to the Chair to approve editing, formatting, and/or clarifications to the IGA that do not change the substance of the attached legal document. The execution of the IGA by the Chair shall constitute conclusive evidence of any such changes.

AND IT IS SO RESOLVED this ____ day of August, 2013, in a meeting duly assembled at Aiken, South Carolina.

**AIKEN COUNTY PUBLIC SCHOOL
DISTRICT, SOUTH CAROLINA**

(SEAL)

By: _____
Chairman of the Board of Education

Attest:

By: _____
Secretary of the Board of Education
Aiken County Public School District

Exhibit A

Copy of Intergovernmental Agreement