

## **Board of County Commissioners Agenda Request**

**Date of Meeting:** November 20, 2018

**Date Submitted:** November 9, 2018

**To:** Honorable Chairperson and Members of the Board

**From:** Dee Jackson, Interim County Administrator

**Subject:** Approval of 2018 Area of Operation Resolution concerning Homeownership Programs provided through partnership with the Escambia County Housing Finance Authority

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### **Statement of Issue:**

That the Board of County Commissioners approve a Resolution granting continued area of operation authority to the Escambia County Housing Finance Authority for purpose of operating the Authority's Single-Family Mortgage Loan Bond Program within Gadsden County, Florida (the "2018 Area of Operation Resolution") and authorize the Chairperson to execute the Resolution.

### **Background:**

Gadsden County has actively partnered with the Escambia County Housing Finance Authority (the "Authority") to make the Authority's First Time Homebuyers Program and associated homeownership program activities (the "Mortgage Loan Program") available to the residents of Gadsden County. Most recently, on June 6, 2017, the Gadsden County Board of County Commissioners approved Resolution No. 2017-007, and the accompanying Interlocal Agreement with the Authority (the "2017 Area of Operation Resolution"). The 2017 Area of Operation Resolution confirmed the Authority's ability to continue to operate its Mortgage Loan Program on a "to be announced" or TBA basis for the benefit of the residents of Gadsden County.

The Authority continually monitors financing alternatives for delivery of the Mortgage Loan Program and is presently analyzing the feasibility of financing the Mortgage Loan Program through the issuance of single-family mortgage revenue bonds (the "Single Family Mortgage Loan Bond Program"). This financing mechanism was the basis of the Authority's Mortgage Loan Program for many years, and the Authority plans to issue bonds again if they will be effective in keeping mortgage rates as low as possible during the rising interest rate environment.

Adoption of the 2018 Area of Operation Resolution, as recommended, will enable the Authority to continue to offer its Mortgage Loan Program with financing delivered through the issuance of the Authority's single-family mortgage revenue bonds in the event that the Single-Family

Mortgage Loan Bond Program is determined to be most beneficial. Adoption of the 2018 Area of Operation Resolution does not repeal the 2017 Area of Operation Resolution, but instead allows the Authority to offer the Mortgage Loan Program through either the TBA markets or the bond markets as appropriate. The Authority's Mortgage Loan Program is designed to benefit first-time homebuyers in Escambia and Gadsden County, as well as other participating counties. The Authority's Mortgage Loan Program, including payment of down payment and closing cost assistance for qualified buyers, is provided by the Authority at no cost to Gadsden County. Due to changes in federal tax law, it is no longer necessary to hold a Tax Equity and Fiscal Responsibility Act ("TEFRA") hearing in each participating county. Additionally, issuance of any bonds by the Authority will not require any private activity bond allocation from Gadsden County.

**Analysis:**

The long-standing partnership with the ECHFA has continually provided access to mortgage financing and down payment/closing cost assistance for eligible first time homebuyers in Gadsden County at no cost to Gadsden County. Approval of the Resolution will continue this partnership for the benefit of future homebuyers and grant the authority for the ECHFA to issue single family mortgage revenue bonds for the benefit of such homebuyers at such time as warranted by market conditions.

**Fiscal Impact:**

There is no fiscal impact to Gadsden County. All costs for the Homeownership Program, including the down payment and closing cost assistance provided to eligible homebuyers, are financed by the ECHFA at no cost to Gadsden County.

**Options:**

1. Approve the 2018 Area of Operation Resolution granting continued area of operation authority to the Escambia County Housing Finance Authority for purpose of operating the Authority's Single-Family Mortgage Loan Bond Program within Gadsden County, Florida (the "2018 Area of Operation Resolution") and authorize the Chairperson to execute the Resolution.
2. Do not approve.
3. Board direction.

**County Administrator's Recommendation**

Approve the 2018 Area of Operation Resolution granting continued area of operation authority to the Escambia County Housing Finance Authority for purpose of operating the Authority's Single-Family Mortgage Loan Bond Program within Gadsden County, Florida (the "2018 Area of Operation Resolution") and authorize the Chairperson to execute the Resolution.

**Attachment(s):**

Resolution No. 18-021  
Interlocal Agreement with the Authority

## **RESOLUTION NO. 18-021**

### **A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, GRANTING CONTINUING “AREA OF OPERATION” AUTHORITY TO THE ESCAMBIA COUNTY HOUSING FINANCE AUTHORITY TO OPERATE ITS SINGLE FAMILY MORTGAGE REVENUE BOND PROGRAM WITHIN GADSDEN COUNTY, FLORIDA; PROVIDING A TERM; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Part IV of Chapter 159, Florida Statutes (the “*Act*”), authorizes the creation of housing finance authorities within the State of Florida (the “*State*”) with the authority to issue revenue bonds to assist in relieving the shortage of housing available at prices or rentals which many persons and families can afford; and

**WHEREAS**, the Escambia County Housing Finance Authority (the “*Escambia Authority*”) Authority and the Gadsden County Board of County Commissioners (the “*Gadsden Board*”) have cooperated for many years to operate programs to address such housing shortage in Escambia County, Florida, and Gadsden County, Florida, as well as certain other counties that may also participate in such programs (collectively, the “*Participating Counties*”); and

**WHEREAS**, the Escambia Authority has from time to time issued certain Single-Family Mortgage Revenue Bonds (Multi-County Program), in multiple series to fund single family mortgage loans to first-time homebuyers (collectively, the “*Mortgage Loan Bond Program*”); and

**WHEREAS**, pursuant to the authority of Section 159.603, Florida Statutes and in order to increase operational efficiencies, provide for a wider allocation of fixed expenses, and gain economies of scale in order to decrease the cost of borrowing, the Escambia Authority has from time to time been granted area of operation authority pursuant to official action of the governing bodies the Participating Counties to extend the Mortgage Loan Bond Program to fund mortgages for the purchase of homes located within such Participating Counties, and

**WHEREAS**, the County wishes to secure the continued benefits of the Escambia Authority’s Mortgage Loan Bond Program for first time homebuyers residing within the County to benefit the citizens and residents of Gadsden County by renewing its grant of area of operation authority to the Authority to operate its Mortgage Loan Bond Program,

**NOW THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA:**

**Section 1. Continued Operation of the Mortgage Loan Bond Program.** Pursuant to the authority of Sections 159.608 and 125.01, Florida Statutes, the Escambia Authority is hereby granted non-exclusive “area of operation” authority to operate the Mortgage Loan Bond Program within Gadsden County for the benefit of the citizens and residents of Gadsden County. The Escambia Authority shall have full authority and responsibility to carry out the Mortgage Loan Bond Program in accordance with the parameters established by the Escambia Authority and the provisions of applicable law.

**Section 2. Term.** The “area of operation” authority granted to the Escambia Authority shall continue until such time as it may be terminated by Resolution of the Gadsden Board upon not less than ten (10) days written notice to the Escambia Authority.

**Section 3. Repealing Clause.** All resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 4. Effective Date.** This resolution shall take effect immediately upon its adoption this \_\_\_\_ day of \_\_\_\_\_, 2018.

{SIGNATURE PAGE FOLLOWS}

**DULY ADOPTED** by the Board of County Commissioners, this \_\_\_\_ day of \_\_\_\_\_, 2018.

**GADSDEN COUNTY BOARD OF COUNTY COMMISSIONERS**

(SEAL)

By: \_\_\_\_\_  
Brenda R. Holt, Chairperson  
Board of County Commissioners

**ATTEST:**  
CLERK OF THE CIRCUIT COURT  
GADSDEN COUNTY, FLORIDA

By: \_\_\_\_\_  
County Clerk, Nicholas Thomas

APPROVED AS TO FORM:  
GADSDEN COUNTY ATTORNEY'S OFFICE

By: \_\_\_\_\_  
County Attorney, David Weiss

Executed Interlocal Agreement

Between

Escambia County Housing Finance Authority

And

Gadsden County

## INTERLOCAL AGREEMENT

**THIS AGREEMENT** made and entered into this 1<sup>st</sup> day of October, 2013, by and between the **ESCAMBIA COUNTY HOUSING FINANCE AUTHORITY**, a public body corporate and politic organized and existing under the laws of the State of Florida (hereinafter referred to as the "Escambia Authority"), and **GADSDEN COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as the "Participating County");

### W I T N E S S E T H:

**WHEREAS**, Part IV of Chapter 159, Florida Statutes (the "Act"), authorizes the creation of housing finance authorities within the State of Florida (the "State") for the purpose of issuing revenue bonds to assist in relieving the shortage of housing available at prices or rentals which many persons and families can afford; and

**WHEREAS**, the Escambia Authority by Resolution No. 2013-02 duly adopted on May 14, 2013 (the "Enabling Resolution"), as amended and supplemented, authorized a plan of finance (the "Plan"), as permitted by Section 5f.103-2(f)(3) of the Regulations under the Internal Revenue Code of 1986, as amended (the "Code"), for the operation of a TBA Program (herein defined) and issuance of not exceeding \$150,000,000 Single Family Mortgage Revenue Bonds (Multi-County Program) (the "Bonds" or the "Escambia Bonds"), in multiple series (collectively, the "Program"); and

**WHEREAS**, the Escambia Authority has indicated that, pursuant to the Plan, it expects to issue the Bonds from time to time with such particular Series designation as shall be appropriate in an aggregate principal amount not exceeding \$150,000,000 (which may also include Bonds, if any, for which a carry-forward allocation has been obtained pursuant to Section 146(f) of the Code), exclusive of any amounts required for refunding purposes; and

**WHEREAS**, pursuant to Sections 143 and 146 of the Code, the amount of new mortgage revenue bonds which may be issued in each year is limited by a private activity volume cap which has been established for such purpose within the State; and

**WHEREAS**, the limitations upon available portions of the private activity volume cap prevents the separate issuance of qualified mortgage revenue bonds for each county from being feasibly and economically accomplished; and

**WHEREAS**, the Escambia Authority has authorized a sufficient amount of Escambia Bonds to fund, refund or refinance outstanding obligations, the proceeds of which will be used to finance a portion of the anticipated demand during the proposed Origination Period for single family mortgages ("Mortgage Loans") of both Escambia County and the Participating County, as well as certain other counties which may also participate in joint bond programs; and

**WHEREAS**, the aggregation of mortgage loan demand and the securing of the related amount of the cumulative State private activity volume cap (the "Allocation Amounts") granted by the State from August 1, 2013, through December 31, 2017 (the "Authorization Period"), for the purpose of issuing

**Exhibit "A"**

**FORM OF INTERLOCAL AGREEMENT**

[Follows]

qualified mortgage revenue bonds or for the purpose of using other funds to finance qualifying single family residences to be occupied primarily by first-time home buyers will result in a wider allocation of fixed expenses and certain other economies of scale; and

**WHEREAS**, unless such economies are realized, the issuance of mortgage revenue bonds for such purpose would be less economical, resulting in higher mortgage costs to mortgagors; and

**WHEREAS**, Sections 159.603 and 159.604, Florida Statutes, authorizes the Participating County to approve the issuance of mortgage revenue bonds through the Escambia Authority to alleviate the shortage of affordable housing within the Participating County, which approval has been granted by a resolution of the Board of County Commissioners of the Participating County adopted on October 1, 2013 (the "County Resolution"); and

**WHEREAS**, because the restrictions attendant to qualified mortgage revenue bonds under the Code limit the availability of mortgage funds for many eligible persons (within the meaning of the Act), the Escambia Authority may also issue taxable mortgage revenue bonds to increase the amount available for Mortgage Loans and to reduce or ameliorate such restrictions upon eligible persons; and

**WHEREAS**, the Escambia Authority has heretofore approved a Single Family Mortgage Loan Program (the "TBA Program") pursuant to which Mortgage Loans are originated pursuant to a Program Invitation and Parameters dated as of July 1, 2012, as amended and supplemented, and a Master Mortgage Origination Agreement dated as of July 1, 2012, as amended and supplemented, and in order to enhance the efficiency of the TBA Program, the Authority authorized the interim purchase by the Authority (directly by the Authority or pursuant to a warehousing arrangement) of Mortgage-Backed Securities backed by Mortgage Loans originated under the TBA Program, and further authorized the subsequent sale thereof by the Authority into the TBA market, and, following the issuance of a series of Bonds, the purchase by the trustee under the trust indenture securing such series of Bonds of any then available Mortgage-Backed Securities; and

**WHEREAS**, Sections 163.01, 159.608 and 125.01, Florida Statutes, and the County Resolution authorize this Agreement by conferring upon the Escambia Authority the power to exercise or contract by agreement with the Escambia Authority those powers which are common to it and the other parties hereto and to include the Participating County within the Escambia Authority's area of operation pursuant to Florida Statutes, Section 159.603(1) for the purpose of continual operation of the TBA Program and for the purpose of issuing mortgage revenue bonds in one or more series from time to time, as qualified mortgage revenue bonds based on the Allocation Amounts or as taxable mortgage revenue bonds or from other available monies which require no bond volume allocation, to (i) make available funds to finance (or, to the extent permitted by law and the Code, refinance) qualifying single family housing developments located within the Participating County in accordance herewith, (ii) establish the reserves therefor, and (iii) pay the costs of issuance thereof.

**NOW THEREFORE**, the parties agree as follows:

**Section 1. Allocation Amount; Substitution of Bonds** The Participating County hereby authorizes the Escambia Authority to issue, reissue, remarket or refund Single Family Mortgage Revenue Bonds in multiple series from time to time based on the available Allocation Amounts through

the Authorization Period, or based upon the need for Mortgage Loans funded in whole or in part from available monies or taxable Bonds which require no bond volume allocation, for the purpose of financing the Program and making funds available for single family housing developments in the Participating County to the full extent permitted by the Act. Any Escambia Bonds issued, re-issued, remarketed or refunded for such purposes in the Participating County are hereby deemed to be in full substitution for an equivalent principal amount of the Participating County's bonds that could have been issued for such purpose. The Participating County hereby authorizes the Escambia Authority to utilize the Participating County's Allocation Amounts on behalf of the Participating County as part of its Plan for the purpose of financing the Program, including, among other things, financing of qualifying single family mortgages in the Participating County, and the Escambia Authority is hereby designated as the bond issuing authority for the Participating County during the Authorization Period with respect to all Allocation Amounts. The proceeds of the Escambia Bonds shall be allocated and applied to the funding or refinancing of obligations, the proceeds of which will be used for the funding of Mortgage Loans within the various Participating Counties and for reserves and the payment of costs of issuing the Escambia Bonds, all in accordance with final Program documents approved by the Escambia Authority. All revenues generated by bonds issued pursuant to this Agreement and by the use of the proceeds thereof, will be administered by the Escambia Authority, or its agents, and all payments due from such revenues shall be paid by the Escambia Authority, or its agents, without further action by the Participating County.

**Section 2. Administration** The Escambia Authority hereby assumes responsibility for administering this Agreement by and through its employees, agents and officers; provided, however, that the Participating County retains and reserves its right and obligation to require reasonable reporting on programs designed for and operated within the Participating County, including, but not limited to, reasonably available mortgagor or profile data. The Escambia Authority and its agents shall provide the Participating County with such reports as may be necessary to account for funds generated by this Agreement.

The Escambia Authority shall have full authority and responsibility to negotiate, define, validate, market, sell, issue, re-issue, deliver, refund or remarket its Escambia Bonds in amounts based upon mortgage loan demand and maximum available Allocation Amounts, to the extent permitted by law to finance the Program for single family housing developments in the Participating County and to take such other action as may be necessary or convenient to accomplish such purpose, including operation of the TBA Program. Each Participating County may apply for the full Allocation Amount available for such County. It is agreed that the initial regional Allocation Amounts for the Escambia Bonds in the Participating County and other Participating Counties located within the same bond volume allocation region under Section 159.804, Florida Statutes, shall be allocated ratably between the Participating County and such other Participating Counties within such region based upon lender demand through June 15 of each year in which an Allocation Amount is obtained.

The issuance and administration costs and expenses related to the Escambia Bonds issued to finance the Program and administration of such Program shall be paid from proceeds of the Escambia Bonds and revenues generated from the Program or other sources available to the Escambia Authority.

### **Section 3. Program Parameters; Fees and Expenses**

(A) Upon request of the Escambia Authority, the Participating County shall, to the extent permitted by law, (i) approve, establish, and update, from time to time as necessary, upon the request of the Escambia Authority, such Program parameters including, but not limited to, maximum housing price and maximum adjusted family income for eligible borrowers, as may be required for any bonds issued by the Escambia Authority pursuant to this Agreement and (ii) approve the allocation of Mortgage Loan moneys for each lending institution offering to originate Mortgage Loans within the Participating County. Unless otherwise notified in writing by the Participating County, the Escambia Authority may from time to time approve and establish such maximum price and family income amounts at the maximum levels provided pursuant to the Code or the Act without further action of the Participating County.

(B) The fees and expenses of the Participating County shall be paid from the proceeds of the Program in the manner and to the extent mutually agreed upon by the officials of the Participating County and the Escambia Authority at or prior to issuance of the Escambia Bonds.

**Section 4. Term** This Agreement will remain in full force and effect from the date of its execution until such time as it is terminated by any party upon ten (10) days written notice to the other party hereto. Notwithstanding the foregoing, it is agreed that this Agreement may not be terminated by the Participating County during the Authorization Period, or by any party during any period that the Escambia Bonds issued pursuant to the terms hereof remain outstanding, or during any period in which the proceeds of such Escambia Bonds (or investments acquired through such proceeds or any proceeds from the operation of the TBA Program) are still in the possession of the Escambia Authority, or its agents, pending distribution, unless either (i) the parties to this Agreement mutually agree in writing to the terms of such termination or (ii) such termination, by its terms, only applies prospectively to (a) the authorization to issue Escambia Bonds for which no Allocation Amount has been obtained or used by the Escambia Authority and for which no purchase contract has been entered into, and (b) the authorization to operate the TBA Program. It is further agreed that in the event of termination the parties to this Agreement will provide continuing cooperation to each other in fulfilling the obligations associated with the issuance of Bonds and the operation of the TBA Program.


**Section 5. Indemnity** To the full extent permitted by law, the Escambia Authority agrees to hold the Participating County harmless from any and all liability for repayment of principal of and interest or penalty on the Escambia Bonds issued pursuant to this Agreement, and the members, officials, employees and agents of the Participating County harmless from any and all liability in connection with the approval rendered pursuant to Sections 159.603 and 159.604, Florida Statutes. The Escambia Authority agrees that any offering, circular or official statement approved by and used in marketing the Escambia Bonds will include a statement to the effect that Bond owners may not look to the Participating County or its respective members, officials, employees and agents for payment of the Escambia Bonds and interest or premium thereon.


{SIGNATURE PAGES FOLLOW}

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof as of the day and year first written above.



ESCAMBIA COUNTY HOUSING  
FINANCE AUTHORITY

By:   
Its: Chairman

By:   
Its: Secretary

*[Signature Page to Interlocal Agreement]*