

**AMENDED AND RESTATED PERFORMANCE
AGREEMENT**

This **AMENDED AND RESTATED PERFORMANCE AGREEMENT** (“**Agreement**”) dated as of this ____ day of _____, 2026 (“**Effective Date**”), by and among **PIEDMONT HOUSING ALLIANCE**, a non-profit 501(c)(3) organization under the Internal Revenue Code of 1986, as amended (including its permitted successors and assigns, “**Recipient**”), and **THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF CHARLOTTESVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“**Authority**”), and acknowledged by **THE CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and a political subdivision of the Commonwealth of Virginia (“**City**”); (collectively, “**Parties**,” individually, “**Party**”), hereby amends and restates that certain Performance Agreement dated March 20, 2025 (“**Original Agreement**”).

WHEREAS, Recipient, or a subsidiary, plans to invest a significant amount of money to develop the Project, as defined below, on the Site, as defined below; and

WHEREAS, City and Authority have determined that the Project will result in significant investment and economic development on the Site, will promote safe and affordable housing in City, will result in substantial benefits to the welfare of City and its inhabitants, is in the public interest, and serves governmental interests; and

WHEREAS, City plans to provide monies to Authority to enable Authority to enter into a Performance Agreement providing grant funding (“**Funding**”) by Authority to Recipient for the purpose of inducing Recipient to construct and operate the Project in the City and to assist Recipient in obtaining the capital necessary for construction of the Project; and

WHEREAS, payment of the Funding will be conditioned upon Recipient’s completion of construction and continued maintenance of the Project and the funds comprising payments of the Funding will be solely limited to an amount equal to a portion of the Incremental Real Estate Tax Revenues (as hereinafter defined) for the Site generated by the Project and the increase in assessed value of the Site by City above the Base Year Tax Revenue, as defined herein (*i.e.*, including both the fee interest and leasehold interest, if applicable in the land and all improvements), all as set forth herein; and

WHEREAS, the City is authorized by § 15.2-953 of the Code of Virginia, 1950, as amended (“**Code of Virginia**”), and other laws, and the Authority is authorized by the Industrial Development and Revenue Bond Act, contained in Chapter 49, Title 15.2 of the Code of Virginia, (“**Act**”) and other laws to perform the activities contemplated in this Agreement. Authority is authorized by the Act to make grants and provide funding to non-profit organizations and other organizations, such as Recipient, or any person, partnership, association, corporation, business, or governmental entity, as provided herein, to enable them to accomplish such purposes for the benefit of inhabitants of the Commonwealth of Virginia and for the promotion of their health, welfare, convenience or prosperity specifically under §§ 15.2-4905(12) and (13) of the Act to accept monies from City and to make grants and provide funding to any entity in furtherance of the purposes for which Authority was created; and

WHEREAS, this Agreement sets forth the understanding of the Parties concerning the

Recipient's obligations, the Authority's obligations, and any appropriations made by the Council of the City of Charlottesville, Virginia ("**City Council**"), subject to the initial approval of the Authority's Board and the City Council and subject to annual appropriations by City Council and any conditions to funding herein;

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the Parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows.

Section 1. Preliminary Provisions

1.1 Incorporation of Recitals. The foregoing recitals are incorporated herein by reference.

1.2 Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

"AMI" means area median gross income for the Charlottesville Metropolitan Statistical Area for each applicable year of the Funding Period.

"Approved Lender" means any institutional lender reasonably approved by the Authority in writing upon the request by Recipient after providing reasonable documents and information requested by the Authority.

"Base Real Estate Tax Revenue" means \$27,524 per year, being the amount equal to the real estate taxes levied on the Site for the current tax year as of the Effective Date. The Base Real Estate Tax Revenue is allocated \$15,506 for the 501A Property and \$12,018 for the 501B Property.

"Funding" means a grant funding to be paid to Recipient, or its successors or assigns, by the Authority pursuant to this Agreement.

"Funding Payment" means, for each real estate tax year during the Funding Period, an amount equal to one hundred percent (100%) of the Incremental Real Estate Tax Revenue for such corresponding tax year. The Parties acknowledge that the annual real estate tax levy is, and may in the future, be billed and due in installments (currently twice a year); therefore, as used herein, "Funding Payment" shall include payments of one hundred percent (100%) of the Incremental Real Estate Tax Revenue for each installment payment corresponding to the applicable Real Estate Tax Levy as prorated for the applicable installment period.

"Funding Period" means that certain period commencing upon Recipient's completion of Project construction, as shall be evidenced by receipt of a temporary Certificate of Occupancy ("**Funding Commencement Date**") and ending thirty (30) years following the Funding Commencement Date ("**Funding Expiration Date**"). The Parties acknowledge that the "Real Estate Tax Levy" for the last year of the Funding Period may not be received by City until after the Funding Expiration Date, and that a Funding Payment shall be paid to Recipient corresponding to such Real Estate Tax Levy.

“Incremental Real Estate Tax Revenue” means, for each applicable real estate tax year during the Funding Period, the amount by which the Real Estate Tax Levy exceeds the Base Real Estate Tax Revenue, provided Recipient pays the Real Estate Tax Levy to City in full and on time (except as provided in Section 3.3 below). In no event shall the Incremental Real Estate Tax Revenue (or the Funding Payment) include penalties, interest, or any other charges resulting from any delinquent payment. The Parties acknowledge that the Real Estate Tax Levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein, “Incremental Real Estate Tax Revenue” shall be determined based on the applicable payment (or installment) of the Real Estate Tax Levy for each applicable real estate tax year.

“Investment” means Recipient’s plans to fund the construction and related costs of the Project with significant equity and loan funds of approximately \$25 million.

“Investor Member” means that certain low-income housing tax credit investor(s) designated by Recipient. Recipient shall provide the name and notice address of such designated Investor Member to Authority.

“Maintain” means Recipient’s continued maintenance in accordance with the applicable Virginia Statewide and City building codes and operation of the Project following completion of Project construction as affordable housing, as set forth by Section 2.2.2 of this Agreement.

“Project” means a development on the Site containing not less than seventy-one (71) residential units, subject to income and rent restrictions as set forth in Section 2.4 and as shown on Exhibit “B,” and monitored by the State Housing Finance Agency. The Project shall consist of two (2) separate buildings expected to be owned by affiliates of Piedmont Housing Alliance; the buildings are known as “501A Property” and “501B Property” as shown on Exhibit “A.”

“Real Estate Tax Levy” means the amount of real estate taxes levied by the City on the Site (including both the fee interest (and leasehold interest, if applicable)) and Project (i.e., including land and all improvements) for a given real estate tax year, pursuant to Chapter 30 of the Code for the City (“City Code”). The Real Estate Tax Levy shall be allocated between the 501A Property and the 501B Property (as such terms are defined under the term “Project”) in the same proportion as described in the defined term “Base Real Estate Tax Value” unless and until those properties are subdivided and separately assessed by the City or as otherwise agreed by both parties in writing.

“Recipient” means Piedmont Housing Alliance, a non-profit 501(c)(3) organization under the Internal Revenue Code of 1986, as amended, and its successors and assigns, to the extent permitted by this Agreement.

“Site” means that certain 1.40-acre parcel currently owned by W P 501 Cherry LLC, located at 501 Cherry Avenue, and currently referred to in the records of the City Assessor as Parcel No. 290178000 and as further described in Exhibit “A.”

“State Housing Finance Agency” means Virginia Housing (formerly known as Virginia Housing Development Authority), a political subdivision of the Commonwealth of Virginia, or its successor.

Section 2. Recipient's Obligations

2.1 Completion of Project Construction; Timeline.

2.1.1 Plan of Development. Recipient shall submit a Plan of Development or similar submission for the Project to the City's Director of Neighborhood Development Services no later than approximately nine (9) months after the Effective Date, which Plan of Development, or similar submission, shall comply with the relevant provisions of the City Code and shall contain all elements of the Project as defined herein.

2.1.2 Commencement of the Project Construction. Recipient shall commence construction of the Project within approximately eighteen (18) months of the Effective Date, ("Construction Commencement Date"), which shall be subject to force majeure extensions upon notice from Recipient to City that shall not exceed nine (9) months, and shall be evidenced by the issuance of all permits necessary for commencement of construction of the Project.

2.1.3 Completion of Project Construction. Recipient shall complete the Project within three (3) years of the Construction Commencement Date, which shall be subject to force majeure extensions upon notice from Recipient to the City or extensions required by an Approved Lender, either of which shall not exceed nine (9) months, and shall be evidenced by the issuance of a temporary certificate of occupancy for the Project.

2.1.4 Failure to Comply. If Recipient fails to timely comply with any of the provisions of this Section 2.1, then Authority's Executive Director, in his/her sole discretion, may either extend the time by which Recipient must comply with the corresponding requirement, or provide written notice of Authority's intent to terminate this Agreement (which shall be delivered to Recipient and the State Housing Finance Agency or Approved Lender). The Investor Member of Recipient may provide its notice address, in which event, Authority will use commercially reasonable efforts to include the Investor Member on any such written notices and permit the Investor Member to effect a cure. If Recipient or its Investor Member fails to cure its failure to comply within thirty (30) days of such written notice, then this Agreement (however, if such cure cannot reasonably be effected within such thirty (30)-day period, then such reasonable period of time as is necessary not to exceed 120 days provided Recipient (or its Investor Member on its behalf) has promptly commenced and is diligently pursuing such cure, including all rights and obligations herein, shall, upon Authority's election and subject to the rights of Approved Lender under Section 6.3 hereof, terminate, and neither City nor Authority shall have any further obligation to Recipient, and Recipient shall no longer be eligible for any Funding Payments hereunder.

2.2 Continued Maintenance and Operation of Project.

2.2.1. Continued Control of the Project by Recipient. Recipient shall continue to own, lease, or otherwise control the Site until completion of the Project construction pursuant to Section 2.1.3 of this Agreement and thereafter shall continue to own, lease, or otherwise control the Project until expiration of the Funding Period. Notwithstanding the foregoing, Recipient may transfer the ownership in the Project to third-parties ("**Permitted Transferee**"), but only if Authority has provided prior written permission, in its sole discretion, for the transfer to the Permitted Transferee following review by Authority of the Permitted Transferee's organization and information relating to such Permitted Transferee's financial

condition, and following such approval, Recipient may (1) assign this Agreement, including the rights and obligations herein to such party or parties at the time it transfers ownership in the Project (including any leasehold interests), and (2) if the Agreement is assigned, Recipient shall provide the Authority thirty (30) days' prior written notice of its intent to transfer ownership in the Project, which notice shall include the contemplated date of transfer, the name of the party or parties to which it intends to transfer, and a written statement from such party that it is aware that this Agreement, including the rights and obligations herein, will be assigned to such party and such Permitted Transferee shall be bound by all terms of this Agreement. Following the transfer of ownership in the Project to the Permitted Transferee as provided above, the term "Recipient" as used herein shall mean the Permitted Transferee. Any transfers by or related to a foreclosure or deed in lieu thereof by an Approved Lender are deemed approved. Notwithstanding anything to the contrary herein, Recipient intends to assign this Agreement to 501-A Cherry, LLC and 501-B Cherry, LLC (both of which are intended to be affiliates of Recipient and each a Permitted Transferee) to complete the Project and such assignment is approved by Authority and acknowledged by City. Such assignment shall not relieve Recipient of any of its obligations under this Agreement.

2.2.2 Continued Maintenance and Operation of the Project. Following Recipient's completion of Project construction as set forth in Section 2.1.3 of this Agreement, the Recipient, or its permitted successors or assigns, shall continue to Maintain the Project until the expiration of the Funding Period. For avoidance of doubt, Recipient's obligation to Maintain the Project includes Recipient's ongoing compliance with the provisions set forth in Section 2.4 (Affordable Housing) of this Agreement.

2.3 MBE Participation

2.3.1 Goal. Recipient agrees to diligently work towards the following goal: Where capacity, capability, and competitive pricing among minority business enterprises and emerging small businesses exists, thirty percent (30%) of all expenditures for construction costs of the Project that will be paid to third-party subcontractors unaffiliated with Recipient will be spent with minority business enterprises and emerging small businesses that perform commercially useful functions with regard to the prosecution and completion of the Project. Recipient shall include this goal in its contracts with all assignees, contractors, and subcontractors who will be providing any portion of the Project. The Recipient further agrees to encourage contractors and sub-contractors during the construction phase of the Project to provide employment opportunities for City residents, and to that end, to work closely with the City of Charlottesville Office of Economic Development, the Central Virginia Partnership for Economic Development, and the Virginia Workforce Center, if recruitment, screening, and training of residents is required.

2.3.2 Reporting. To enable City to measure the achievements of Recipient and its assignees, contractors, and subcontractors with regard to the participation goals set forth above, during the period prior to completion of Project construction, Recipient shall submit a report, upon request, detailing all expenditures with minority business enterprises and emerging small businesses, showing, at a minimum, (i) the name of the business, (ii) an itemization of what the business provided, (iii) the amount paid for each item, (iv) the total amount of spending to date with minority business enterprises and emerging small businesses, and (v) the percentage of total expenditures for the quarter spent with minority

business enterprises and emerging small businesses. If City chooses, Recipient shall submit these reports on forms reasonably prescribed by City.

2.4 Affordable Housing.

Recipient shall restrict occupancy and rents of the Project according to the schedule shown on Exhibit “B,” according to standards promulgated by the State Housing Finance Agency or as otherwise approved in writing by Authority at the written request of Recipient. Ongoing compliance monitoring and approvals by the State Housing Finance Agency, as provided to City upon City’s request, shall serve as evidence of Recipient’s compliance with this Section.

Section 3. Disbursement of Funding

3.1 Funding. Subject to the provisions of this Section 3, during the Funding Period, Authority shall pay to Recipient (subject to annual appropriation by the City Council) the Funding Payments for such real estate tax year (*e.g.* the amount equal to one hundred percent (100%) of the Incremental Real Estate Tax Revenue for such corresponding tax year), beginning fifteen (15) months following the annual valuation of the Project by the City Assessor, which can be done as early as the Completion Date, which is defined as any time after a Certificate of Occupancy has been issued by City for at least fifty percent (50%) of the residential units in the Project (*i.e.* thirty five (35) units) (“**Completion Date**”) and annually thereafter, within ninety (90) days following receipt by City of the annual assessed real property taxes paid by Recipient (or subsequent owners of the Project) related to the Project. The Funding shall be paid by Authority to Recipient (or its Permitted Transferees), annually during the term of this Agreement, which is thirty (30) years from the Completion Date, subject to annual appropriations by City Council.

3.2 Intentionally Deleted.

3.3 Disbursement of Funding Payment. Subject to any necessary City Council action, including any necessary budget amendment or whether the City Council has determined to appropriate funds to Authority for such purpose, Authority agrees to pay the Funding Payment to Recipient (or its Permitted Transferees, or to such party to which Recipient has assigned Funding Payments pursuant to Section 9.1 of this Agreement), within fifteen (15) business days of receipt of the funds from City. Disbursement of the Funding Payment to Recipient is contingent upon the following:

- a) Recipient certifies that it has made the Investment in the Project no later than the Completion Date and providing City and Authority, at either of their request, with reasonable evidence of the amount of such investment, and certifies its continued Maintenance of the Project, including, if requested by City or Authority, any reasonable evidence of such Maintenance, including inspections during normal business hours upon advanced written notice;
- b) Recipient and any subsequent owner or owners of all or any portion of the Project agreeing not to contest any increase in assessed value for the Project for any year on which Funding is based;
- c) To the extent that the assessed value of the Project is decreased for any reason during

the term of this Agreement, the amount of Funding shall be reduced by the tax decrease based on the decrease in Incremental Increased Value; and

- d) No Funding shall be paid so long as any taxes of any kind due and owing to the City by the Recipient or subsequent owner or owners of all or any portion of the Project remain unpaid, or if the assessed value for the Project is being contested. Recipient agrees to pay all taxes due to City in a timely manner.

3.4 Recipient's Relief. Should Recipient believe Authority failed to comply with Section 3.3 of this Agreement, Recipient may seek relief in accordance with Section 9.2 of this Agreement. Provided, however, Recipient's sole remedy shall be to receive payment for a Funding Payment to which it was entitled (subject to the restrictions set forth in this Agreement, including, but not limited to, Sections 3.3 and 9.5), and for which it did not receive payment.

Section 4. General Administration of Funding

4.1 City has agreed to transfer to Authority, subject to appropriation by City Council, the funds necessary for Authority to meet its obligations under this Agreement relating to the Funding. No administrative fees or expenses shall be paid by City.

4.2 Authority's obligation to undertake the activities herein is specially conditioned upon City providing funding on a timely basis; provided, however, City's obligation is subject to annual appropriation by City Council.

4.3 Authority agrees to provide City Manager, or the designee thereof, with copies of all documents related to this Agreement and will keep City Manager fully and timely informed of all matters related to this Agreement.

4.4 Authority agrees that all funds transferred by City to Authority for the Funding shall be deposited by Authority within a Project Fund, to be used only to satisfy the obligations contained in this Agreement related to the Funding.

4.5 It is the intent of the Parties not to impose upon Authority any responsibility, duty, or obligation other than what may be required to implement the Funding. Accordingly, Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. If litigation involving the Funding is initiated or expected to be filed against Authority, Authority shall immediately notify City Attorney and City Manager.

4.6 Authority shall keep records of its financial transactions, if any, related to this Agreement in accordance with generally accepted accounting principles. The City Auditor, or his/her designee, may at any time audit the financial transactions undertaken under this Agreement. Authority shall cooperate to ensure that the City Auditor is granted reasonable access on a timely basis to all books and records of the Authority necessary to complete such audits.

4.7 Intentionally Deleted.

4.8 Recipient shall pay a non-refundable application fee of \$1,500 to proceed with this Agreement.

4.9 Recipient shall pay an annual administrative fee of \$1,500 upon the anniversary of the Effective Date. Such annual administrative fee shall be due regardless of whether grant disbursement is underway or not.

Section 5. Representations of the Recipient

5.1 Recipient is empowered to enter into this Agreement, to be bound hereby, and to perform according to the terms hereof.

5.2 Any and all actions necessary to enable Recipient to enter into this Agreement, and to be bound hereby, have been duly taken.

5.3 The person or persons executing or attesting the execution of this Agreement on behalf of Recipient has, or have been, duly authorized and empowered to so execute or attest.

5.4 The execution of this Agreement on behalf of Recipient will bind and obligate Recipient to the extent provided by the terms hereof.

5.5 There exists no litigation pending against Recipient or to Recipient's knowledge threatened, which if determined adversely, would materially and adversely affect the ability of Recipient to carry out its obligations under this Agreement or the transactions contemplated hereunder.

5.6 Recipient will comply with all applicable federal, state, and local laws and secure all plans, approvals, bonds, and permits as may be necessary or appropriate for the construction of the Project and the occupancy thereof.

Section 6. Default

6.1 **Events of Default.** Each of the following events (hereinafter called an "Event of Default") shall be a default hereunder by Recipient as described:

6.1.1 Failure by Recipient to maintain its corporate existence or the declaration of bankruptcy by Recipient;

6.1.2 The failure of Recipient to comply with Section 2 and Section 3.3 of this Agreement; and

6.1.3 The failure of Recipient to pay annual Real Estate Tax Levy.

6.2 **Effect of Event of Default.** Subject to Section 6.3 below, in the case of an occurrence of an Event of Default, the Funding provisions of Section 3 of this Agreement shall, at Authority's option, terminate ninety (90) days after Authority's notice to Recipient and the State Housing Finance Agency or, the Approved Lender and, as provided herein, the Investor Member, unless Recipient (or at their option and without any obligation to do so, the Approved Lender or Investor Member) cures the Event of Default to Authority's satisfaction within such ninety (90) days, and neither City nor Authority shall have any further obligation relating thereto and Recipient shall no longer be eligible

for any Funding Payments hereunder. Notwithstanding the foregoing, provided Authority adheres to the Funding provisions of Section 3 of this Agreement, Recipient's obligations hereunder will remain in force and effect throughout the Funding Period and Authority shall be entitled to any remedies available at law and equity, including, but not limited to, specific performance. Notwithstanding anything to the contrary contained herein, upon transfer of a portion of the Site to either 501-A Cherry LLC or 501-B Cherry LLC as provided herein, an Event of Default on one (1) building on the Site shall not cause an Event of Default on the other. In other words, non-performance under the terms of the Agreement by 501-A Cherry LLC in connection with the 501A Property will not affect 501-B Cherry LLC's obligations, rights, and privileges under the terms of the Agreement, and non-performance under the terms of the Agreement by 501-B Cherry LLC in connection with the 501B Property will not affect 501-A Cherry LLC's obligations, rights, and privileges under the terms the Agreement.

6.3 **Notice and Right to Cure.** Authority will use commercially reasonable efforts to provide written notice of any default by Recipient under this Agreement to any Approved Lender and Investor Member. Each Approved Lender and the Investor Member shall be permitted to cure any default by Recipient under this Agreement. Such Approved Lender and Investor Member shall have the same period for remedying any default or causing the same to be remedied, as is given Recipient after the giving of such notice to Recipient. However, if such cure cannot reasonably be affected within such period, then such reasonable period of time as is necessary not to exceed 120 days provided any Approved Lender and Investor Member has promptly commenced and is diligently pursuing such cure. Authority agrees to accept payment or performance by any Approved Lender or Investor Member as though the same had been done by Recipient.

Section 7. Recipient Reporting

Recipient shall provide, at Recipient's expense, detailed updates and verification reasonably satisfactory to Authority of Recipient's progress regarding completion of Project construction and, following Project construction, of Recipient's continued compliance with this Section of this Agreement.

Section 8. Notices

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received five (5) business days after being mailed by first class mail, postage prepaid, return receipt requested, or one (1) business day after being placed for next day delivery with a nationally recognized overnight courier service, or upon receipt when delivered by hand, addressed as follows:

if to the Recipient, to:

Piedmont Housing Alliance
682 Berkmar Circle
Charlottesville, Virginia 22901

with a copy to:

Doruk Onvural
Klein Hornig LLP.
1325 G Street NW. Ste 770
Washington, D.C. 20005

With copies to the State Housing Finance Agency or Approved Lender at the addresses provided by

written notice to the Authority.

if to the City, to:

Office of Economic Development
City of Charlottesville, Virginia
610 E. Market Street
Charlottesville, Virginia 22902

if to the Authority, to:

Economic Development Authority
of Charlottesville VA – Attn: Exec. Dir.
610 East Market Street
Charlottesville, Virginia 22901

with a copy to:

Daniel M. Siegel, Esquire
Sands Anderson PC
P.O. Box 1998
919 East Main Street
Richmond, Virginia 23218-1998

Section 9. General Terms and Conditions

9.1 Entire Agreement; Amendments; Assignments. This Agreement constitutes the entire agreement among the Parties hereto and may not be amended or modified, except in writing, signed by each of the Parties hereto. Except as specifically provided herein, Authority reserves the right in its sole discretion to approve any assignment of this Agreement by Recipient to any individual or entity and, the ownership interests of any such entity must be disclosed to Authority, and for any Investor Member, must disclose the name of the individual, managing member, or general partner of the Investor Member, who maintains control of such entity or owns more than a twenty five percent (25%) interest in the Investor Member. Authority will have the notice and consent rights with respect to any change of Recipient stipulated in Paragraph (c) below.

- a) Recipient shall have the right to assign its interest in the Site and Project to any future owner, provided Recipient first shall have complied with the requirements set forth in Section 2.2.1 of this Agreement and shall have submitted to Authority the form of all instruments by which it purports to make such assignment and shall have obtained Authority's prior written approval thereof, which approval shall not be unreasonably withheld, in which event the assignor shall be released from all obligations and liabilities under this Agreement and any such assignee shall be bound by all the terms and conditions of this Agreement, including but not limited to the Investment amounts and other requirements set forth in this Agreement.
- b) Recipient shall have the right to grant to the State Housing Finance Agency or an Approved Lender a security interest in, and assignment of, Recipient's rights hereunder as collateral for the loan to be provided by a lender providing funds for the development, acquisition, refinancing, or rehabilitation of the Project, and any action taken by such lender to realize on such security interest or assignment and performance thereafter shall be deemed permitted under this Agreement, provided the Recipient first shall have submitted to Authority the form of all instruments by which it purports to grant such security interest and assignment and shall have obtained

Authority's prior written approval thereof, in its sole discretion (a "**Collateral Assignment**"), but no such consent shall be required to the exercise by an Approved Lender or any assignee of an Approved Lender of its right to perform Recipient's obligations hereunder after a default by Recipient under the applicable loan documents.

Authority agrees that the State Housing Finance Agency (or an Approved Lender) shall not have any liability for any act or omission of Recipient hereunder and shall only be liable hereunder for obligations arising during such time as it is the owner of Recipient's interests in the Site and the Project pursuant to foreclosure, deed in lieu of foreclosure, or otherwise.

- c) Recipient will provide advanced written notice, along with any reasonable documentation requested by Authority regarding the proposed replacement member manager or managers, and consent rights to Authority for any change in its corporate structure. Pursuant to the operating agreement of any affiliate of Recipient, the Investor Member is expected to have certain default rights and remedies with respect to Recipient. Authority consents to any such rights of the Investor Member; however, the Investor Member will provide notice of such removal and documentation of any affiliate of the Investor Member that has taken over the roles and responsibilities of Recipient. The Investor Member will provide advanced written notice of any transfer of such Recipient interests to an unrelated party ("**Proposed MM Transferee**"), which notice will include the corporate resume of such Proposed MM Transferee, including biographies of the principals of such organization, affordable housing experience, and three (3) references, including one (1) reference from a state allocating agency. Authority will have the right to reasonably consent to such Proposed MM Transferee; however, such consent must be provided within thirty (30) days of receipt of the written notice, and any denial of consent shall include specific reasons therefor. Authority review should be to confirm the Proposed MM Transferee owns at least five (5) affordable housing properties and has no outstanding IRS 8823 violations, no outstanding HUD REAC violations resulting in HUD "red flags," and is in good standing in the Commonwealth of Virginia and City on corporate and tax filings. Failure to timely respond as provided above to a request for such consent shall be deemed the consent of Authority.

9.2 Governing Law; Venue. All issues and questions concerning the construction, enforcement, interpretation, and validity of this Agreement, or the rights and obligations of the Parties shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. Any and all disputes, claims, and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Charlottesville, Virginia. Each Party shall be responsible for its own attorneys' fees in the event of any litigation or other proceeding arising from this Agreement.

9.3 Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

9.4 Severability. If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the Parties as nearly as possible in accordance with applicable law.

9.5 Subject-to-Appropriations. All payments and other performances by Authority under this Agreement are subject to City Council's initial approval of acknowledgement and Authority Board's initial approval of this Agreement (both evidenced by their execution of this Agreement) and subject to annual appropriations by City Council. It is understood and agreed among the Parties that Authority shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Agreement. The Parties to this Agreement acknowledge that under no circumstances shall City's or Authority's total liability under this Agreement exceed the total amount of funds appropriated by City Council for the payments hereunder for the performance of this Agreement.

9.6 Public Disclosure.

961 Applicable Law. The Parties to this Agreement acknowledge that records maintained by or in the custody of Authority are subject to the provisions of the Virginia Public Records Act, Virginia Code §§ 42.1-76 through 42.1-90.1, and the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 through 2.2-3714, and thus are subject to the records retention and public disclosure requirements set forth in those statutes.

962 Challenges to Nondisclosure. If a party submitting records to Authority requests that those records not be disclosed under applicable law and Authority consequently denies a request for disclosure of such records based on the submitting party's request, and Authority's denial of a request for disclosure of records is challenged in court, the submitting party shall indemnify, hold harmless, and defend Authority, its respective officers, directors, agents, and employees from any and all costs, damages, fees, and penalties (including attorneys' fees and other costs related to litigation) relating thereto.

9.7 No Waiver. Neither failure on the part of Authority to enforce any covenant or provision contained in this Agreement, nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of Authority to enforce the same right in the event of any subsequent default.

9.8 Effective Date of the Agreement. The effective date of this Agreement shall be the date upon which it has been fully executed by the Parties following approval by City Council and by Authority's Board.

9.9 No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstance whatsoever as creating and establishing the relationship of copartners or creating or establishing a joint venture between or among any of the Parties or as designating any Party to the Agreement as the agent or representative of any other Party to the Agreement for any purpose.

9.10 No Third-Party Beneficiaries. Except as specified in any Collateral Assignment and

as specified herein, the Parties agree that: (i) no individual or entity shall be considered, deemed, or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than City, Authority, an Approved Lender, and Recipient; (iii) no other individual or entity shall obtain any right to make any claim against City, Authority, or Recipient under the provisions of this Agreement, unless pursuant to a Collateral Assignment; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity.

9.11 Signature Authority. Except as specifically otherwise set forth in this Agreement, Authority Chair, or the designee thereof, may provide any authorization, estoppels, approvals, and notices contemplated herein on behalf of Authority and City.

[The remainder of this page left intentionally blank. Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the first date written above.

PIEDMONT HOUSING ALLIANCE,
a Virginia non-profit corporation

By: _____
Sunshine Mathon, Executive Director

**ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF
CHARLOTTESVILLE,
VIRGINIA,**

a political subdivision of the
Commonwealth of Virginia

By: _____
Chairman Date

Approved as to Form:

By: _____
General Counsel to the Authority

ACKNOWLEDGED BY:

THE CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
City Manager

Approved as to Form:

By: _____
City Attorney's Office

EXHIBIT "A"

Property Description for 501 Cherry Avenue Development

The 501A Property is depicted on the map below in red. The 501B Property is depicted on the map below in blue. The parcel has not yet been subdivided, but it is the intention that the 501A Property and 501B Property will be split and will have two (2) separate Tax Parcel Identification Numbers.

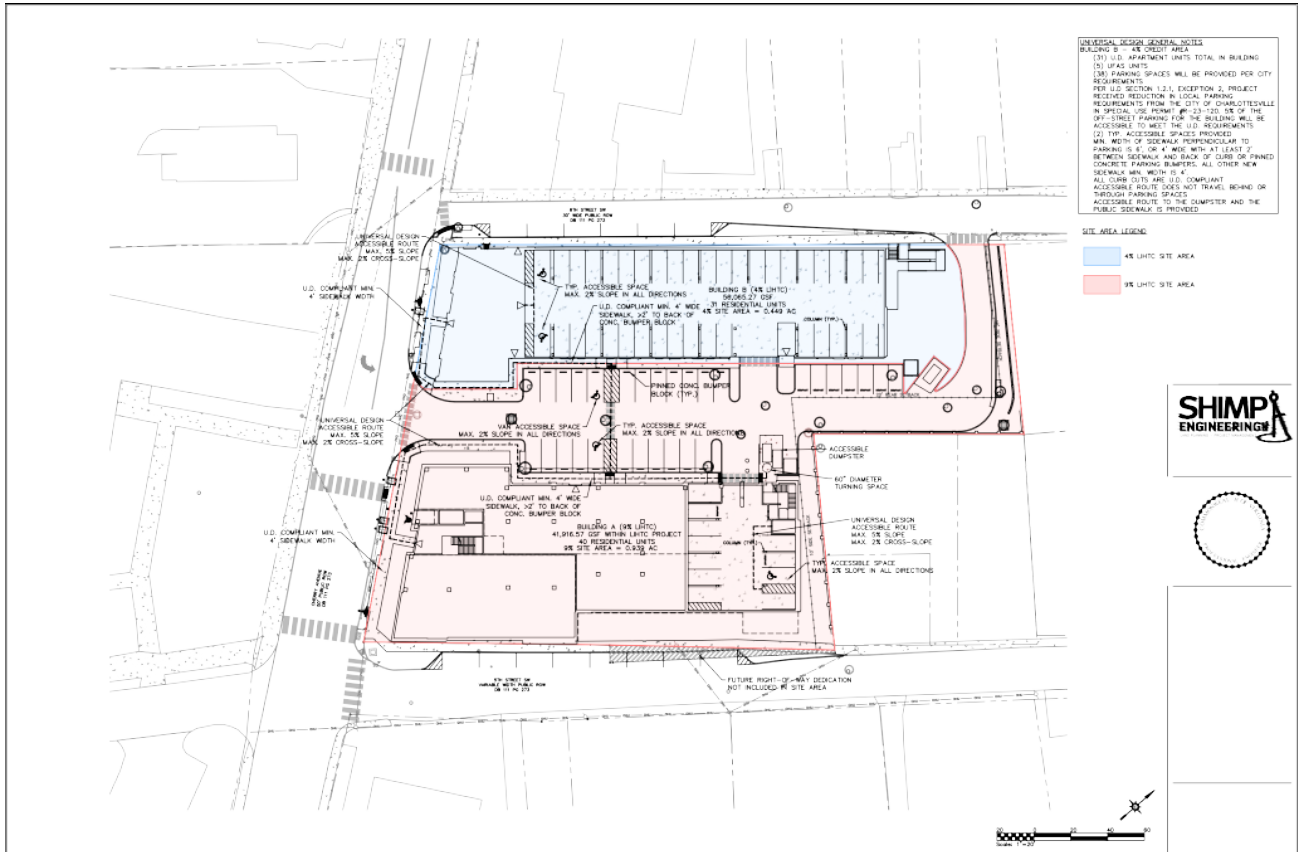


EXHIBIT “B”

Affordable Housing Schedule

The following are the affordability restrictions for the 501A Property and 501B Property respectively.

At a minimum, the 501A Property shall restrict occupancy and rents to: (i) 4 (four) units for households with incomes at or below thirty percent (30%) of AMI; (ii) eleven (11) units for households with incomes at or below fifty percent (50%) AMI; and (iii) twenty five (25) units for households with incomes at or below sixty percent (60%) of AMI according to standards promulgated by the State Housing Finance Agency, and subject to the conditions in the form Extended Use Agreement required by the State Housing Finance Agency for tax credit financing. For so long as the City provides rental assistance, five (5) of the sixty percent (60%) units will be restricted for households with incomes at or below forty percent (40%) AMI.

At a minimum, the 501B Property shall restrict occupancy and rents to: thirty one (31) units for households with incomes at or below sixty percent (60%) of AMI according to standards promulgated by the State Housing Finance Agency, and subject to the conditions in the form Extended Use Agreement required by the State Housing Finance Agency for tax credit financing. For so long as the City provides rental assistance, five (5) of the sixty percent (60%) units will be restricted for households with incomes at or below forty percent (40%) AMI.