

## **LOAN AGREEMENT FOR 501 CHERRY AVENUE SITE**

This **LOAN AGREEMENT FOR 501 CHERRY AVENUE SITE** (this “Agreement”) is by and between **PIEDMONT HOUSING ALLIANCE**, a Virginia nonprofit corporation (“Recipient” or “PHA”), and **the CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation and a political subdivision of the Commonwealth of Virginia (the “City”), dated as of this \_\_\_\_ day of \_\_\_\_\_, 2026 (the “Effective Date”). Individually, the City and Recipient may each be referred to hereinafter as the “Party,” or collectively as the “Parties.” Capitalized terms used and not otherwise defined in the Agreement have the respective meanings specified in Section 1.

### **RECITALS**

**WHEREAS**, the production of new housing for persons of low- and moderate-income is a public purpose and use for which public money may be spent, and such production is a governmental function of concern to the Commonwealth of Virginia and the City; and

**WHEREAS**, pursuant to Virginia Code § 15.2-958 the City may, by Ordinance, make grants or loans to the owners of residential rental property occupied, or to be occupied, following construction, by persons of low or moderate income, for the purpose of producing such property; and

**WHEREAS**, an owner assisted in this manner must provide a minimum of twenty percent (20%) of the units for low and moderate income person as defined by the City for a minimum of ten (10) years and participation by an owner is voluntary; and

**WHEREAS**, PHA is a private, nonprofit 501(c)(3) organization (corporation) organized and operating under the laws of the Commonwealth of Virginia, having as its mission the creation of affordable housing opportunities by developing new housing and by preserving existing affordable housing; and

**WHEREAS**, PHA is planning the redevelopment of the 501 Cherry Avenue site, funded by Low Income Housing Tax Credits, private donations, grants, local government funding from the City, and one (1) or more mortgage loans; and

**WHEREAS**, PHA has requested the City to award local public funding for the Project (as defined below), in an amount sufficient to subsidize the development of for-rent and for-sale affordable units and the leasing of for-rent affordable units on the property; and

**WHEREAS**, the City desires to loan up to \$3,850,000 at an interest rate of 3% per annum for a term of forty-two (42) years (the “Loan”) to PHA pursuant to the terms and conditions of this Agreement, the Declaration of Affordable Housing Covenants, and all other documents and agreements executed and delivered to evidence or secure the Loan (collectively, the “Loan Documents”), to be approved by the City prior to recordation; and

**WHEREAS**, the Loan will be secured by a subordinate interest in the land for the Project granted by PHA to the City as further described in the Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt of which has been acknowledged by the Parties, the following is agreed:

**Section 1. Incorporation of Recitals and Definitions**

(A) The foregoing recitals above are an integral part of this Agreement and set forth the intentions of the Parties and the premises on which the Parties have decided to enter into this Agreement. Accordingly, the foregoing recitals above are fully incorporated into this Agreement by this reference as if fully set forth herein:

**“Applicable Laws”** means all United States of America, Commonwealth of Virginia, and City laws, Ordinances, and regulations applicable to all or any portion of the Property and/or the transactions contemplated by the terms of this Agreement, and all requirements of site plans applicable to the Property, including, without limitation, the United States Americans with Disabilities Act of 1992, as amended, and all Environmental Laws.

**“Construction Contingency Amount”** means an amount of the construction costs for the Project reserved as a deferred construction contingency for costs incurred because of tariffs or other unanticipated construction expenses.

**“Environmental Laws”** means any Applicable Law which regulates the use, generation, handling, storage, treatment, transportation, decontamination, clean-up, removal, encapsulation, enclosure, abatement, or disposal of any Hazardous Material, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, the Toxic Substance Control Act, 15 U.S.C. § 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Sections 1251 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, their state analogues, and any other Applicable Laws regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material.

**“Environmental Reports”** means the Phase I Environmental Site Assessment prepared by HydroGeo dated September 28, 2023 and the Limited Phase II Environmental Site Assessment prepared by HydroGeo Environmental dated November 21, 2023.

**“Hazardous Materials”** means any flammable, explosive, radioactive or reactive materials, any asbestos (whether friable or non-friable), any pollutants, contaminants or other hazardous, dangerous or toxic chemicals, materials or substances, any petroleum products or substances, or compounds containing petroleum products, including gasoline, diesel fuel and oil, any polychlorinated biphenyls, or substances or compounds containing polychlorinated biphenyls, and any other material or substance defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic materials,” “contamination,” and/or “pollution” within the meaning of any Environmental Law.

**“Lender”** means the holder of or beneficiary under a Deed of Trust.

**“Deed of Trust”** means any deed of trust, mortgage, or other security instrument constituting a lien against the Subject Property.

(B) Any other capitalized term to which a meaning is expressly given in this Agreement shall have the meaning assigned to it, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders.

## **Section 2. Public Purpose of the Loan**

This Loan is provided to Recipient to be used for the public purposes of providing funding to assist the property development and construction of new for-rental housing units within the land located at the 501 Cherry Avenue site (the “Subject Property”), and to provide project-based rental assistance for the for-rental housing units (collectively, the “Project”). The Project shall be diligently prosecuted by the Recipient, to the end that, upon completion of construction, the Project will include seventy-one (71) Rental Affordable Units (as defined below). **One hundred percent (100%) of the City-subsidized dwelling units within the Project will be for rental or for ownership by low- and moderate-income persons, for a period not less than ninety-nine (99) years.**

## **Section 3. Representations and Warranties by the Recipient**

To induce the City to make the Loan, Recipient (i) makes the following as its representations and warranties to the City, as of the Effective Date, (ii) covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Agreement not to be true, Recipient shall immediately give written notice of such fact or condition to the City, (iii) acknowledges that the City shall rely upon Recipient’s representations made herein notwithstanding any investigation made by or on behalf of the City, and (iv) agrees that such representations and warranties shall survive termination of this Agreement:

(A) Recipient (1) is a corporation organized under the laws of the Commonwealth of Virginia, active and in good standing as of the date of its execution of this Agreement, (2) has full power and authority to execute, deliver, and perform its obligations under the Loan Documents in accordance with their terms, and (3) has the power to own its properties and to carry on its business as now conducted and as proposed to be conducted. Such execution, delivery, and performance has been duly authorized by all necessary corporate action and has been approved by each required governmental authority, and the obligations of Recipient and every other Party thereto under each are the legal, valid, and binding obligations of each, enforceable against Recipient or such Party, as the case may be, in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, and other laws applicable to creditors' rights generally.

(B) Recipient is a nonprofit 501(c)(3) organization, whose 501(c)(3) status remains in effect as of the date of its execution of this Agreement.

(C) Recipient will use its best efforts to ensure the Loan funds will be used only for the public purposes referenced in Section 2. Recipient may expend the Loan funds itself, or Recipient may

loan the funds to a third-party, who is legally obligated to use the funds only for the public purpose referenced in Section 2. Recipient shall execute any Deed of Trust or Security Agreement reasonably requested by the City as further security for the Loan from the City, subject to certain requirements of lenders, including this Agreement and the Declaration of Affordable Housing Covenants being subordinate and subject to the lien of all lenders to the Project, and including the forbearance of certain creditor's rights and remedies during the applicable federal tax credit "compliance period" when the investor member has an ownership interest in the Project.

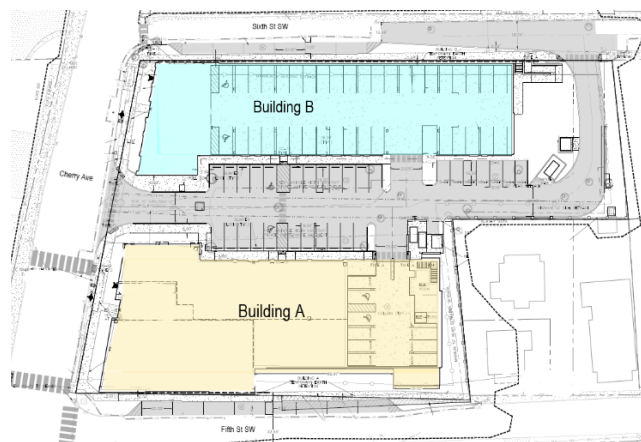
(D) Recipient shall, in good faith, take all measures necessary to ensure that the Project contains seventy-one (71) Rental Affordable Units (as defined in Section 4(B) below) for low- and moderate-income persons, in accordance with the Declaration of Affordable Housing Covenants, to be recorded following approval by the City prior to recordation, and any amendments thereto.

(E) WP 501 Cherry LLC, a Virginia limited liability company (the "Landowner") currently owns the land comprising the development site of the Project. The Landowner entered into that certain Purchase and Sale Agreement with PHA dated July 28, 2025 (the "PSA"). Recipient has verified that the Landowner does not intend to transfer or convey title to any such land to any third-party, other than the Recipient, or an entity of which PHA is a controlling member.

(F) Owner (as defined below) has, and shall have at all times, good and marketable fee title to the Subject Property, subject only to permitted exceptions thereto in the Title Policy, and to which the City has given its consent. All real estate taxes, assessments, water and sewer charges, and other City government charges, to the extent due and owing, have been paid in full on the Subject Property.

(G) Recipient will use its best efforts to ensure the development of the Project shall be consistent with the final site plan (the "Final Site Plan") developed by the Recipient with public input from the community and approved by the City pursuant to Article 4 of the City's Development Code (as amended, the "Development Code"), a copy of which is depicted in ***Illustration 1***, following below, as such Final Site Plan may be amended from time-to-time consistent with the Development Code, the provisions of the Declaration of Affordable Housing Covenants and the public purposes for which this Loan is offered pursuant to Virginia Code § 15.2-958.

***Illustration 1.***



(H) Recipient will ensure the development of the Project shall comply with all relevant Federal, State, and local laws and regulations.

(I) To the best of Recipient's knowledge, no Hazardous Materials has been or is being generated, stored, released, or disposed of on, under or from the Subject Property, except as set forth in the Environmental Reports. The presence of any Hazardous Materials on the Subject Property must be disclosed to the City in a written environmental report, and Recipient shall undertake and complete all necessary and appropriate response actions (including, without limitation, removal, encapsulation, and/or remediation) in accordance with all applicable legal requirements in order to achieve a level of no significant risk to human health, public welfare, or the environment, prior to the occupancy of any units therein.

(J) Recipient will execute any and all documents reasonably requested by the City to finalize the Loan authorized by this Agreement, including, without limitation, any Note, Deed of Trust, Security Agreement, or Guaranty.

(K) The representations set forth within paragraphs (A) through (K) preceding above are material provisions of this Agreement.

#### **Section 4. Authorized Expenditures; Budget**

(A) The Project is planned as redevelopment of a portion of the land currently identified by Tax Parcel Identification No(s). 290178000 currently assigned the street address of 501 Cherry Avenue, Charlottesville, Virginia. See Exhibit "A" for a legal description for the Subject Property.

(B) Project shall include no fewer than seventy-one (71) for-rent affordable dwelling units and approximately 16,568 square feet of nonresidential space to be used by one (1) or more entities providing commercial and/or community services to the surrounding area, of which: (i) a minimum of four (4) will be Rental Affordable dwelling units for rental to households having incomes at or below thirty percent (30%) AMI; (ii) a minimum of eleven (11) will be Rental Affordable dwelling units for rental to households having incomes at or below fifty percent (50%) AMI; (iii) for so long as the City provides rental assistance, ten (10) will be Rental Affordable dwelling units for rental to households having incomes at or below forty percent (40%) AMI; and (iv) the remaining units will be Rental Affordable dwelling units for rental to households having incomes at or below sixty percent (60%) AMI (collectively, the "Rental Affordable Units").

(C) The City will provide \$3,850,000.00 in Loan Proceeds for the Project, consisting of up to \$2,175,000.00 for the 501-A Cherry Avenue site and up to \$1,675,000.00 for the 501-B Cherry Avenue site. Loan Proceeds may be expended as follows:

- (i.) Funding may be used for site work (demolition of existing buildings, grading, erosion, and sediment control measures, etc.), the installation, construction, or reconstruction of streets (inclusive of sidewalk, curb and gutter, stormwater, landscaping), utilities, essential to the Project, and/or for construction of new affordable housing units for low- and moderate-income persons.

- (ii.) Up to **\$385,000.00** may be used to cover soft costs associated with the planning and design for construction of the Project.
- (iii.) At least **\$324,000.00** must be used to support rental assistance for up to ten (10) apartment units (up to five (5) apartment units at the 501-A Cherry Avenue site and up to five (5) apartment units at the 501-B Cherry Avenue site) for a minimum of five (5) years for qualified households for monthly rental assistance.

(D) Construction will commence within six (6) months following the later of Recipient's closing on the purchase of the Subject Property or closing on the construction loan(s) for the Project, and be diligently prosecuted by Recipient to completion.

(E) Recipient shall establish a budget for construction for the Project, and for construction of Rental Affordable Units (the "Budget"), and will submit the Budget to the City for approval. Once the Budget is approved by the City, Recipient will notify the City of material changes to the Budget, which would materially increase the cost of any aspect of construction.

(F) The Budget shall establish stand-alone line items for construction. The Budget shall also include line items for a Construction Contingency Amount, soft costs, and other reserves acceptable to the City.

(G) The Parties hereby acknowledge and agree that a portion of the Loan Proceeds in the amount of \$700,000.00 will be available no earlier than the beginning of Fiscal Year 2028 (July 1, 2027), subject to the conditions set forth in Section 6(A).

## **Section 5. Disbursement of Loan Proceeds**

### **(A) Preconditions for Disbursements, General**

Prior to the first disbursement of any Loan Proceeds for expenses incurred pursuant to Section 4(C)(ii), (iii) or (iv), the Recipient shall furnish all of the following documents to the City for the Project, in a form acceptable to the City in all respects, for the City's approval:

- (i) Documentation that the Final Site Plan for the Project has been approved by the City's Neighborhood Development Services Department.
- (ii) A copy of the approved Building Permit issued for the vertical construction of the Rental Affordable Units.
- (iii) A Construction Schedule that implements construction of the Rental Affordable Units.
- (iv) The Budget required by Section 4, above.

(v) Declaration of Affordable Housing Covenants, approved by the City Attorney and the City Manager prior to execution by Recipient and recorded within the land records of the City's Circuit Court.

If the above-referenced documents demonstrate the adequacy of the Budget to complete the construction of the Project, including all Rental Affordable Units, and if the Construction Schedule is realistic, then the City's approval shall not unreasonably be withheld.

**(B) Disbursements for Construction of Affordable Housing**

Following the date on which the Declaration of Affordable Housing Covenants is recorded within the City's land records, the Recipient may request disbursements of the Loan funds, not expended for rental assistance. Disbursements may be made by the City from time-to-time during construction of new Rental Affordable Units, as such construction progresses, no more frequently than once per calendar month, until the City has disbursed the aggregate amount specified within Section 4(C)(iii) or (iv).

As a condition precedent to each disbursement of Loan Proceeds, the Recipient shall furnish or cause to be furnished to the City all of the following documents for each disbursement, in form and substance satisfactory to the City: (a) a Disbursement Certification in a form approved in advance by the City; (b) copies of payment approval forms, certified by an architect or engineer authorizing payment of specific amount(s), and documentation that such amount(s) have actually been paid to construction contractor(s) and subcontractor(s), for work completed; (c) certification by an architect or a professional engineer licensed by the Commonwealth of Virginia, that construction of the improvements and facilities that are the subject(s) requested of Loan disbursements is in conformity with the approved Final Plan and applicable City standards; (d) a Budget-to-Actual Expenditure Report for the construction, current through the date of the disbursement request; (e) a Construction Schedule report, documenting the actual progress of construction compared with the approved Construction Schedule. In the aggregate, items (a) - (e) shall constitute a "Disbursement Request for Construction."

Following receipt of a complete Disbursement Request for Construction, the City shall issue payment of Loan Proceeds to the Recipient reimbursing amounts documented within the Disbursement Request for Construction as having actually been paid for construction. Payment shall be made within thirty (30) days of the City's receipt of a complete Disbursement Request for Construction.

**(C) Disbursements for Rental Assistance**

Following the date on which the Certificate of Occupancy for the Rental Affordable Unit(s) has been issued, the Recipient may request disbursements of the Loan funds for that portion of the quarterly amount of in-advance rental assistance, and disbursements may be made by the City quarterly, until the City has disbursed the aggregate amount specified within Section 4(C)(iii).

As a condition precedent to the first disbursement of rental assistance Loan Proceeds, the Recipient shall furnish, or cause to be furnished, to the City all of the following documents for each disbursement, in form and substance satisfactory to the City:

(a) a Disbursement Certification in a form approved in advance by the City;

(b) documentation that the Rental Affordable Unit(s) for which rental assistance will be applied have been leased to qualified household(s). In the aggregate, items (a) and (b) shall constitute a “First Rental Assistance Disbursement Request.”

As a condition precedent to each subsequent disbursement of rental assistance Loan Proceeds, the Recipient shall furnish, or cause to be furnished, to the City all of the following documents for each disbursement, in form and substance satisfactory to the City: (a) a Disbursement Certification in a form approved in advance by the City; (b) an annual report documenting the expenditure of rental assistance for the previous year; including, but not limited to:

- Date unit leased
- Name (head of household)
- Unit Address
- Total Monthly Rent
- Amount of Monthly Rental Assistance Provided
- Household Income
- Household %AMI
- Employment Status
- Number of Wage Earners
- Household Composition
- Number of Adults
- Number of Children
- Number of Children Under 5-years
- Number of Elderly (65 years+)
- Number of Disabled
- Race/Ethnicity
- Refugee status (if applicable)
- Unit vacancy (if applicable)

(c) documentation that rental assistance was applied to the Rental Affordable Unit(s).

(d) a Budget-to-Actual Expenditure Report for rental of the Rental Affordable Unit(s) for which the rental assistance was applied.

In the aggregate, items (a) - (d) shall constitute a “Subsequent Rental Assistance Disbursement Request” and together with the First Rental Assistance Disbursement Request, a “Disbursement Request for Rental Assistance.”

Following receipt of a complete Disbursement Request for Rental Assistance, the City shall issue payment of Loan Proceeds to the Recipient for the annual amount requested within the

Disbursement Request for Rental Assistance. Payment shall be made within thirty (30) days of the City's receipt of a complete Disbursement Request for Rental Assistance.

**(D) Execution of Loan Instruments**

This Loan is in the amount of the total disbursements made by the City to the Recipient, pursuant to Section 4(C) above. Disbursement shall be made up to the Loan maximum specified in Section 4(C), above. All disbursements shall be added to the principal of the Loan, and interest at the rate of this Loan shall accrue thereon from the date each disbursement is made. The City shall not disburse any Loan Proceeds to the Recipient, unless and until the Recipient has executed and delivered to the City all documents or legal instruments deemed by the City to be necessary to effectuate the Loan and to secure the City's ability to enforce the requirements of this Agreement. The following terms and conditions are material to the City's agreement to enter into this Agreement and shall be requirements of this Agreement enforceable in accordance with this Agreement, as well as through any documents or legal instruments that effect and secure the Loan of public funds to the Recipient:

(i) Recipient will use commercially available best efforts to negotiate provisions in a Subordination Agreement with the senior lender(s) for the acquisition, construction, and/or development of the Project that provide the City with the right to cure a default under such senior loan(s), with wording acceptable to the City Manager and City Attorney. The income, rent, and use restrictions required by this Agreement and the Declaration of Affordable Housing shall terminate upon a foreclosure of any such senior Loan, except: (i) twenty percent (20%) of the units within the Project may remain at sixty percent (60%) of area median income following such a foreclosure, and (ii) VHDA may permit additional units at sixty percent (60%) AMI to survive such a foreclosure, provided that VHDA determines, in its sole discretion, that the development will achieve a targeted debt service coverage rate (DCSR) of at least 1.25, while subject to such additional set-aside. The City Manager, after consultation with the City Attorney's Office, is the City official hereby designated as having authority as the agent of City Council to renegotiate income, rent, and use restrictions required by this Agreement and the Declaration of Affordable Housing Covenants, and any amendments thereto, and to enter into a binding amendment of this Agreement, if such renegotiation or amendment is necessary to facilitate Recipient's receipt of financing from VHDA, provided that (i) the renegotiated terms are no less than those VHDA itself requires in its own Lending Policy and (ii) in accordance with Virginia Code § 15.2-958, a minimum of twenty percent (20%) of the housing units within the Project shall be Rental Affordable Units for a minimum of ten (10) years.

(ii) **Deferred Payment Loan; Payment Date.** This Loan shall be a deferred payment loan. The deferral period shall commence on the Commencement Date specified in subparagraph (iii), below, and shall expire at midnight on December 31 of the fortieth (40<sup>th</sup>) calendar year thereafter ("Deferral Period"). Interest shall accrue during the Deferral Period, in the amount specified in subparagraph (iv) following below.

(iii) Each Disbursement of funds made by the City to the Recipient shall constitute loan proceeds (individually and collectively, the "Loan Proceeds") of the Loan that is the subject of this Agreement. The term of the Loan shall be forty-two (42) years (the "Term"), commencing on the date of the final disbursement of Loan Proceeds by the City to the Recipient pursuant to this

Agreement (“Commencement Date”). If the Project is completed and operated continuously in accordance with the requirements of this Agreement and the Declaration of Affordable Housing Covenants, and any amendments thereto, throughout the entire Deferral Period (*i.e.*, continuously from the Commencement Date through the expiration of the Deferral Period) then the Loan shall be forgiven. Recipient will grant to the City, as security for the Loan, an assignment of its Subordinate Interest in the Project, which secures its Sponsor Loan to the Project Owner. The assignment shall be subordinate to loans from VHDA or any federal agency.

(iv) Interest shall accrue on outstanding amounts of the Loan, at the annual rate of three percent (3%), beginning on the Commencement Date specified in (iii), above. If the Project is completed and operated continuously in accordance with the requirements of this Agreement and the Declaration of Affordable Housing Covenants, and any amendments thereto, throughout the entire Deferral Period referenced in Paragraph (ii) preceding above (*i.e.*, continuously from the Commencement Date through the expiration of the Deferral Period) then the accrued interest shall be forgiven.

(v) **Payment.** All Loan Proceeds disbursed to the Recipient shall immediately become due and owing to the City in full, in each case following any applicable notice and cure period:

- a. On the date of any Uncured Event of Default on the Loan;
- b. Upon the insolvency or dissolution of the Recipient;
- c. On the date of any foreclosure of the Project; or
- d. Upon the sale or transfer of the property, or any portion(s) thereof, to any person other than a related entity, or other assignee, who has been approved by the City in advance. For purposes of this Agreement, the term “related entity” means any transferee that is controlled by the Recipient, the Landowner, or both.

(vi) For so long as the City Loan Proceeds are subsidizing the Project, Recipient, on behalf of itself and its heirs, successors, and assigns (collectively, “Owner”) agree that, prior to the first refinancing of the senior lien debt, or prior to the next new tax credit financing (but subject to any senior lender approvals, in their sole discretion, if such new tax credit financing does not include a refinancing of the senior debt) it will propose an Affordability Analysis to the City for the City’s review and approval; provided; however, that if such refinancing or new tax credit financing results in the payoff of the City Loan, no Affordability Analysis will be required. The Affordability Analysis will determine and detail if any qualified tenants have incomes permitted under the federal low-income housing tax credit program that are one hundred forty percent (140%) in excess of the applicable imputed income over the program’s AMI limit. For example, if there is a sixty percent (60%) AMI unit, an “over-income” tenant would be considered to be over one hundred and forty percent (140%) above the sixty percent (60%) limit. In other words: Assume Area Median Income is \$100,000 and at sixty percent (60%) the unit income would be \$60,000, then one hundred forty percent (140%) over income would be \$84,000. In such case(s) where it is determined that there are “over-income” tenants, the Owner will agree to propose further income restriction to the other restricted units to the reasonable satisfaction of the City.

(vii) **Default.** If any Event of Default shall occur pursuant to this Agreement and is not cured within sixty (60) days from the date that written notice of such Event of Default is given by the City to the Recipient, or such longer period as was reasonably necessary for cure, provided the Recipient requested an extension prior the expiration of the sixty (60)-day cure period and the City approved the request in writing (“Uncured Event of Default),” the Loan shall immediately become due and payable in full to the City. Each of the following shall constitute an Event of Default:

- a. Use of Loan funds for any purpose(s) other than those articulated within Section 2 of this Agreement;
- b. Failure to comply with the terms and conditions of this Agreement;
- c. Failure to comply with the requirements of the Declaration of Affordable Housing Covenants, as it may be amended;
- d. Failure to perform any of Recipient’s obligations under this Agreement with respect to construction of the Project;
- e. A successful legal challenge initiated by the Landowner or Recipient, asserting that the Declaration of Affordable Housing Covenants, and any amendments thereto, is invalid or unenforceable, in whole or as applied to such person;
- f. Failure of Recipient to perform any obligation required by any document that secures this Loan; or
- g. Failure of Recipient to give the City notice of any anticipated sale of all or any portion of the Project to any person that is not controlled by the Recipient, and who will use it for any purpose other than that specified within Section 2 of this Agreement.

(viii) **Remedies for Default.** If Recipient fails to pay the Loan or fails to cure any Event of Default prior to the end of the sixty (60)-day notice period, the City may invoke foreclosure of this Agreement or any other remedy allowed by the Loan Agreement, any document related to this Loan, or by the laws of the Commonwealth of Virginia. All of the City’s rights and remedies are distinct and cumulative to any other rights and remedies under this Agreement, or otherwise at law, and may be exercised concurrently, independently, or successively.

(ix) **No Waiver.** No forbearance by the City in exercising any right or remedy hereunder, or otherwise afforded by Virginia law, shall constitute a waiver of, nor shall forbearance preclude the exercise of, any right or remedy.

## **Section 6. General Terms and Conditions**

(A) **Non-Appropriations Condition.** The obligations of the City as to any funding beyond the end of Fiscal Year 2026 (June 30, 2026) are expressly made subject to the availability of and appropriation by the City Council of sufficient public funds to support continued performance of this Agreement by the City in succeeding fiscal years. When public funds are not appropriated, or are otherwise unavailable to support continuation of payment(s) by the City to Recipient in a

subsequent fiscal year, the City's obligations hereunder shall automatically expire, without liability or penalty to the City. Within a reasonable time, following City Council's adoption of a budget, the City shall provide the Recipient with written notice of any non-appropriation or unavailability of funds affecting this Agreement.

(B) **Assignments.** The City reserves the right to approve in advance any assignment of this Agreement by the Recipient to any individual or entity, and the ownership and membership of any such entity must be disclosed to the City. Any change in the Recipient's organizational structure, and any change in the Recipient's status or Recipient's relationship to the Project, shall also be subject to approval by the City. Notwithstanding the foregoing, the City hereby consents to the assignment of this Agreement to 501-A Cherry, LLC and 501-B Cherry, LLC ("Permitted Assignees"), and so long as PHA is a controlling member of the Permitted Assignees, no additional consent is required. Any such assignee shall be bound by all the terms and conditions of this Agreement.

(C) **Public Disclosure of Agreement Documents.** The Recipient acknowledges and understands that this Agreement, and all related public proceedings and records, shall be open to the inspection of any citizen or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code § 2.2-3700 *et seq.*) and the Virginia Public Procurement Act (Virginia Code § 2.2-4300 *et seq.*) to the extent that either of those laws applies.

(D) **Relationship of Parties.** The provisions of this Agreement are intended solely for the purpose of defining the relative rights of the Parties as lender and borrower and no relationship of partnership, joint venture, or other joint enterprise shall be deemed to be created hereby by and among the Parties pursuant to this Agreement.

(E) **Interpretation.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement.

(F) **Indemnification.** The Recipient shall indemnify, defend, and hold the City government and its respective City Council members, officers, employees, agents, successors, and assigns harmless from and against: (a) any and all claims, liabilities, and losses whatsoever (together with any expenses related thereto, including, but not limited to, damages, court costs, and reasonable attorneys' fees) occurring to or resulting from any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, (b) any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Recipient's performance of this Agreement, including, but not limited to, any such claims, liabilities, or losses, which occur on or adjacent to the Subject Property, and (c) such claims, liabilities, or losses which arise out of the repair, renovation, construction, and operation of the Subject Property. "Recipient's performance" includes Recipient's action or inaction and the action or inaction of Recipient's officers, employees, agents, contractors, and subcontractors. This indemnification and hold harmless obligation shall not extend to any claim arising solely out of the gross negligence

or willful misconduct of the City and its respective employees and agents. The provision of this Section 6(F) shall survive the expiration of the Term or other termination and the re-conveyance of the Deed of Trust.

(G) **Non-Liability of Officials, Employees and Agents.** No member, official, employee, or agent of the City shall be personally liable to Recipient in the event of any default or breach by the City or for any amount which may become due to Recipient or its successors or assigns or on any obligation under the terms of this Agreement.

(H) **No Third-Party Beneficiaries.** No provision of this Agreement shall be construed to confer any rights upon any person or entity who is not a Party hereto, whether a third-party beneficiary or otherwise.

(I) **Parties Bound.** Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and shall bind Borrower and its successors and assigns in the Subject Property for the entire Term, and the benefit hereof shall inure to the benefit of the City and its successors and assigns.

(J) **No Waiver of Rights.** No failure on the part of the City to enforce any of the terms or conditions set forth in this Agreement shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by the City of any default or failure to perform by the Recipient shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance of the performance of all or any part of this Agreement by the City, for or during any period(s) following a default or failure to perform by the Recipient, shall not be construed as or deemed to be a waiver by the City of any rights hereunder, including, without limitation, the City's right to terminate this Agreement.

(K) **Force Majeure.** All dates in this Agreement shall be extended for a period of time equal to the period of any delay directly affecting such date which is caused by fire, earthquake, or other acts of God, strike, lockout, acts of public enemy, riot, insurrection, pandemic, disease, work shortages, acts beyond the control of the Parties, declared state of emergency or public emergency, government mandated quarantine or travel ban, government shutdown or governmental regulation. All federal extensions permitted due to any pandemic, declared state of emergency or public emergency, government mandated quarantine or travel ban, or any other similar event, shall also apply to the dates in this Agreement.

(L) **Severability.** In the event that any term, provision, or condition of this Agreement, or the application thereof to any person or circumstance shall be held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, and the application of any term, provision, or condition contained herein to any person or circumstance other than those to which it has been held invalid or unenforceable, shall not be affected thereby. In the event that all or any portion of this Agreement is found to be unenforceable, this Agreement or that portion which is found to be unenforceable, shall be deemed to be a statement of intention by the Parties; and the Parties further agree that in such event, and to the maximum extent permitted by law, they shall

take all steps necessary to comply with such procedures or requirements as may be necessary in order to make valid this Agreement or that portion which is found to be unenforceable.

(M) **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia, and, in the event of litigation, jurisdiction and venue shall be in the Circuit Court of the City of Charlottesville, Virginia, and all legal actions involving this Agreement shall be brought only in such Court. All Parties hereto agree that in the event of any action brought to enforce the terms and provisions hereof, the prevailing Party shall be entitled to reimbursement of reasonable attorney's fees and court costs. All Parties to this Agreement have standing to enforce any covenants, terms, provisions, and agreements set forth herein.

(N) **Liability of the City.** The City, by the acceptance and performance of this Agreement, does not assume any liability, and the Recipient hereby releases the City, and any of its individual agents or employees from any such liability, and no claim shall be made by the Recipient upon the City or such employees or agents for or on account of any matter or thing.

(O) **Entire Agreement.** This Agreement is the entire agreement between the Parties hereto, sets forth all of promises, agreements, conditions, and understandings between the Parties respecting the subject matter hereof and supersedes all prior and contemporaneous negotiations, conversations, discussions, correspondence, memoranda, and agreements between the Parties concerning such subject matter.

(P) **Time of the Essence.** Time is of the essence in the performance of this Agreement.

(Q) **Language Construction.** The language of each and all Paragraphs, terms, and/or provisions of this Agreement, shall in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any Party and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

(R) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be original, and such counterparts shall constitute one and the same instrument.

(S) **Authorized City Signature.** By its approval of this Agreement, the Charlottesville City Council authorizes the City Manager to execute agreements to effectuate the requirements herein on its behalf.

(T) **Amendments.** The City Manager is hereby authorized to modify terms and conditions set forth within this Agreement, without City Council review and approval, but only if such amendment(s) do ***not*** materially modify: (i) the number or level of affordability of Rental Affordable Units to be provided by Recipient, or the length of the Affordability Period; (ii) the layout of land uses, or the general or approximate location of the proposed buildings and streets, as depicted in *Illustration 1*, above, within this Agreement; or (iii) the dollar amount(s) of the Loan, as set forth within Section 4(C) of this Agreement. Any amendments of the terms referenced in clauses (i) – (iii) preceding above within this Paragraph must be approved by ordinance of City Council in the same manner as this Agreement.

(U) **Notices.** All notices required 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: (i) if given to the City—to the City Manager, with a copy to the City Attorney, each to: 605 East Main Street, Second Floor, City Hall (P.O. Box 911), Charlottesville, Virginia, 22902, or (ii) if given to the Recipient—to Piedmont Housing Alliance, Attention: Executive Director, 682 Berkmar Circle, Charlottesville, Virginia, 22901, with a copy to Doruk Onvural, Klein Hornig, LLP, 1325 G Street, N.W., Suite 770, Washington, DC, 20005, and a copy to the other financing parties at the address(es) provided by the Recipient.

(V) **Exhibits.** All Exhibits referred to in this Agreement are by such references fully incorporated herein.

*[ Signatures on next page.]*

**CITY OF CHARLOTTESVILLE, VIRGINIA**

By: \_\_\_\_\_  
City Manager

COMMONWEALTH OF VIRGINIA )

CITY OF CHARLOTTESVILLE )

On \_\_\_\_\_, 2026, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as City Manager of the City of Charlottesville, Virginia, and that by his signature on the instrument, the entity, individual, or the person on behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Commission expires: \_\_\_\_\_

Registration No.: \_\_\_\_\_

**Funds are Available:**

By: \_\_\_\_\_  
Director of Finance

Date: \_\_\_\_\_

**Approved as to Form:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PIEDMONT HOUSING ALLIANCE**

**By:** \_\_\_\_\_

**Print Name: Sunshine Mathon**

**Title: Executive Director**

COMMONWEALTH OF VIRGINIA )

CITY/COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2026, before me, the undersigned, a notary public in and for said state, personally appeared Sunshine Mathon, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Executive Director of Piedmont Housing Alliance, and that by his signature on the instrument, the entity, individual, or the person on behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Commission expires: \_\_\_\_\_

Registration No.: \_\_\_\_\_

**EXHIBIT "A"**  
**Legal Description of Property**

**[FINAL LEGAL DESCRIPTION TO BE INSERTED]**