



**CITY COUNCIL AGENDA
October 19, 2020**

Members
Nikayah Walker, Mayor
Sena Magill, Vice Mayor
Heather D. Hill
Michael K. Payne
J.Lloyd Snook, III

**5:00 p.m. Closed session as provided by Sections 2.2-3711 and 2.2-3712 of the Virginia Code
(Legal consultation, personnel, boards and commissions)**

Virtual/electronic meeting

6:30 p.m. Regular Meeting

Virtual/electronic meeting. Register at www.charlottesville.gov/zoom

CALL TO ORDER

MOMENT OF SILENCE

ROLL CALL

AGENDA APPROVAL

ANNOUNCEMENTS

RECOGNITIONS/PROCLAMATIONS

BOARD/COMMISSION APPOINTMENTS

CONSENT AGENDA*

1. Minutes: Minutes: September 8 regular and closed meetings, September 11 special meeting, September 29 special meeting
2. Ordinance: ~~Closing, vacating and discontinuing certain utility easements within the public rights of way for Jersey Pine Ridge and Sunset Drive, public streets within the Briarwood subdivision located in Albemarle County (2nd reading)~~ **APPROVED 10/5/20**
3. Appropriation: Battalion Chief Vehicle Insurance Reimbursement - \$36,649.68 (2nd reading)
4. Appropriation: Virginia Department of Social Services (VDSS) Temporary Aid to Needy Families (TANF) Grants – \$257,479.76 (2nd reading)
5. Appropriation: Red Light Management Funds for Home to Hope for Reentry Services/Programming - \$20,000 (2nd reading)
6. Appropriation: Victim Witness Assistance Program Grant - \$265,024 (1st of 2 readings)
7. Appropriation: Annie E. Casey Foundation Grant Award - \$10,000 (1st of 2 readings)
8. Appropriation: Housing Opportunities for People with AIDS/HIV (HOPWA) Covid Supplement- \$20,050 (1st of 2 readings)
9. Report: Rivanna Water and Sewer Authority - Rivanna Solid Waste Authority Quarterly Update

CITY MANAGER RESPONSE TO COMMUNITY MATTERS (FROM PREVIOUS MEETINGS)

COMMUNITY MATTERS Public comment for up to 16 speakers (limit 3 minutes per speaker). Pre-registration available for up to 8 spaces; pre-registered speakers announced by Noon the day of the meeting. In-person sign-ups begin at 6:00 p.m. in Council Chamber. Additional public comment period at end of meeting.

ACTION ITEMS

10. Ordinance*: Café Space Fee Waiver and Reduction (1 reading)

- 11. Ordinance: Authorizing a Grant of Public Funding to Subsidize Construction of For-Rent Affordable Housing to be Occupied by Persons of Low and Moderate Income as Part of a Redevelopment of Public Housing (1st of 2 readings):
 - a. South First Street Phase One Redevelopment
 - b. Crescent Halls Redevelopment
- 12. Resolution*: Approving a Recovery Agreement between Charlottesville Redevelopment and Housing Authority and the United States Department of Housing and Urban Development and the City of Charlottesville (1 reading)
- 13. Ordinance*: Authorization of a Forgivable Loan to Piedmont Housing Alliance to Support Redevelopment of Friendship Court for the Purpose of Producing New Housing for Low and Moderate Income Persons (1st of 2 readings)
- 14. Resolution*: Approval of Performance Agreement to support Friendship Court Redevelopment efforts (1 reading)
- 15. Resolution*: Coronavirus Aid, Relief, and Economic Act (CARES) Funds – Second Allocation: Contingency Reserve Allocation - \$410,000 (1 reading)

GENERAL BUSINESS

- 16. Public Comment: Council Strategic Plan Update
- 17. Report: City Financial Report through September 30, 2020
- 18. Report: Climate Action Plan update; Report from Community Climate Collaborative; Speaker: Pamela Boyce Simms - Climate Justice
- 19. Discussion: Temporary City employees

OTHER BUSINESS

MATTERS BY THE PUBLIC

*Action Needed

NOTE: Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call the ADA Coordinator at (434) 970-3182 or submit a request via email to ada@charlottesville.gov. The City of Charlottesville requests that you provide a 48 hour notice so that proper arrangements may be made.

CITY COUNCIL REGULAR MEETING

September 8, 2020

Virtual/electronic meeting

5:00 PM CLOSED MEETING

The Charlottesville City Council met on Tuesday, September 8, 2020, at 5:00 p.m. Mayor Nikuyah Walker called the meeting to order at 5:04 p.m. with the following members present: Mayor Nikuyah Walker, Vice Mayor Sena Magill, Ms. Heather Hill, Mr. Michael Payne and Mr. Lloyd Snook.

On motion by Ms. Hill, seconded by Mr. Snook, Council voted 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none) to meet in closed session as authorized by Virginia Code Sections 2.2-3711 and 2.2- 3712, specifically:

- as authorized by authorized by Virginia Code Section 2.2-3711(A)(7) for consultation with legal counsel from the Charlottesville City Attorney's Office regarding legal advice about litigation, settlement, and negotiating strategies concerning probable litigation against the City of Charlottesville, Virginia pertaining to an alleged tort where such consultation in an open meeting would adversely affect the negotiating and litigating posture of the City of Charlottesville; and
- as authorized by Virginia Code Section 2.2-3711(A)(1) for the discussion and consideration of appointments to the Charlottesville Planning Commission and for the discussion of the performance of the Charlottesville City Manager.

On motion by Ms. Hill, seconded by Ms. Magill, Council certified by the following vote: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none.), that to the best of each Council member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the Motion convening the closed session were heard, discussed or considered in the closed session.

The meeting adjourned at 6:40 p.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council

6:30 PM REGULAR MEETING

The Charlottesville City Council met in regular session on Tuesday, September 8, 2020, with the following members present: Mayor Nikuyah Walker, Vice Mayor Sena Magill, Ms. Heather Hill, Mr. Michael Payne, and Mr. Lloyd Snook.

Mayor Walker called the meeting to order at 6:40 p.m.

On motion by Ms. Magill, seconded by Ms. Hill, Council unanimously adopted the meeting agenda.

City Council observed a moment of silence.

ANNOUNCEMENTS

Dr. Denise Bonds, Director of the Thomas Jefferson Health District, provided an update on Covid-19 data.

Ms. Hill announced the deadline for City-appointed board and commission applications. She also announced Mr. Alex-Zan's Annual CYM (Close Your Mouth) Day on September 21.

Ms. Walker provided information about the public comment process for building the City's Strategic Plan, advising that input could be submitted at strategicplan@charlottesville.gov until September 18, 2020.

RECOGNITIONS/PROCLAMATIONS

Ms. Walker acknowledged the passing of a pillar of the community, Mr. Bill Byers, who was also a City of Charlottesville employee with the Parks and Recreation Department for many years.

BOARD/COMMISSION APPOINTMENTS

On motion by Ms. Hill, seconded by Ms. Magill, Council by the following vote APPOINTED Liz Russell to the Planning Commission: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

CONSENT AGENDA*

Clerk of Council Kyna Thomas read the following Consent Agenda items into the record:

2. MINUTES: July 20 Closed and Regular Meetings; July 27 Special Meeting, August 3 Closed and Regular Meetings, August 4 Listening Session on Policing

3. ORDINANCE: Ordinance granting permanent and temporary easements to the Rivanna Water and Sewer Authority for the installation of water line facilities in Ragged Mountain Natural Area (2nd reading)

AN ORDINANCE GRANTING PERMANENT AND TEMPORARY EASEMENTS TO THE RIVANNA WATER AND SEWER AUTHORITY FOR THE INSTALLATION OF WATER LINE FACILITIES IN RAGGED MOUNTAIN NATURAL AREA

4. ORDINANCE: Ordinance granting an underground utility easement to Dominion Energy for the installation of electric power lines in Ragged Mountain Natural Area (2nd reading)

AN ORDINANCE GRANTING AN UNDERGROUND UTILITY EASEMENT TO DOMINION ENERGY FOR THE INSTALLATION OF ELECTRIC POWER LINES IN RAGGED MOUNTAIN NATURAL AREA

5. ORDINANCE: Ordinance granting a drainage easement to the International School of Charlottesville, Inc. (2nd reading)

AN ORDINANCE GRANTING DRAINAGE EASEMENT TO THE INTERNATIONAL SCHOOL OF CHARLOTTESVILLE, INC.

6. APPROPRIATION: Appropriation of funds received for reimbursement for Crescent Halls driveway repair - \$18,483.73 (2nd reading)

APPROPRIATION
Reimbursement for Crescent Halls driveway repair
\$18,483.73

WHEREAS, in November 2019, the City entered into an Agreement with Charlottesville Redevelopment and Housing Authority (CRHA) to “set forth the terms and conditions under which the City will replace a driveway culvert on property owned by CRHA at the public housing project known as Crescent Hall...”.

WHEREAS, the City of Charlottesville has received a reimbursement from Charlottesville Redevelopment and Housing Authority (“CRHA”) for work performed; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia, that \$18,483.73 received as reimbursement be appropriated back to the City account from which the expenses were originally paid.

Expense

\$18,483.73 Fund: 426 WBS Element: P-01019 GL Code: 599999

7. APPROPRIATION: Charlottesville-Albemarle Adult Drug Treatment Court Grant Award - \$240,000 (1st of 2 readings)

8. APPROPRIATION: Virginia Housing Solutions Program Grant Award - \$539,333 (1st of 2 readings)

Ms. Walker opened the floor for speakers on the Consent Agenda:

- Mr. Jeff Fogel, City resident, spoke about challenges with drug court, related to Item #7.

Ms. Walker asked that minutes except July 20 be pulled for separate vote, as she was not in attendance for the other meetings.

On motion by Ms. Hill, seconded by Ms. Magill, Council by the following vote APPROVED the Consent Agenda, withholding Minutes except July 20 for a separate vote per the request of Ms. Walker: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

On motion by Ms. Hill, seconded by Ms. Magill, Council by the following vote APPROVED the Minutes from July 27, August 3 and August 4, 2020: 4-0-1 (Ayes: Hill, Magill, Payne, Snook; Noes: none; Abstention: Walker).

CITY MANAGER RESPONSE TO COMMUNITY MATTERS (FROM PREVIOUS MEETINGS)

City Manager Tarron Richardson addressed the following concerns from the August 21, 2020, City Council meeting:

1. Regarding crosswalk timing at 10th and West Main Streets, he advised that times are within normal standards for pedestrian crossings.
2. Regarding the crosswalk at Preston at Washington Park, he advised that it is a little more dangerous, but with a flashing light does provide ample time for pedestrians to cross.
3. Regarding speed limit concerns on Cherry Avenue, he advised that a traffic study will need to be conducted.

COMMUNITY MATTERS

The following members of the public spoke during Community Matters:

Mr. Brian Campbell, City resident and member of Charlottesville DSA, spoke in opposition to the issuance of citations for local demonstrations.

Mr. Don Gathers, City resident, spoke about his honorary street designation request for a portion of Market Street to be named in honor of Black Lives Matter. He also advised of a petition for renaming Market Street Square after the first black mayor of Charlottesville.

Ms. Sarah Hart, City resident, spoke in support of the gun safety ordinance in public spaces.

Mr. Michael Caplin, City resident, spoke in support of the honorary street designation of Gregory Swanson Way.

Mr. James Hingeley, working in the City of Charlottesville, spoke in support of the honorary street designation of Gregory Swanson Way, at 2nd Street NE. He also spoke in support of the honorary street designation presented by Mr. Don Gathers.

Ms. Lauren Boggs Meslar, resident of Albemarle County, spoke in support of the gun safety ordinance in public spaces.

Reverend Ralph Brown, City resident, spoke regarding his request to designate a street name in honor of his late father C. H. Brown.

Ms. Tanesha Hudson spoke about the use of recreation centers for tutoring and after school access. She spoke about a request that she submitted to recognize Vinegar Hill with an honorary street designation. She asked that Council consider honoring other local history as more requests come forward.

Mr. Harold Folley spoke about the effects of coronavirus on nursing homes, jails and prisons as related to community spread and asked City Council to follow up with the Dr. Denise Bonds and the Thomas Jefferson Health District for more information.

Mr. Brett Lansdell spoke in opposition to adoption of the proposed local gun control ordinance and asked Council to speak with concealed permit holders.

Mr. Reid Byam, City resident, spoke in opposition to adoption of the proposed local gun control ordinance on public property. He asked that concealed carry be exempted from the ordinance.

Mr. Scott Karas, City resident, spoke in opposition to adoption of the proposed local gun control ordinance as a legal concealed handgun permit holder and member of the military.

Mr. Tamon Smith, City resident, spoke in opposition to adoption of the proposed local gun control ordinance

Ms. Katrina Turner spoke about a march that was held on August 28, and asked why a statement made the day before the march could not wait.

Ms. Walker made a statement about public health concerns regarding Covid-19 and the ordinance in place. Dr. Richardson, Mr. Snook and Mr. Payne provided additional context about ordinance enforcement.

Ms. Robin Hoffman spoke about conducting an OSHA-like inspection of the schools and an inventory the items that need to be remedied, passing along costs to the Governor.

Ms. Cabell Marshall, City resident, spoke about a development on Stribling Avenue, asking that the developer hold another community meeting. She also requested that a new traffic study be conducted since university students have returned and there is more traffic.

Ms. Hill advised the public of the Planning Commission meeting on September 9, at which the Stribling Avenue project would be discussed.

The meeting recessed at 8:40 p.m. and reconvened at 8:55 p.m.

ACTION ITEMS

PUBLIC HEARING/RESOLUTION: Public hearing and resolution authorizing the issuance and sale of General Public Improvement Bonds not to exceed \$27,000,000 to finance the costs of certain public improvement projects (1 reading)

Ms. Khristina Hammill, Senior Budget Management Analyst, provided a summary of the request. She advised that the City this year was again awarded a AAA bond rating by S&P Global Ratings and Moody's rating agencies.

Council asked clarifying questions.

Mayor Walker opened the public hearing, and the following people spoke:

Mr. Brandon Collins, City resident and staff person for the Public Housing Association of Residents (PHAR), spoke in support of the bond issuance.

Mr. Brad Slocum, City resident, asked about ways for local citizens to invest of bonds, and spoke in support of the bond issuance. He also asked about future funding options being considered besides bonds.

Mr. Jake Gold spoke in support of funding for public housing.

Mr. Rory Stolzenberg asked about the expected bond interest rate.

With no additional speakers coming forward, Mayor Walker closed the public hearing.

On motion by Ms. Hill, seconded by Mr. Payne, Council by the following vote APPROVED the resolution: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE
CITY OF CHARLOTTESVILLE, VIRGINIA, IN AN AGGREGATE
PRINCIPAL AMOUNT NOT TO EXCEED \$27,000,000, TO FINANCE
THE COSTS OF CERTAIN PUBLIC IMPROVEMENT PROJECTS AND
PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF**

WHEREAS, the City Council of the City of Charlottesville, Virginia (the “City”), desires to issue general obligation public improvement bonds to finance costs of certain capital improvement projects for the City, including, without limitation, (a) transportation and access improvements, including but not limited to constructing, equipping and repairing sidewalks and roads and street reconstruction, (b) renovations and improvements to public facilities, (c) public school improvements, (d) improvements to public parks, (e) public safety improvements, including but not limited to the replacement of fire apparatus and portable radios, (f) improvements to the City’s water, wastewater and stormwater systems and equipment for such systems and (g) constructing, equipping and renovating affordable housing (collectively, the “Project”); and

WHEREAS, the City’s administration and a representative of PFM Financial Advisors LLC, the City’s financial advisor (the “Financial Advisor”), have recommended to the City Council that the City issue and sell one or more series of general obligation public improvement bonds through a competitive public offering;

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
CHARLOTTESVILLE, VIRGINIA:**

1. Authorization and Issuance of Bonds. The City Council finds and determines that it is in the best interest of the City to authorize the issuance and sale of general obligation public improvement bonds (collectively, the “Bonds”) in an aggregate principal amount not to exceed \$27,000,000 and to use the proceeds of the Bonds, together with other funds as may be

available, to finance costs of the Project and to pay costs incurred in connection with issuing such bonds (if not otherwise paid from other City funds).

2. Election to Proceed under the Public Finance Act. In accordance with the authority contained in Section 15.2-2601 of the Code of Virginia of 1950, as amended (the “Virginia Code”), the City Council elects to issue the Bonds pursuant to the provisions of the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Virginia Code (the “Public Finance Act”).

3. Bond Details. (a) The Bonds may be sold in one or more series: one series may be issued on a tax-exempt basis (the “Series 2020A Bonds”) and one series may be issued on a federally taxable basis (the “Series 2020B Bonds”). The City Manager (which term shall include any Deputy City Manager and the Director of Finance) is authorized to determine the total principal amount of Bonds to be issued as the Series 2020A Bonds and the total principal amount of Bonds to be issued as the Series 2020B Bonds, provided that the aggregate principal amount of all Bonds to be issued, regardless of series designation, shall not exceed \$27,000,000.

(b) The Series 2020A Bonds shall be designated “General Obligation Public Improvement Bonds, Series 2020A,” or such other designation as may be determined by the City Manager. Subject to Section 9, the issuance and sale of any Series 2020A Bonds are authorized on terms as shall be satisfactory to the City Manager; provided, however, that the Series 2020A Bonds (i) shall have a “true” or “Canadian” interest cost not to exceed 4.0% (taking into account any original issue discount or premium), (ii) shall be sold to the purchaser thereof at a price not less than 99.5% of the principal amount thereof (excluding any original issue discount) and (iii) shall mature in years, or be subject to mandatory sinking fund redemption in annual installments, ending no later than December 31, 2040.

(c) The Series 2020B Bonds shall be designated “General Obligation Public Improvement Bonds, Series 2020B (Federally Taxable)” or such other designation as may be determined by the City Manager. Subject to Section 9, the issuance and sale of any Series 2020B Bonds are authorized on terms as shall be satisfactory to the City Manager; provided, however, that the Series 2020B Bonds (i) shall have a “true” or “Canadian” interest cost not to exceed 5.0%, (ii) shall be sold to the purchaser thereof at a price equal to 100.0% of the principal amount thereof and (iii) shall mature in years, or be subject to mandatory sinking fund redemption in annual installments, ending no later than December 31, 2040.

(d) The Bonds shall be in registered form, shall be dated such date as may be determined by the City Manager, shall be in denominations of \$5,000 and integral multiples thereof and shall be numbered R-1 upward, or such other designation as appropriate. Principal of the Bonds shall be payable, or be subject to mandatory sinking fund installments, annually on dates determined by the City Manager. Each Bond shall bear interest from its date at such rate as shall be determined at the time of sale, calculated on the basis of a 360-day year of twelve 30-day months, and payable semiannually on dates determined by the City Manager. Principal and premium, if any, shall be payable to the registered owners upon surrender of Bonds as they become due at the office of the Registrar (as hereinafter defined). Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration

books kept by the Registrar on a date prior to each interest payment date that shall be determined by the City Manager (the "Record Date"); provided, however, that at the request of the registered owner of the Bonds, payment may be made by wire transfer pursuant to the most recent wire instructions received by the Registrar from such registered owner. Principal, premium, if any, and interest shall be payable in lawful money of the United States of America.

(e) Initially, one Bond certificate for each maturity of each series of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The City has heretofore entered into a Letter of Representations relating to a book-entry system to be maintained by DTC with respect to the Bonds. "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section.

(f) In the event that (i) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar, and the City discharges the Securities Depository of its responsibilities with respect to the Bonds, or (ii) the City in its sole discretion determines (A) that beneficial owners of Bonds shall be able to obtain certificated Bonds or (B) to select a new Securities Depository, then the Director of Finance shall, at the direction of the City, attempt to locate another qualified securities depository to serve as Securities Depository and authenticate and deliver certificated Bonds to the new Securities Depository or its nominee or to the beneficial owners or to the Securities Depository participants on behalf of beneficial owners substantially in the form provided for in Section 6; provided, however, that such form shall provide for interest on the Bonds to be payable (1) from the date of the Bonds if they are authenticated prior to the first interest payment date or (2) otherwise from the interest payment date that is or immediately precedes the date on which the Bonds are authenticated (unless payment of interest thereon is in default, in which case interest on such Bonds shall be payable from the date to which interest has been paid). In delivering certificated Bonds, the Director of Finance shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

(g) So long as there is a Securities Depository for the Bonds, (i) it or its nominee shall be the registered owner of the Bonds; (ii) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository; (iii) the Registrar and the City shall not be responsible or liable for maintaining, supervising or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants; (iv) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds; and (v) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Letter of Representations such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

4. Redemption Provisions. (a) The Bonds may be subject to redemption prior to maturity at the option of the City on or after dates, if any, determined by the City Manager, in whole or in part at any time, at a redemption price equal to the principal amount of the Bonds, together with any interest accrued to the date fixed for redemption, plus a redemption premium not to exceed 1.0% of the principal amount of the Bonds, such redemption premium to be determined by the City Manager.

(b) Any Bonds sold as term bonds may be subject to mandatory sinking fund redemption upon terms determined by the City Manager.

(c) If less than all of the Bonds of a series are called for redemption, the maturities of the series of Bonds to be redeemed shall be selected by the Director of Finance in such manner as such officer may determine to be in the best interest of the City. If less than all the Bonds of any maturity of a series are called for redemption, the Bonds within such maturity of such series to be redeemed shall be selected by the Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (i) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof, and (ii) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. The City shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile or electronic transmission, registered or certified mail or overnight express delivery, not less than 30 nor more than 60 days prior to the redemption date, to the registered owner of the Bonds. The City shall not be responsible for giving notice of redemption to anyone other than DTC or another qualified securities depository then serving or its nominee unless no qualified securities depository is the registered owner of the Bonds. If no qualified securities depository is the registered owner of the Bonds, notice of redemption shall be mailed to the registered owners of the Bonds. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.

(d) In the case of an optional redemption, the notice may state that (i) it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, no later than the redemption date or (ii) the City retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a "Conditional Redemption"), and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if the notice is rescinded as described herein. Any Conditional Redemption may be rescinded at any time. The City shall give prompt notice of such rescission to the affected Bondholders. Any Bonds subject to Conditional Redemption where redemption has been rescinded shall remain outstanding, and the rescission shall not constitute an event of default. Further, in the case of a Conditional Redemption, the failure of the City to make funds available on or before the redemption date shall not constitute an event of default, and the City shall give immediate notice to all organizations registered with the Securities and Exchange Commission ("SEC") as securities depositories or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption and not so paid remain outstanding.

5. Execution and Authentication. The Bonds shall be signed by the manual or facsimile signature of the Mayor or Vice Mayor, the City's seal shall be affixed thereto or a facsimile thereof printed thereon and shall be attested by the manual or facsimile signature of the Clerk of the City Council (which term shall include any Acting, Interim or Deputy Clerk of the City Council); provided, however, that no Bond signed by facsimile signatures shall be valid until it has been authenticated by the manual signature of an authorized officer or employee of the Registrar and the date of authentication noted thereon.

6. Bond Form. The Bonds shall be in substantially the form of Exhibit A, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officers signing the Bonds, whose approval shall be evidenced conclusively by the execution and delivery of the Bonds.

7. Pledge of Full Faith and Credit. The full faith and credit of the City are irrevocably pledged for the payment of principal of and premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the City Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of and premium, if any, and interest on the Bonds.

8. Registration, Transfer and Owners of Bonds. The Director of Finance is hereby appointed paying agent and registrar for the Bonds (the "Registrar"). The City Manager is authorized, on behalf of the City, to appoint a qualified bank or trust company as successor paying agent and registrar of the Bonds if at any time the City Manager determines such appointment to be in the best interests of the City. The Registrar shall maintain registration books for the registration of the Bonds and transfers thereof. Upon presentation and surrender of any Bonds to the Registrar, or its corporate trust office if the Registrar is a bank or trust company, together with an assignment duly executed by the registered owner or the owner's duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate, if required by Section 5, and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in the name(s) as requested by the then registered owner or the owner's duly authorized attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the Record Date.

9. Sale of Bonds. (a) The City Council authorizes the Bonds to be sold by competitive bid in one or more series, in a principal amount or principal amounts to be determined by the City Manager, in collaboration with the Financial Advisor, and subject to the limitations set forth

in Section 1. The City Manager is also authorized to (i) determine the interest rates of the Bonds, the maturity schedules of the Bonds, and the prices to be paid for the Bonds by the purchaser, subject to the limitations set forth in Section 3, (ii) determine the redemption provisions of the Bonds, subject to the limitations set forth in Section 4, and (iii) determine the dated date, the principal and interest payment dates and the Record Date of the Bonds, all as the City Manager determines to be in the best interest of the City.

(b) The City Manager is authorized, on behalf of the City and in collaboration with the Financial Advisor, to take all proper steps to advertise the Bonds for sale, to receive public bids and to award the Bonds to the bidder providing the lowest “true” or “Canadian” interest cost, subject to the limitations set forth in Section 3. Following the sale of the Bonds, the City Manager shall file with the records of the City Council a certificate setting forth the final terms of the Bonds. The actions of the City Manager in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the City Council.

10. Official Statement. The draft Preliminary Official Statement describing the Bonds, copies of which have been made available to the City Council prior to this meeting, is hereby approved as the Preliminary Official Statement by which the Bonds will be offered for sale to the public; provided that the City Manager, in collaboration with the Financial Advisor, may make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as the City Manager may consider to be in the best interest of the City. After the Bonds have been sold, the City Manager, in collaboration with the Financial Advisor, shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement. In addition, the City shall arrange for the delivery to the purchaser of the Bonds of a reasonable number of printed copies of the final Official Statement, within seven business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the purchaser initially sells Bonds.

11. Official Statement Deemed Final. The City Manager is authorized, on behalf of the City, to deem the Preliminary Official Statement and the Official Statement in final form, each to be final as of its date within the meaning of Rule 15c2-12 (the “Rule”) of the SEC, except for the omission in the Preliminary Official Statement of certain pricing and other information permitted to be omitted pursuant to the Rule. The distribution of the Preliminary Official Statement and the execution and delivery of the Official Statement in final form shall be conclusive evidence that each has been deemed final as of its date by the City, except for the omission in the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule.

12. Preparation and Delivery of Bonds. After the Bonds have been awarded, the officers of the City are authorized and directed to take all proper steps to have the Bonds prepared and executed in accordance with their terms and to deliver the Bonds to the purchaser thereof upon payment therefor.

13. Arbitrage Covenants. (a) The City represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Series 2020A Bonds within the meaning of Treasury Regulations Section 1.150-1(c).

(b) The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Series 2020A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and regulations issued pursuant thereto, or otherwise cause interest on the Series 2020A Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Series 2020A Bonds, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Series 2020A Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The City shall pay any such required rebate from its legally available funds.

14. Non-Arbitrage Certificate and Elections. Such officers of the City as may be requested by the City’s bond counsel are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Series 2020A Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with the City’s bond counsel, and such elections shall be made after consultation with bond counsel.

15. Limitation on Private Use. The City covenants that it shall not permit the proceeds of the Series 2020A Bonds or the facilities financed or refinanced with the proceeds of the Series 2020A Bonds to be used in any manner that would result in (a) 5% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or facilities being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the City receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Series 2020A Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

16. SNAP Investment Authorization. The City Council has previously received and reviewed the Information Statement (the “Information Statement”), describing the State Non-Arbitrage Program of the Commonwealth of Virginia (“SNAP”) and the Contract Creating the State Non-Arbitrage Program Pool I (the “Contract”), and the City Council hereby authorizes the

City Treasurer in his discretion to utilize SNAP in connection with the investment of the proceeds of the Bonds. The City Council acknowledges that the Treasury Board of the Commonwealth of Virginia is not, and shall not be, in any way liable to the City in connection with SNAP, except as otherwise provided in the Contract.

17. Continuing Disclosure Agreement. The Mayor and the City Manager, either of whom may act, are hereby authorized and directed to execute a continuing disclosure agreement (the “Continuing Disclosure Agreement”) setting forth the reports and notices to be filed by the City and containing such covenants as may be necessary to assist the purchaser of the Bonds in complying with the provisions of the Rule promulgated by the SEC. The Continuing Disclosure Agreement shall be substantially in the form of the City’s prior Continuing Disclosure Agreements, which is hereby approved for purposes of the Bonds; provided that the City Manager, in collaboration with the Financial Advisor, may make such changes in the Continuing Disclosure Agreement not inconsistent with this Resolution as the City Manager may consider to be in the best interest of the City. The execution thereof by such officers shall constitute conclusive evidence of their approval of any such completions, omissions, insertions and changes.

18. Other Actions. All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are hereby ratified, approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

19. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

20. Filing With Circuit Court. The Clerk of the City Council, in collaboration with the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this resolution in the Circuit Court of the City.

21. Effective Date. This Resolution shall take effect immediately.

PUBLIC HEARING/ORDINANCE: Public hearing and ordinance for Rezoning property at 909 Landonia Circle from B-1 (Business / Commercial) to B-2 (Business / Commercial) (2nd reading)

City Planner Joey Winter, presented an updated report with an amended proffer from the first reading of this ordinance on August 3, 2020.

Mayor Walker opened the public hearing.

With no one coming forward to speak, Mayor Walker closed the public hearing.

After comments from Council, on motion by Ms. Hill, seconded by Mr. Snook, Council by the following vote APPROVED the rezoning ordinance: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

ORDINANCE REZONING PROPERTY AT 909 LANDONIA CIRCLE FROM B-1 (BUSINESS/COMMERCIAL) TO B-2 (BUSINESS/COMMERCIAL) SUBJECT TO A PROFFERED DEVELOPMENT CONDITION PROHIBITING CERTAIN USES OF THE PROPERTY

ORDINANCE: Renewal of Continuity in Government Ordinance (may be passed on 1 reading 4/5 vote)

City Attorney John Blair made a presentation of the proposed ordinance extension.

On motion by Heather Hill, seconded by Mr. Snook, Council by the following vote APPROVED the Renewal of Continuity in Government Ordinance: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

ORDINANCE TO MODIFY DEADLINES, MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH THE PANDEMIC DISASTER

ORDINANCE: Amending Chapter 33 (Weapons) of the Code of the City of Charlottesville to add Section 33-10. – Prohibition of firearms on city property (3rd reading)

City Attorney John Blair made a presentation of the proposed ordinance.

Mr. Snook advised of concerns discussed with the local Commonwealth's Attorney.

Ms. Hill provided clarification for comments made during Community Matters.

On motion by Mr. Snook, seconded by Ms. Magill, Council by the following vote APPROVED the ordinance: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

AN ORDINANCE ADDING SECTION 33-10 TO CHAPTER 33 (WEAPONS): Sec. 33-10. – Prohibition of firearms on city property.

RESOLUTION: Sale of City-owned Property Policy Amendment

City Attorney John Blair presented a summary of the resolution.

Ms. Hill shared additional context for the reason this issue came before Council.

On motion by Ms. Hill, seconded by Ms. Magill, Council by the following vote APPROVED the Sale of City-owned Property Policy Amendment: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

**RESOLUTION TO AMEND THE
POLICY FOR THE SALE OF CITY-OWNED PROPERTY
TO PROHIBIT CONSIDERATION OF THE SALE OF CITY PARK PROPERTY**

WHEREAS, the Charlottesville City Council adopted a Policy for the Sale of City-Owned Property (hereinafter “Property Policy”) on January 3, 2005; and

WHEREAS, the Property Policy requires City staff members to consider offers for the sale of all City-owned property; and

WHEREAS, the Charlottesville City Council desires to preserve all City-owned park property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that it does not wish for its staff members to consider offers for the sale of City-owned park property.

BE IT FURTHER RESOLVED that the amendments of the Policy for the Sale of City-Owned Property attached to this Resolution are hereby adopted.

RESOLUTION: Resolution to support listing Jackson P. Burley High School on the Virginia Landmarks Register and the National Register of Historic Places

Mr. Jeff Werner, Historic Preservation and Design Planner, provided a summary of the resolution.

On motion by Ms. Hill, seconded by Mr. Payne, Council by the following vote APPROVED the resolution: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

**RESOLUTION
Support for listing the Jackson P. Burley High School
on the Virginia Landmarks Register and the National Register of Historic Places.**

WHEREAS, the City Council of the City of Charlottesville, through its Vision Statement, the City’s Comprehensive Plan and the City’s Strategic Plan has recognized the value of preserving and protecting historic and cultural resources; and

WHEREAS, the City Council wishes to encourage such efforts; and

WHEREAS, the Jackson P. Burley High School located in the City of Charlottesville is significant relative to both local and regional African-American history; and

WHEREAS, Jackson P. Burley was an African American, born in 1865 near Stony Point, attended the Hampton Institute, became a teacher at the Albemarle Training School, and acquired a home and property on Henry Avenue, including a 17-acre portion sold by his widow as the site for the Jackson P. Burley High School; and

WHEREAS, prior to its opening in 1951 and as a result of court decisions requiring educational facilities for both races, the City and the County of Albemarle worked cooperatively to construct and operate Burley High School; and

WHEREAS, despite being constructed during a period of segregation and racial inequality, the academic, athletic, and artistic accomplishments of Burley's students left a long and profound impact on this community; and

WHEREAS, despite being discriminated against and treated unfairly as professionals, Burley's educators, coaches, staff and administrators were unwavering in their commitment to providing inspiration and guidance to thousands of students; and

WHEREAS, the Virginia State Review Board for the Virginia Department of Historic Resources will on September 17, 2020 consider listing the Jackson P. Burley High School on the Virginia Landmarks Register and, with that, recommend that the U.S. Department of the Interior list the school on the National Register of Historic Places;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Charlottesville, Virginia endorses this effort to recognize the historical significance of the Jackson P. Burley High School and supports its listing on both the Virginia Landmarks Register and the National Register of Historic Places.

RESOLUTION: Resolution to support listing River View Farm and the Carr-Greer Farmhouse (Ivy Creek Natural Area) on the Virginia Landmarks Register and the National Register of Historic Places

Mr. Jeff Werner provided a summary of the resolution.

On motion by Ms. Hill, seconded by Mr. Payne, Council by the following vote
APPROVED the resolution: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

RESOLUTION

In Support of Nominating River View Farm and the Carr-Greer Farmhouse (Ivy Creek Natural Area) for Listing on the Virginia Landmarks Register and the National Register of Historic Places

WHEREAS, the City Council of the City of Charlottesville, through its Vision Statement, the City's Comprehensive Plan and the City's Strategic Plan has recognized the value of preserving and protecting historic and cultural resources; and

WHEREAS, the City Council wishes to encourage such efforts; and

WHEREAS, the River View Farm and the Carr-Greer Farmhouse located at the Ivy Creek Natural Area are significant relative to their connection to local African-American history; and

WHEREAS, Hugh Carr was an advocate for education of African American children and his descendants, including Mary Carr Greer, became prominent teachers and educators during a period of segregation and inequality; and

WHEREAS, the City is a co-owner of the Ivy Creek Natural Area and thus a steward in the preservation and protection of the River View Farm and the Carr-Greer Farmhouse; and

WHEREAS, on September 17, 2020, the Virginia State Review Board for the Virginia Department of Historic Resources will consider listing the River View Farm and the Carr-Greer Farmhouse on the Virginia Landmarks Register and, upon approval, recommend that the U.S. Department of the Interior list the school on the National Register of Historic Places;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Charlottesville, Virginia endorses this effort to recognize the historical significance of the River View Farm and the Carr-Greer Farmhouse and supports its listing on both the Virginia Landmarks Register and the National Register of Historic Places.

Ms. Walker recessed the meeting at 9:53 p.m. and reconvened at 10:03 p.m.

RESOLUTION: 218 West Market Street Special Use Permit

Mr. Brian Haluska, Principal Planner, provided an overview of the special use permit request.

The applicant, Jeff Levien, principal owner of Heirloom made a presentation along with Mr. Jeff Dreyfus, architect with Bushman Dreyfus Architects.

Ms. Walker shared concerns about the number of units and time limits for affordable housing, about symbolism, and about the quality of affordable units versus market rate units.

Ms. Magill asked additional questions about the affordable housing units and timelines.

Mr. Snook asked about other developments that include built-in affordable housing units.

Mr. Payne asked a question of staff about how many Affordable Dwelling Unit projects have been presented. He asked the developer about honoring existing leases and about by-right uses.

Ms. Hill made comments about exploring off-site options for affordable housing, and the efforts made to address Council concerns since the last time the project was presented.

On motion by Ms. Hill, seconded by Mr. Snook, Council by the following vote **APPROVED** the resolution: 4-1 (Ayes: Hill, Magill, Payne, Snook; Noes: Walker).

RESOLUTION
APPROVING A SPECIAL USE PERMIT FOR PROPERTY LOCATED AT
218 WEST MARKET STREET

WHEREAS, landowner Market Street Promenade, LLC is the current owner of a lot identified on 2019 City Tax Map 33 as Parcel 276 (City Parcel Identification No. 330276000), having an area of approximately 0.562 acre (24,480 square feet) (the “Subject Property”), and

WHEREAS, the landowner proposes to redevelop the Subject Property by constructing a mixed use building at a height of up to 101 feet on the Subject Property, with retail space on the ground floor facing West Market Street, residential dwelling units at a density of up to 240 dwelling units per acre, and underground parking (“Project”); and

WHEREAS, the Subject Property is located within the Downtown Architectural Design Control District established by City Code §34-272(1) and contains an existing building that is classified as a “contributing structure”, and the City’s board of architectural review (BAR) has been notified of this special use permit application and the BAR believes that any adverse impacts of the requested additional height, the loss of the existing contributing structure, and the massing of the proposed building to be constructed can be adequately addressed within the process of obtaining a certificate of appropriateness from the BAR;

WHEREAS, the Project is described in more detail within the Applicant’s application materials dated submitted in connection with SP19-00006 and a preliminary site plan dated August 13, 2019, as required by City Code §34-158 (collectively, the “Application Materials”); and

WHEREAS, the Planning Commission and City Council conducted a joint public hearing, after notice and advertisement as required by law, on November 12, 2019; and

WHEREAS, upon consideration of the comments received during the joint public hearing, the information provided by the landowner within its application materials, and the information provided within the Staff Report, the Planning Commission voted to recommend approval of the proposed special use permit for the Project; and

WHEREAS, upon consideration of the Planning Commission’s recommendation, and the Staff Reports discussing this application, public comments received, as well as the factors set forth within Sec. 34-157 of the City’s Zoning Ordinance, this Council finds and determines that granting the proposed Special Use subject to suitable conditions would serve the public necessity, convenience, general welfare or good zoning practice; now, therefore,

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that, pursuant to City Code §§ 34-557 and 34-560, a special use permit is hereby approved and granted to authorize a building height of up to 101 feet, and residential density of up to 240 dwelling units per acre, for the Project, subject to the following conditions:

1. The specific development being approved by this special use permit (“Project”), as

described within the August 13, 2019 site plan exhibit submitted as part of the application materials, as required by City Code §34-158(a)(1), shall have the following minimum attributes/ characteristics:

- a. Not more than one building shall be constructed on the Subject Property (the “Building”). The Building shall be a Mixed Use Building, containing residential and commercial uses in the percentages required by the Ordinance adopted by City Council on July 16, 2018 amending Article VI (Mixed Use Corridor Districts) of Chapter 34 (Zoning Ordinance) (relating to bonus height or density within mixed use zoning districts).
 - b. The commercial floor area within the Building shall contain space to be occupied and used for retail uses, which shall be located on the ground floor of the Building. The square footage of this retail space shall be at least the minimum required by the City’s zoning ordinance or, if none, equivalent square footage in relation to the gross floor area of the Building as depicted in the August 13, 2019 site plan exhibit submitted as part of the application materials (subject to adjustment of the GFA, as necessary to comply with requirements of any COA approved by the BAR).
 - c. Underground parking shall be provided within a parking garage structure constructed underneath the Building.
2. The mass of the Building shall be broken up to provide compatibility with the character defining features of the Downtown Architectural Design Control District (City Code §34-272(1)), subject to approval by the City’s board of architectural review.
 3. There shall be pedestrian engagement with the street with an active, transparent, and permeable façade at street level.
 4. The Landowner (including, without limitation, any person who is an agent, assignee, transferee or successor in interest to the Landowner) shall prepare a Protective Plan for the building located on property adjacent to the Subject Property at 110 Old Preston Avenue (“Adjacent Property”). The Protective Plan shall provide for baseline documentation, ongoing monitoring, and specific safeguards to prevent damage to the building, and the Landowner shall implement the Protective Plan during all excavation, demolition and construction activities within the Subject Property (“Development Site”). At minimum, the Protective Plan shall include the following:
 - a. *Baseline Survey*—Landowner shall document the existing condition of the building at 110 Old Preston Avenue (“Baseline Survey”). The Baseline Survey shall take the form of written descriptions, and visual documentation which may include color photographs and video recordings. The Baseline Survey shall document the existing conditions observable on the interior and exterior of the Adjacent Property, with close-up images of cracks, staining, indications of existing settlement, and other fragile conditions that are observable.

The Landowner shall engage an independent third party structural engineering firm (one who has not participated in the design of the Landowner's Project or preparation of demolition or construction plans for the Landowner, and who has expertise in the impact of seismic activity on historic structures) and shall bear the cost of the Baseline Survey and preparation of a written report thereof. The Landowner and the Owner of the Adjacent Property ("Adjacent Landowner") may both have representatives present during the process of surveying and documenting the existing conditions. A copy of a completed written Baseline Survey Report shall be provided to the Adjacent Landowner, and the Adjacent Landowner shall be given fourteen (14) days to review the Baseline Survey Report and return any comments to the Landowner.

b. *Protective Plan*--The Landowner shall engage the engineer who performed the Baseline Survey to prepare a Protective Plan to be followed by all persons performing work within the Development Site, that shall include seismic monitoring or other specific monitoring measures of the Adjacent Property as recommended by the engineer preparing the Protective Plan. A copy of the Protective Plan shall be provided to the Adjacent Landowner. The Adjacent Landowner shall be given fourteen (14) days to review the Report and return any comments to the Landowner.

c. *Advance notice of commencement of activity*--The Adjacent Landowner shall be given 14 days' advance written notice of commencement of demolition at the Development Site, and of commencement of construction at the Development Site. This notice shall include the name, mobile phone number, and email address of the construction supervisor(s) who will be present on the Development Site and who may be contacted by the Adjacent Landowner regarding impacts of demolition or construction on the Adjacent Property.

The Landowner shall also offer the Adjacent Landowner an opportunity to have meetings: (i) prior to commencement of demolition at the Development Site, and (ii) at least fourteen (14) days prior to commencement of construction at the Development Site, on days/ times reasonably agreed to by both parties. During any such preconstruction meeting, the Adjacent Landowner will be provided information as to the nature and duration of the demolition or construction activity and the Landowner will review the Protective Plan as it will apply to the activities to be commenced.

Permits--No demolition or building permit, and no land disturbing permit, shall be approved or issued to the Landowner, until the Landowner provides to the department of neighborhood development services: (i) copies of the Baseline Survey Report and Protective Plan, and NDS verifies that these documents satisfy the requirements of these SUP Conditions, (ii) documentation that the Baseline Survey Report and Protective Plan were given to the Adjacent Landowner in accordance with these SUP Conditions.

GENERAL BUSINESS

DISCUSSION: Discussion of Honorary Street Designation requests

Mr. Snook thanked the public for submitting requests for honorary street designations and advised that Council would need to think through the process and the requests submitted, as well as various ways to recognize and honor people locally.

Ms. Walker made comments about taking action on requests. She advised of a revision to Mr. Alex-Zan's request, adding Wyatt Johnson Way (Black History Pathway), to comply with the policy.

Ms. Magill commented on logistics for honorary street signs.

On motion by Ms. Hill, seconded by Mr. Payne, Council by the following vote APPROVED the honorary street designation submitted by Mr. Don Gathers for Black Lives Matter Boulevard on Market Street: 4-1 (Ayes: Hill, Magill, Payne, Walker; Noes: Snook based on interpretation of policy).

On motion by Ms. Magill, seconded by Ms. Hill, Council by the following vote APPROVED the honorary street designation submitted by Reverend Ralph E. Brown, Sr., for his late father C H Brown: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: none).

OTHER BUSINESS

There were no other business items.

MATTERS BY THE PUBLIC

Mr. Jim Hingeley shared additional information regarding universities as related to the honorary street designation request for Gregory Swanson Way.

Mr. Don Gathers requested a public comment period toward the beginning of meetings for discussion of policy matters such as the Honorary Street Designation Policy.

Reverend Ralph Brown, Sr., thanked Council for the honorary street designation for his father, the late C. H. Brown, and asked that Council consider ways to honor citizens in the long-term such as permanent street name changes.

Ms. Zyahna Bryant spoke about the need to shorten City Council meetings.

The meeting adjourned at 12:44 a.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council

CITY COUNCIL SPECIAL MEETING
Friday, September 11, 2020
Virtual/electronic meeting
1:00 p.m.

Pursuant to Section 2-42 of the Charlottesville City Code, Mayor Nikuyah Walker called a Special Meeting of the Charlottesville City Council for September 11, 2020 at 1:00 p.m. in virtual/electronic format to consider a personnel matter.

Mayor Walker called the meeting to order at 1:01 p.m. with the following members in attendance: Mayor Nikuyah Walker, Vice Mayor Sena Magill, Ms. Heather Hill, Mr. Michael Payne, and Mr. Lloyd Snook.

On motion by Ms. Magill, seconded by Ms. Hill, Council by the following vote AMENDED the employment contract for City Manager Tarron Richardson: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker Noes: none).

On motion by Ms. Magill, seconded by Ms. Hill, Council by the following vote APPROVED a resolution accepting the resignation of City Manager Tarron Richardson effective October 1, 2020, appointing John Blair as Acting City Manager and appointing Lisa Robertson as Acting City Attorney: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker Noes: none).

RESOLUTION
ACCEPTING THE RESIGNATION OF DR. TARRON J. RICHARDSON AND
APPOINTING JOHN BLAIR AS ACTING CITY MANAGER AND APPOINTING LISA
ROBERTSON AS ACTING CITY ATTORNEY

WHEREAS, the Charlottesville City Council (hereinafter “Council”) appointed Dr. Tarron J. Richardson (hereinafter “Dr. Richardson”) as Charlottesville City Manager with an effective date of May 13, 2019; and

WHEREAS, Dr. Richardson and the Council have mutually agreed to Dr. Richardson’s resignation as Charlottesville City Manager with an effective date of September 30, 2020.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that it hereby accepts the resignation of Dr. Richardson with an effective date of September 30, 2020.

BE IT FURTHER RESOLVED by the Council of the City of Charlottesville, Virginia that it hereby appoints John Blair as Acting City Manager with an effective date of October 1, 2020.

BE IT FURTHER RESOLVED by the Council of the City of Charlottesville, Virginia that it hereby appoints Lisa Robertson as Acting City Attorney with an effective date of October 1, 2020.

BE IT FURTHER RESOLVED by the Council of the City of Charlottesville, Virginia that it hereby authorizes Mayor Nikuyah Walker to negotiate and execute employment agreements with Mr. Blair and Ms. Robertson for their service as Acting City Manager and Acting City Attorney.

Ms. Walker shared information about the matter.

Dr. Richardson made remarks to the public.

Mr. Blair made remarks.

Mayor Walker opened the floor for questions from the media, with the following members of the media participating:

- Nolan Stout, The Daily Progress
- C.J. Paschall, CBS19
- Jessie Higgins, Cville Tomorrow
- Sean Tubbs, independent
- Sandy Hausman

The floor was then opened to members of the general public with the following participant(s):

- Elliott Harding

Dr. Richardson made closing remarks.

The meeting adjourned at 1:25 p.m.

BY Order of Mayor Nikuyah Walker

BY Kyna Thomas, Clerk of Council

CITY COUNCIL SPECIAL MEETING
September 29, 2020
Virtual/electronic meeting
10:00 a.m.

Pursuant to Section 2-42 of the Charlottesville City Code, Mayor Nikuyah Walker called a Special Meeting of the Charlottesville City Council for September 29, 2020 at 10:00 a.m. in virtual/electronic format to consider introduction of an appropriation.

Mayor Walker called the meeting to order at 10:00 a.m. with the following members present: Mayor Nikuyah Walker, Vice Mayor Sena Magill, Ms. Heather Hill, Mr. Michael Payne, and Mr. Lloyd Snook. She turned the meeting over to Acting City Manager John Blair, who summarized the reason for the special meeting and shared parameters for use of Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding.

APPROPRIATION: Appropriate Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding – 2nd Allocation - \$4,123,776 (carried)

Finance Director Chris Cullinan provided additional information about requests from departments and funds allocated.

City department representatives were available to answer questions from Council.

Mayor Walker opened the floor for public comment.

- Ms. Robin Hoffman spoke about filtration systems for air quality, and cleaning of air ducts.

- Ms. Monica Buckley spoke about transportation.

Council unanimously agreed to move the resolution to the October 5, 2020, regular City Council meeting for a public hearing and second reading.

Ms. Walker made final comments about remaining funds and adjourned the meeting at 11:09 a.m.

BY Order of Mayor Nikuyah Walker

BY Kyna Thomas, Clerk of Council



Agenda Date:	October 5, 2020
Action Required:	Appropriation
Presenter:	Mike Rogers, Deputy Chief – Business Services, Charlottesville Fire Dept.
Staff Contacts:	Mike Rogers, Deputy Chief – Business Services, Charlottesville Fire Dept.
Title:	Battalion Chief’s Vehicle Insurance Reimbursement – \$36,649.68

Background:

City asset, vehicle # 3265 – a 2016 Chevrolet Tahoe (Battalion Chief’s Vehicle), was involved in an auto incident on 3/9/2020 in which the vehicle was struck in an intersection. Vehicle # 3265 was inspected by industry professionals and was deemed a total loss pursuant to Code of Virginia § 46.2-1600 as the vehicle was not economically repairable given the extensive damage from this loss.

Discussion:

A settlement was reached with Allstate Insurance Company for the total loss disposition of this vehicle. Risk Management has secured payment in the amount of \$36,649.68. The insurance monies will be utilized to replace this vehicle.

Alignment with Council Vision Areas and Strategic Plan:

The reimbursement of the insurance monies for the vehicle loss associated with vehicle #3265 support the City’s mission - “We provide services that promote equity and an excellent quality of life in our community”.

The anticipated use of the reimbursed monies also aligns with Goal 5 - A Well-managed and Responsive Organization.

Community Engagement:

N/A

Budgetary Impact:

There is no impact to the General Fund, as these are reimbursed funds from an insurance carrier for a loss.

Recommendation:

Staff recommends approval and appropriation of insurance monies.

Alternatives:

If the insurance reimbursement is not appropriated, the Fire Department will not be able to utilize this funding to replace this vehicle.

Attachments:

Appropriation

APPROPRIATION

Battalion Chief's Vehicle Insurance Reimbursement

\$36,649.68

WHEREAS, Allstate Insurance Company is reimbursing the City of Charlottesville for a vehicle loss associated with an accident involving vehicle #3265;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$36,649.68 be appropriated in the following manner:

Revenues - \$

\$36,649.68 Fund: 106 Cost Center: 3201001001 G/L Account: 451110

Expenditures - \$

\$36,649.68 Fund: 106 Cost Center: 3201001001 G/L Account: 541040

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of funds from Allstate Insurance Company.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 5, 2020
Action Required:	Appropriation of Grant Funds
Presenter:	Hollie Lee, Chief of Workforce Development Strategies
Staff Contacts:	Hollie Lee, Chief of Workforce Development Strategies
Title:	Virginia Department of Social Services (V.D.S.S.) Temporary Aid to Needy Families (T.A.N.F.) Grants – \$257,479.76

Background:

For the past three years, the City of Charlottesville, through the Office of Economic Development (OED), has been receiving matching grants from the Virginia Department of Social Services (VDSS) in order to provide workforce development training and supportive services to individuals residing in the City of Charlottesville living at or below 200% poverty. These grants include:

1. ***VDSS Employment for TANF Participants Grant (BEN-17-056)*** – a \$50,000 grant awarded in 2017 for Growing Opportunities (GO) workforce development training programs and supportive services,
2. ***VDSS Employment for TANF Participants Grant (BEN-19-024)*** – a \$33,800 grant awarded in 2019 to support a 40 hour long-term temporary position in the Downtown Job Center to help staff all GO workforce training programs, and
3. ***VDSS Employment Advancement for TANF Participants Grant (BEN-19-113)*** – a \$130,259.83 grant awarded in October 2019 for additional GO workforce development training programs including minority business/entrepreneurship training programs and supportive services.

VDSS has agreed to renew all three grants for the new fiscal year (July 1, 2020 to June 30, 2021) in the following amounts:

1. V.D.S.S. Employment for T.A.N.F. Participants Grant (3rd Renewal) –\$50,000
2. V.D.S.S. Employment for T.A.N.F. Participants Grant (2nd Renewal) – \$33,800
3. V.D.S.S. Employment Advancement for T.A.N.F. Participants Grant (2nd Renewal) – \$173,679.76

The first two V.D.S.S Employment for T.A.N.F. Participants grants listed above (BEN-17-056 and BEN-19-024) require a 15 percent match of local dollars. The OED has historically matched these grants from the Workforce Investment Fund (P-00385). The third V.D.S.S Employment Advancement for T.A.N.F. Participants grant (BEN-19-113) does not require a match. The OED will once again match the grants from the Workforce Investment Fund – \$7,500 for BEN-17-056 and \$5,070 for BEN-19-024. Funding will be used for the same purposes stated in the original grant

proposals.

Discussion:

In July 2013, the City’s Strategic Action Team on Workforce Development (SAT) issued a report to City Council entitled, *Growing Opportunity: A Path to Self-Sufficiency*. The report, which was subsequently endorsed by Council, examines the barriers to employment for low-income City residents and makes recommendations on how to address these barriers. One of the recommendations is to “work to ensure that training programs align with the needs of new and existing businesses.”

In an effort to make progress towards this recommendation, the OED has been actively engaged in developing jobs-driven workforce development training programs in partnership with local employers. Thirty three GO programs have been administered since 2014. The flagship program, GO Driver, has been conducted eleven times and trains City residents to get their Class B Commercial Driver’s License and become Relief Transit Bus Operators with Charlottesville Area Transit (CAT) and/or Pupil Transportation at a rate of \$16.53 per hour. GO Cook, which trains individuals in the culinary arts and prepares them for careers in local food and hospitality establishments has also been run seven times, resulting in almost 40 individuals being placed into employment. In addition to technical training, GO programs also include assistance with supportive services such as rental assistance, car repair, exam fees, etc. These costs, which average about \$300 per participant, are also included as part of the programming.

Additionally, the City recently launched the Minority Business Program, which is designed to promote the startup of minority- and woman-owned businesses in the City and the growth and expansion of existing City minority- and woman-owned business. The OED sees business creation and retention as a potential means to self-sufficiency either through full-time business ownership or supplemental income. In FY 2020, the grant funding was used for two iterations of GO Start-Up, which teaches individuals how to start up their own business and provides seed money for essential business creation purposes (e.g., business license fees, websites, business cards, logos, inventory, equipment, etc.). Fifteen individuals participated in the two programs, resulting in 15 new businesses in the Charlottesville community.

Alignment with Council Vision Areas and Strategic Plan:

This effort supports City Council’s “Economic Sustainability” vision and aligns directly with the SAT’s *Growing Opportunity* report that was approved by City Council in 2013.

It also contributes to the following goals and objectives in the City’s Strategic Plan:

Goal 4: A Strong, Creative and Diversified Economy

- Objective 4.1: Develop a quality workforce

Goal 1: An Inclusive Community of Self-sufficient Residents

- Objective 1.2: Prepare residents for the workforce

It aligns with Chapter 3 on Economic Sustainability in the Comprehensive Plan, and more specifically Goal 6, which focuses on workforce development and being an effective partner in creating a well-prepared and successful workforce.

Community Engagement:

Like practically all of the City’s workforce development efforts, its employment training programs are supported by numerous community agencies and organizations. Examples include: Albemarle County, Piedmont Virginia Community College, Virginia Career Works, and employer partners. Similarly, on the business development side, partners include the Chamber Business Diversity Council, the Community Investment Collaborative, the Central Virginia Small Business Development Center, and private sector organizations. None of the work that is currently being done could be possible without this strong community engagement.

Budgetary Impact:

There is no impact to the general Fund. All funds will be budgeted and expensed in the Grants Fund. The required match for all of the grants totals \$12,570, and will come from previously appropriated Capital Improvement Program funds in the Workforce Investment Fund account.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

If grant funds are not appropriated, more local dollars will have to be used for training or fewer low-income, underemployed City residents will be able to be trained. Additionally, the OED will not have the additional staff hours needed to support the training programs.

Attachments:

- VDSS BEN-17-056 Subaward Agreement
- VDSS BEN-19-024 Subaward Agreement
- VDSS BEN-19-113 Subaward Agreement

APPROPRIATION
Virginia Department of Social Services (V.D.S.S.) Temporary Aid to Needy Families
(T.A.N.F.) Grants
\$257,479.76

WHEREAS, the City of Charlottesville has received a third renewal of grant funds from the Virginia Department of Social Services in the amount of \$50,000 requiring a \$7,500 local in-kind match provided by the Office of Economic Development through the Workforce Investment Fund; and

WHEREAS, the City of Charlottesville has received a second renewal of grant funds from the Virginia Department of Social Services in the amount of \$33,800 requiring a \$5,070 local in-kind match provided by the Office of Economic Development through the Workforce Investment Fund; and

WHEREAS, the City of Charlottesville has received a second renewal of grant funds from the Virginia Department of Social Services in the amount of \$173,679.76; and

WHEREAS, the funds will be used to support workforce and business development training programs, supportive services, and staffing provided by the Office of Economic Development; and

WHEREAS, the grant award covers the period from July 1, 2020 and June 30, 2021;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$257,479.76 is hereby appropriated in the following manner:

Revenue – \$57,500

\$50,000	Fund: 209	IO: 1900374	G/L: 430120 State/Fed pass thru
\$7,500	Fund: 209	IO: 1900374	G/L: 498010

Expenditures – \$57,500

\$57,500	Fund: 209	IO: 1900374	G/L: 599999 Lump Sum
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Transfer – \$7,500

\$7,500	Fund: 425	WBS P-00385	G/L: 561209 Transfer to State Grants Fund
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Revenue – \$38,870

\$33,800	Fund: 209	Cost Center: 1621003000	G/L: 430120 State/Fed pass thru
\$5,070	Fund: 209	Cost Center: 1621003000	G/L: 498010

Expenditures – \$38,870

\$38,870	Fund: 209	Cost Center: 1621003000	G/L: 599999 Lump Sum
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Transfer – \$5,070

\$5,070	Fund: 425	WBS: P-00385	G/L: 561209 Transfer to State Grants
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Revenue – \$173,679.76

\$173,679.76 Fund: 209 IO: 1900373 G/L: 430120 State/Fed pass thru

Expenditures - \$173,679.76

\$173,679.76 Fund: 209 IO: 1900373 G/L: 599999 Lump Sum

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$257,479.76 from the Virginia Department of Social Services.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES**

**SUBAWARD AGREEMENT
RENEWAL with MODIFICATIONS**

Date: May 21, 2020

Subaward Agreement No.: BEN-17-056-01

Renewal No.: 3

Modification No.: 1

Issued by: Commonwealth of Virginia
Department of Social Services
Division of General Services; Purchasing
801 East Main Street, 14th Floor
Richmond, Virginia 23219-2901

On behalf of VDSS Division: Benefit Programs

Subgrantee: City of Charlottesville
Office of Economic Development
610 East Market Street
Charlottesville, Virginia 22902

Project: Employment for TANF Participants

This Subaward Agreement Renewal with Modification is entered into pursuant to the provisions of the basic agreement as amended, and is hereby incorporated into and made an integral part of Contract #BEN-17-056-01.

A. Contract Renewal:

In accordance with Section VIII, Administrative Requirements; Paragraph A, Amendments, the Commonwealth of Virginia, Department of Social Services (VDSS) wishes to exercise the option to renew the above referenced agreement for an additional 12 month period. Period of renewal will be from July 1, 2020 through June 30, 2021. The total amount of the obligation by the VDSS for reimbursement of actual expenses shall not exceed \$50,000.00 for this period.


B. Description of Modification:


1. Reference Attachment F – Budget: Replace the Budget dated July 1, 2019 through June 20, 2020 with the revised Attachment F – Budget for the period of July 1, 2020 through June 30, 2021.

Except as provided herein, as heretofore changed, the Scope of Services and all terms and condition of the Agreement shall remain unchanged and in fully force and effect. This Renewal with Modification shall become effective upon signature of both parties.

City of Charlottesville

**Commonwealth of Virginia
Department of Social Services**

By: 
(Signature)
CHRISTOPHER V. CULLINAN
Director of Finance
Name: _____
(Print)
Title: _____
Date: 5.27.2020

By: 
(Signature)
Name: Vivian Doobay
(Print)
Title: Procurement Officer II
Date: June 3, 2020

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

SUBAWARD AGREEMENT
RENEWAL with MODIFICATIONS

Date: June 1, 2020

Subaward Agreement No. BEN-19-024-02

Renewal No: 1

Modification No.: 1

Issued by: Commonwealth of Virginia
Department of Social Services
Division of General Services, Purchasing
801 East Main Street, 14th Floor
Richmond, Virginia 23219-2901

On behalf of VDSS Division: Benefit Programs

Subgrantee: City of Charlottesville, Office of Economic Development

Project: Employment for TANF Participants, Phase 2

This Subaward Agreement Renewal with Modification is entered into pursuant to the provisions of the basic agreement as amended, and is hereby incorporated into and made an integral part of Contract #BEN-19-024-02.

A. CONTRACT RENEWAL:


In accordance with Section VIII, Administrative Requirements; Paragraph G, Renewal of Agreement, the Commonwealth of Virginia, Department of Social Services (VDSS) wishes to exercise the option to renew the above referenced agreement for an additional 12 month period. Period of renewal will be from July 1, 2020 through June 30, 2021. The total dollar amount of the obligation by the VDSS for reimbursement of actual expenses shall not exceed \$33,800.00 for this period.

B. DESCRIPTION OF MODIFICATION:

1. Reference Attachment F – Budget: Replace the Budget dated July 1, 2019 through June 20, 2020 with the revised Attachment F – Budget for the period of July 1, 2020 through June 30, 2021.
2. Reference Attachment D – Overview of Activities/Outcomes: Replace Attachment D with the revised Attachment D – Overview of Activities/Outcome for the period July 1, 2020 through June 30, 2021.

Except as provided herein, as heretofore changed, the Scope of Services and all terms and conditions of the Agreement shall remain unchanged and in full force and effect.

CITY OF CHARLOTTESVILLE
OFFICE OF ECONOMIC DEVELOPMENT

BY: 
(Signature)

NAME: **CHRISTOPHER V. CULLINAN**
Director of Finance
(Print)

TITLE: _____

DATE: 6.4.2020

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

BY: Christy Sharpe Digitally signed by Christy Sharpe
Date: 2020.06.13 07:50:50 -0400
(Signature)

NAME: Christy Sharpe
(Print)

TITLE: Senior Procurement Officer

DATE: 6/13/2020

Please enter data into yellow fields only!

BUDGET SUMMARY - DSS FUNDS AND MATCH FUNDS

SUBGRANTEE NAME	City of Charlottesville Office of Economic Development
Grant Period	July 1, 2020 - June 30, 2021
Contract #	BEN-19-024
Attachment #	Attachment F

BUDGET CATEGORY	TOTAL PROGRAM BUDGET (Including amount from VDSS)	TOTAL VDSS REQUEST	TOTAL MATCH AMOUNT	TOTAL (Match + VDSS Request)
SALARIES	\$33,800.00	\$33,800.00	\$0.00	\$33,800.00
EMPLOYEE BENEFITS	\$10,140.00	\$0.00	\$10,140.00	\$10,140.00
RENT	\$0.00	\$0.00	\$0.00	\$0.00
OFFICE & PROGRAM	\$30,000.00	\$0.00	\$30,000.00	\$30,000.00
EQUIPMENT	\$0.00	\$0.00	\$0.00	\$0.00
SUBAWARDS	\$0.00	\$0.00	\$0.00	\$0.00
TRAINING/TRANSPORTATION	\$0.00	\$0.00	\$0.00	\$0.00
OTHER	\$0.00	\$0.00	\$0.00	\$0.00
INDIRECT COSTS				
Total	\$ 73,940.00	\$ 33,800.00	\$ 40,140.00	\$73,940.00
Percentage of Total Program Budget Requested from DSS		46%		

Awarded funds cannot be used to supplant existing funds.

Please enter data into yellow fields only!

BENEFITS

SUBGRANTEE	City of Charlottesville Office of Economic Development												
Grant Period:	July 1, 2020 - June 30, 2021												
Name of Employee	Rubina Catalano	0	0	0	0	0	0	0	0	0	0	0	0
Title	Job Center Client Engagement Specialist	0	0	0	0	0	0	0	0	0	0	0	0
Total FICA per employee	\$ 2,585.70	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total RETIREMENT													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total LIFE INSURANCE													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total UNEMPLOYMEN													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total WORKERS COMP													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total HEALTH INSURANCE													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total OTHER BENEFITS													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Benefits per employee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total benefits requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

OTHER PROPOSED EXPENSES			
SUBGRANTEE NAME:		City of Charlottesville Office of Economic Development	
Grant Period:		July 1, 2020 - June 30, 2021	
LINE ITEM	Amount Requested	LINE ITEM	Amount Requested
RENT – Office		SUBAWARDS	
		STAFF TRAVEL & TRAINING	\$ -
		Travel	
OFFICE and PROGRAM EXPENSES	\$0.00	Training	
Printing			
Postage		OTHER	\$ -
Supplies		Other (Specify)	
Utilities		Other (Specify)	
Phone		Other (Specify)	
Participant Support Costs		Other (Specify)	
Training costs for GO program participants		Other (Specify)	
Supportive services costs for GO program participants		Other (Specify)	
Other Program Expenses (Specify)		Other (Specify)	
Other Program Expenses (Specify)			
EQUIPMENT	\$ -		
Place <u>each</u> individual equipment purchase <u>over</u> \$5,000 below. Each equipment purchase <u>under</u> \$5,000 should be placed under Supplies above. Place each equipment purchase with a service life of one year or less (no matter the cost) under Supplies as well.			
Equipment <u>Purchase</u> (Specify)			
Equipment <u>Purchase</u> (Specify)			
Equipment <u>Leases</u> (any amount)		Total	\$ -

MATCH

SUBGRANTEE NAME:	City of Charlottesville Office of Economic Development				
Grant Period:	July 1, 2020 - June 30, 2021				
BUDGET CATEGORY	BRIEF DESCRIPTION	SOURCE -Supply the original source that is providing the cash or in-kind match.	CASH	IN-KIND VALUE	TOTAL MATCH
Salaries					\$ -
Employee Benefits	FICA and Health Insurance for Rubina Catalano	City of Charlottesville Downtown Job Center Operating Budget		\$10,140.00	\$ 10,140.00
Rent					\$ -
Office and Program	Training costs associated with GO program participants (instructors, books, testing fees) and supportive services for GO program participants (rent assistance, transportation, etc.)	City of Charlottesville Workforce Investment Fund and Home to Hope Operating Budget		\$30,000.00	\$ 30,000.00
Equipment					\$ -
Subcontracting Services					\$ -
Training & Transportation					\$ -
Other					\$ -
Total Amounts Supplied by Match			\$ -	\$ 40,140.00	\$ 40,140.00

INDIRECT COSTS

SUBGRANTEE NAME	City of Charlottesville Office of Economic Development
Grant Period:	July 1, 2020 - June 30, 2021

DE MINIMUS CALCULATION

DIRECT COSTS	
SALARIES	\$33,800.00
EMPLOYEE BENEFITS	\$0.00
RENT	\$0.00
OFFICE & PROGRAM	\$0.00
EQUIPMENT	\$0.00
SUBAWARDS	\$0.00
TRAINING/TRANSPORTATION	\$0.00
OTHER	\$0.00
TOTAL DIRECT COSTS	\$33,800.00
EXCLUDED EXPENSES	
Rent	\$0.00
Equipment	\$0.00
Subcontracting Expenses >\$25,000	
Other Excluded Costs	
Total Excluded Costs	\$0.00
Total Direct Costs - Excluded Costs = <u>Base</u>	\$33,800.00
Indirect Costs Percentage Rate	0%
Base x Percentage Rate = <u>Indirect Costs</u>	\$0.00

INDIRECT COSTS	
SUBGRANTEE NAME	City of Charlottesville Office of Economic Development
Grant Period:	July 1, 2020 - June 30, 2021
<u>Indirect Costs Calculation with NICRA</u>	
Direct Costs	
SALARIES	\$33,800.00
EMPLOYEE BENEFITS	\$0.00
RENT	\$0.00
OFFICE & PROGRAM	\$0.00
EQUIPMENT	\$0.00
SUBAWARDS	\$0.00
TRAINING/TRANSPORTATION	\$0.00
OTHER	\$0.00
TOTAL DIRECT COSTS	\$33,800.00
<u>EXCLUDED EXPENSES</u>	
Please enter the <u>total</u> amount of all <u>excluded</u> expenses from direct costs above (according to your NICRA).	
Total Direct Costs - Excluded Costs = <u>Base</u>	\$33,800.00
Indirect Costs Percentage Rate	
Base x Percentage Rate = <u>Indirect Costs</u>	\$0.00
Please submit a copy of your NICRA (Negotiated Indirect Cost Rate Agreement) with this application.	

BUDGET NARRATIVE

SUBGRANTEE NAME	City of Charlottesville Office of Economic Development	
Grant Period:	July 1, 2020 - June 30, 2021	
Line Item	Budget Request	Narrative Description
SALARIES		
	\$33,800.00	Salary for Rubina Catalano who will be assigned to work each GO training program and support the students throughout training. The City of Charlottesville will cover the cost of her benefits and insurance, as well as the cost for running the training programs and paying for supportive services.
BENEFITS		
	\$0.00	
RENT -- Office		
	\$0.00	
OFFICE and PROGRAM EXPENSES		
Printing	\$0.00	
Postage	\$0.00	
Supplies	\$0.00	
Utilities	\$0.00	
Phone	\$0.00	
Participant Support Costs	\$0.00	
Training costs for GO program participants	\$0.00	
Supportive services costs for GO program participants	\$0.00	
Other Program Expenses (Specify)	\$0.00	
Other Program Expenses (Specify)	\$0.00	
EQUIPMENT		
Equipment Purchase (Specify)	\$0.00	
Equipment Purchase (Specify)	\$0.00	
Equipment Leases (any amount)	\$0.00	
SUBAWARDS		
	\$0.00	
STAFF TRAVEL & TRAINING		
Travel	\$0.00	
Training	\$0.00	
OTHER		
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	

Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
INDIRECT		
Total	\$33,800.00	

WORK PLAN

Action Steps	Agency/Individual Responsible	Start Date	End Date
GO Deliver – program to train individuals in OSHA 10, defensive driving, CDC delivery guidelines for jobs as retail/food delivery drivers resulting from employer need due to COVID-19	City of Charlottesville Downtown Job Center / Rubina Catalano, Client Engagement Specialist	September 2020	November 2020
GO Tradeswomen – program to train women in the skilled trades – includes NCCER Core Curriculum and Carpentry, OSHA 10, CPR/First Aid for jobs with local construction employers	City of Charlottesville Downtown Job Center / Rubina Catalano, Client Engagement Specialist	October 2020	January 2021
GO Driver – program to train individuals in CDL, defensive driving, CPR/First Aid to become school bus drivers for the City of Charlottesville	City of Charlottesville Downtown Job Center / Rubina Catalano, Client Engagement Specialist	March 2021	June 2021

a. OUTCOMES AND BENEFITS EXPECTED

Component	1 st Quarter Ending September 30, 2020	2 nd Quarter Ending December 31, 2020	3 rd Quarter Ending March 31, 2021	4 th Quarter Ending June 30, 2021
# Participants	0	6	7	8
# Entered Employment	0	5	6	7
# unique Employers	0	3	3	2
Average Hourly Starting Wage	\$0.00	\$11.00	\$15.00	\$16.00
# With Benefits	0	3	4	2
# Employed Part Time	0	0	0	5
# Employed Full Time	0	5	6	2
Average Wage increase	\$0.00	\$2.00	\$5.00	\$6.00
# obtaining wage increase	0	5	6	7
# Jobs in a Career Pathway	0	5	6	7

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES**

**SUBAWARD AGREEMENT
RENEWAL with MODIFICATIONS**

Date: June 3, 2020

Subaward Agreement No.: BEN-19-113-03

Renewal No. 1

Modification: 1

Issued by: Commonwealth of Virginia
Department of Social Services
Division of General Services, Purchasing
801 East Main Street, 14th Floor
Richmond, Virginia 23219-2901

On behalf of VDSS Division: Benefit Programs

Subgrantee: City of Charlottesville
Office of Economic Development
610 East Market Street
Charlottesville, Virginia 22902

Project: Employment Advancement for TANF Participants

This Subaward Agreement Renewal with Modification is entered into pursuant to the provisions of the basic agreement as amended, and is hereby incorporated into and made an integral part of Contract #BEN-19-113-03.


A. Contract Renewal:

In accordance with Section VIII, Administrative Requirements; Paragraph A, Renewal of Agreement, the Commonwealth of Virginia, Department of Social Services (VDSS) wishes to exercise the option to renew the above referenced agreement for an additional 12 month period. Period of renewal will be from July 1, 2020 through June 30, 2021. The total amount of the obligation by the VDSS for reimbursement of actual expenses shall not exceed \$173,679.76 for this period.

B. Description of Modification:

1. Reference Attachment F – Budget: Replace the Budget dated July 1, 2019 through June 20, 2020 with the revised Attachment F – Budget for the period of July 1, 2020 through June 30, 2021
2. Reference Attachment D – Overview of Activities/Outcomes: Replace Attachment D with the revised Attachment D – Overview of Activities/Outcome for the period July 1, 2020 through June 30, 2021.

Except as provided herein, as heretofore changed, the Scope of Services and all terms and condition of the Agreement shall remain unchanged and in fully force and effect. This Renewal with Modification shall become effective upon signature of both parties.

City of Charlottesville Office of Economic Development	Commonwealth of Virginia Department of Social Services
By: <u></u> (Signature)	By: <u>Christy Sharpe</u> <small>Digitally signed by Christy Sharpe Date: 2020.06.11 12:32:53 -04'00'</small> (Signature)
Name: <u>CHRISTOPHER V. CULLINAN</u> Director of Finance (Print)	Name: <u>Christy Sharpe</u> (Print)
Title: _____	Title: <u>Senior Procurement Officer</u>
Date: <u>6.4.2020</u>	Date: <u>6/11/2020</u>

BUDGET SUMMARY - DSS FUNDS

SUBGRANTEE NAME	City of Charlottesville - Office of Economic Development
Grant Period	July 1, 2020 - June 30, 2021
Contract #	BEN-19-113
Attachment #	Attachment F

BUDGET CATEGORY	TOTAL PROGRAM BUDGET <i>(Including amount requested from VDSS)</i>	TOTAL <u>VDSS</u> <u>REQUEST</u>
SALARIES	\$11,700.00	\$11,700.00
EMPLOYEE BENEFITS	\$0.00	\$0.00
RENT	\$0.00	\$0.00
OFFICE & PROGRAM	\$161,979.76	\$161,979.76
EQUIPMENT	\$0.00	\$0.00
SUBAWARDS	\$0.00	\$0.00
TRAINING/TRANSPORTATION	\$0.00	\$0.00
OTHER	\$0.00	\$0.00
INDIRECT COSTS	\$0.00	FALSE
Total	\$173,679.76	\$173,679.76
Percentage of Total Program Budget Requested from DSS		100%

Awarded funds cannot be used to supplant existing funds.

ITEMIZED BUDGET - SALARIES											
SUBGRANTEE NAME:		City of Charlottesville - Office of Economic Development									
Grant Period:		July 1, 2020 - June 30, 2021									Column K
Name of Staff (List names of program staff to be funded in whole or part by DSS only)	Title	Total hours per week	# of hours per week spent on this program	# of hours per week spent on this program to be paid by DSS	% of time spent on this program	% of program salary to be paid by DSS	Total Gross Annual Salary	Amount of salary devoted to this program	Amount of salary to be paid by DSS	Maximum % of benefits that DSS will pay for this employee	
Asmar Carter	Job Center Intern	15	15	15	100%	100%	\$11,700.00	\$11,700.00	\$11,700.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
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					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
					0%	0%		\$0.00	\$0.00	0%	
							\$11,700.00	\$11,700.00	\$11,700.00		

ITEMIZED BUDGET - BENEFITS

SUBGRANTEE City of Charlottesville - Office of Economic Development													
Grant Period: July 1, 2020 - June 30, 2021													
Name of Employee	Asmar Carter	0	0	0	0	0	0	0	0	0	0	0	0
Title	Job Center Intern	0	0	0	0	0	0	0	0	0	0	0	0
Total FICA per employee	\$ 895.05	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total RETIREMENT													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total LIFE INSURANCE													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total UNEMPLOYMENT													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total WORKERS COMP													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total HEALTH INSURANCE													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total OTHER BENEFITS													
% requested from DSS													
Amt requested from DSS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Benefits per employee	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total benefits requested from DSS		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

0	0	0	0	0	0	0	
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ITEMIZED BUDGET - OTHER PROPOSED EXPENSES			
SUBGRANTEE Name:		City of Charlottesville - Office of Economic Development	
Grant Period:		July 1, 2020 - June 30, 2021	
LINE ITEM	Amount Requested	LINE ITEM	Amount Requested
Only list expenses directly related to this program.			
RENT		SUBAWARDS	
		STAFF TRAVEL & TRAINING	\$ -
		Travel	
OFFICE and PROGRAM EXPENSES	\$161,979.76	Training	
Printing			
Postage		OTHER	\$ -
Supplies (10 laptops for virtual classes/\$500 each)	\$5,000.00	Other (Specify)	
Utilities		Other (Specify)	
Phone		Other (Specify)	
Participant Support Costs		Other (Specify)	
Program Expenses (Training costs for GO programs including GO Driver, GO Cook, GO Start-Up, GO Contractor's Academy, and	\$73,489.88	Other (Specify)	
Program Expenses (Grant funds for the GO Start-Up program for participants who successfully complete and other low-income	\$73,489.88	Other (Specify)	
Program Expenses (Supportive services such as transportation assistance, rental assistance, childcare subsidies, assistance with	\$10,000.00	Other (Specify)	
Program Expenses (Specify)			
EQUIPMENT	\$ -		
Place each individual equipment purchase over \$5,000 below. Each equipment purchase under \$5,000 should be placed under Supplies above. Place each equipment purchase with a service life of one year or less (no matter the cost) under Supplies as well.			
Equipment Purchase over \$5,000 (Specify)			
Equipment Purchase pver \$5,000 (Specify)			
Equipment Leases		Total	\$ 161,979.76

* Awarded funds cannot be used to supplant existing funds.

INDIRECT COSTS

Subgrantee Name:	City of Charlottesville - Office of Econo
Grant Period:	July 1, 2020 - June 30, 2021

If you have a federally approved indirect costs rate, skip this page and go to Tab P-5 (2).

INDIRECT COSTS -- DE MINIMUS CALCULATION

DIRECT COSTS

SALARIES	\$11,700.00
EMPLOYEE BENEFITS	\$0.00
RENT	\$0.00
OFFICE & PROGRAM	\$161,979.76
EQUIPMENT	\$0.00
SUBAWARDS	\$0.00
TRAINING/TRANSPORTATION	\$0.00
OTHER	\$0.00
TOTAL DIRECT COSTS	\$173,679.76

EXCLUDED EXPENSES

Rent	\$0.00
Equipment over \$5,000	\$0.00
Subcontracting Expenses: Amount >\$25,000	FALSE
Other Excluded Costs	\$0.00
Total Excluded Costs	\$0.00
Total Direct Costs - Excluded Costs = <u>Base</u>	\$173,679.76
Indirect Costs Percentage Rate	0.00%
Base x Percentage Rate = <u>Indirect Costs</u>	\$0.00

INDIRECT COSTS

Subgrantee Name:	City of Charlottesville - Office of E
Grant Period:	July 1, 2020 - June 30, 2021

Skip this sheet if you filled out TAB P-5 Indirect.

Indirect Costs Calculation with NICRA

Direct Costs	
SALARIES	\$11,700.00
EMPLOYEE BENEFITS	\$0.00
RENT	\$0.00
OFFICE & PROGRAM	\$161,979.76
EQUIPMENT	\$0.00
SUBAWARDS	\$0.00
TRAINING/TRANSPORTATION	\$0.00
OTHER	\$0.00
TOTAL DIRECT COSTS	\$173,679.76

EXCLUDED EXPENSES

Please enter the total amount of all excluded expenses from above (according to your NICRA). _____

Total Direct Costs - Excluded Costs = Base \$173,679.76

Federally Approved Indirect Costs Percentage Rate _____

Base x Percentage Rate = Indirect Costs \$0.00

BUDGET NARRATIVE

SUBGRANTEE Name:	City of Charlottesville - Office of Economic Development	
Grant Period:	July 1, 2020 - June 30, 2021	
Line Item	Budget Request	Narrative Description
SALARIES		
	\$11,700.00	Stipend for 15/hour a week intern to assist with GO programs. This includes helping case manage the students and attend classes to provide support in class (or virtually).
BENEFITS		
	\$0.00	
RENT		
	\$0.00	
OFFICE and PROGRAM EXPENSES		
Printing	\$0.00	
Postage	\$0.00	
Supplies (10 laptops for virtual classes/\$500 each)	\$5,000.00	Purchase of 10 laptops for virtual classes for GO program participants. Expected amount is \$500/laptop.
Utilities	\$0.00	
Phone	\$0.00	
Participant Support Costs	\$0.00	
Program Expenses (Training costs for GO programs including GO Driver, GO Cook, GO Start-Up, GO Contractor's Academy, and other GO programs that are needed by employers)	\$73,489.88	Training costs for GO programs including GO Driver, GO Cook, GO Start-Up, GO Contractor's Academy, and other GO programs that are needed by employers.
Program Expenses (Grant funds for the GO Start-Up program for participants who successfully complete and other low-income business owners. Funds will go towards start up costs associated with the business.)	\$73,489.88	Grant funds for the GO Start-Up program for participants who successfully complete and other low-income business owners. Funds will go towards start up and other business expenses.
Program Expenses (Supportive services such as transportation assistance, rental assistance, childcare subsidies, assistance with utility/phone bills, etc.)	\$10,000.00	Supportive services such as transportation assistance, rental assistance, childcare subsidies, assistance with utility/phone bills, etc. for GO program participants.
Program Expenses (Specify)	\$0.00	
EQUIPMENT		
Equipment Purchase over \$5,000 (Specify)	\$0.00	

Equipment Purchase pver \$5,000 (Specify)	\$0.00	
Equipment Leases	\$0.00	
SUBAWARDS		
	\$0.00	
STAFF TRAVEL & TRAINING		
Travel	\$0.00	
Training	\$0.00	
OTHER		
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
Other (Specify)	\$0.00	
INDIRECT		
	FALSE	
Total	\$173,679.76	

Attachment D – Work Plan City of Charlottesville – Office of Economic Development

WORK PLAN

Action Steps	Agency/Individual Responsible	Start Date	End Date
GO Cook – program to train individuals in the culinary arts for employment with local food establishments (restaurants, hotels, etc.)	Office of Economic Development/Downtown Job Center	September 2020	November 2020
GO Start-Up – program to train individuals to start their own business; come in with an idea and leave with a legally formed business	Office of Economic Development	September 2020	Novemeber 2020
GO Cook – program to train individuals in the culinary arts for employment with local food establishments (restaurants, hotels, etc.)	Office of Economic Development/Downtown Job Center	March 2020	May 2020
GO Start-Up – program to train individuals to start their own business; come in with an idea and leave with a legally formed business	Office of Economic Development	March 2020	May 2020
GO Driver – program to train individuals in CDL, defensive driving, CPR/First Aid to become school bus drivers for the City of Charlottesville	Office of Economic Development/Downtown Job Center	April 2021	June 2021

Attachment D – Work Plan City of Charlottesville – Office of Economic Development

a. OUTCOMES AND BENEFITS EXPECTED

i. Expected Outcomes and Benefits Describe the anticipated enrollment levels and the outcomes and benefits of the program/services by completing the tables below.

Component	1st Quarter Ending September 30, 2020	2nd Quarter Ending December 31, 2020	3rd Quarter Ending March 31, 2021	4th Quarter Ending June 30, 2021
#/Enrolled	0	14	0	20
# Entered Employment	0	14	0	20
# Employed 3 Months	0	14	0	20
# Employed 6 Months	0	14	0	20
# Employed 1 Year	0	10	0	15
Average Hourly Wage at Employment	\$0.00	\$12.00	\$0.00	\$14.00
# Employed with Benefits	0	4	0	8
# Employed Part-Time	0	8	0	8
# Employed Full Time	0	6	0	12
Average Hourly Wage Increase	\$0.00	\$2.00	\$0.00	\$4.00
# Obtaining Wage Increase	0	14	0	20
# Who Obtained a Promotion	0	0	0	0
# Who Obtained a GED	0	0	0	0
# Who Obtained SSI	0	0	0	0
#Number Who Completed Treatment	0	0	0	0

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 5, 2020
Action Required:	Appropriation of Grant Funds
Presenter:	Hollie Lee, Chief of Workforce Development Strategies
Staff Contacts:	Hollie Lee, Chief of Workforce Development Strategies
Title:	Red Light Management Funds for Home to Hope for Reentry Services/Programming - \$20,000

Background:

In January 2020, Home to Hope staff met with Ann Kingston of Red Light Management regarding the City of Charlottesville Home to Hope program, which serves clients using authentic, lived experience to impact and inspire "time-served" individuals by introducing resources, providing peer support, and advocating for fairness. Red Light Management was interested in learning more about the new program and meeting the Home to Hope staff in order to hear more about their stories and new roles/responsibilities as Peer Navigators. After the meeting, a proposal was submitted to Red Light Management, at its invitation, requesting support for Home to Hope initiatives (see attached). In June 2020, Red Light Management requested an update on the program since the COVID-19 pandemic (see attached). In August 2020, Red Light Management issued funds to the program in the amount of \$20,000. The funding will be used to further enhance the program and offer targeted supportive services to participants.

Discussion:

In 2019, Mayor Nikuyah Walker proposed a program, Home to Hope, to train individuals with prior justice involvement to provide peer support services to those being released to the City. In partnership with the Office of Economic Development and other community service agencies, a curriculum was developed to provide skills in peer recovery support, wellness and recovery planning, relationship building, group facilitation, resource connecting, and other fundamentals of peer navigation. At the conclusion of the training, four graduates were offered full-time positions with the City and began to put their knowledge into practice beginning October 2019.

The Home to Hope program actively engages with individuals prior to release from ACRJ and the Department of Corrections through one-on-one meetings, as well as support and Wellness Recovery Action Plan (WRAP) classes. Prospective clients are encouraged to complete an intake for services at that time or once released. The program also accepts walk-ins and referrals from partner agencies. Once active, the participant completes a cooperative case plan to determine how to measure their individual success. Their assigned peer navigator, or another member of the team, then helps guide that participant through those identified steps. This peer relationship helps build participant confidence and skill level in steering through the labyrinth of wraparound services. Peers also help

their clients in searching for stable employment, securing housing, obtaining reliable transportation, and a myriad of other needs that are individual to each participant. Examples of supportive services include: providing clients with bus passes for job searches, gift cards for groceries, clothing and fuel, and rental assistance in crisis situations. Home to Hope staff makes determinations for such assistance on a case-by-case basis by considering individual circumstances, need, and active participation in peer recover support services.

Since its inception, Home to Hope has had 235 total enrollments, with 159 active participants as of September 15, 2020. The program has provided \$53,854 in supportive services to participants, including 192 \$30 gift cards to Kroger, Walmart, Goodwill, and Exxon for basic necessities such as food, toiletries, medicine, household items, uniforms/clothing, gas, etc. and 41 payments for housing assistance, car repair, private transportation, and other critical services. Additionally, Home to Hope has distributed 73 30-day bus passes to aid in employment search and job retention for those in transition from incarceration. Peer Navigators have helped 41 participants get placed into employment and 40 participants secure stable housing.

Alignment with Council Vision Areas and Strategic Plan:

This effort supports City Council's vision of being a Community of Mutual Respect.

It also contributes to the following goals and objectives in the City's Strategic Plan:

Goal 1: An Inclusive Community of Self-sufficient Residents

- Objective 1.2: Prepare residents for the workforce
- Objective 1.5: Intentionally address issues of race and equity

Goal 4: A Strong, Creative and Diversified Economy

- Objective 4.1: Develop a quality workforce

It aligns with Chapter 3 on Economic Sustainability in the Comprehensive Plan.

Community Engagement:

Like practically all of the OED's economic and workforce development efforts, Home to Hope engages numerous community agencies and organizations. Some examples include: the Albemarle Charlottesville Regional Jail, Offender Aid and Restoration, District 9 Probation, The Haven/Thomas Jefferson Area Coalition for the Homeless, the Fountain Fund, the City of Charlottesville Department of Human Services and Department of Social Services, and other reentry/community organizations.

Budgetary Impact:

There is no impact to the General Fund as these funds are a donation/grant and do not require a City match.

Recommendation:

Staff recommends approval and appropriation of the funds.

Alternatives:

If funds are not appropriated, the City will have to use existing City funds to continue programming.

Attachments:

- Requested proposal to Red Light Management about Home to Hope
- Letter to Red Light Management providing program updates since COVID-19

APPROPRIATION
Red Light Management Funds for Home to Hope
\$20,000

WHEREAS, the City of Charlottesville has received funds from Red Light Management in the amount of \$20,000; and

WHEREAS, the funds will be used to support the Home to Hope program through the Office of Economic Development;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$20,000 is hereby appropriated in the following manner:

Revenue – \$20,000

\$20,000 Fund: 105 Cost Center: 1621004000 G/L: 451020

Expenditures – \$20,000

\$20,000 Fund: 105 Cost Center: 1621004000 G/L: 599999



Ms. Ann Kingston
Red Light Management
455 Second Street, SE
Charlottesville, VA 22902

March 9, 2020

Dear Ms. Kingston,

The City of Charlottesville has demonstrably struggled with recidivism and the revolving-door nature of the local justice system. Studies done have conclusively shown that more than half of individuals released from incarceration to Charlottesville return to custody, most within the first year of release. This population experiences barriers that are explicitly addressed through the City's new Home to Hope program, an initiative of Mayor Nikuyah Walker. In addition to supportive services such as rental assistance, clothing purchases for job interviews and employment, and various gift cards to help with groceries, fuel, and other basic necessities, Home to Hope also offers one-on-one peer recovery services, navigation through the travails of reentry, and support groups where individuals can share their unique story with other peers.

Home to Hope is staffed by four Peer Support Navigators, all of whom have been successful in their own recovery process and now help others experiencing similar situations. Through shared understanding, respect, and mutual empowerment, these individuals help their clients become and stay engaged in the recovery process and reduce the likelihood of relapse. Peer support services can effectively extend the reach of treatment beyond the clinical setting into the everyday environment of those seeking a successful, sustained recovery process.

Believing strongly in the peer approach to recovery, the City has invested approximately \$400,000 in Home to Hope to not only staff the program, but also to help fund the abovementioned supportive services. Through this letter and attached proposal, we are graciously seeking grant funding from Red Light Management to supplement supportive service outreach to participating clients in order to expand the program's capacity to assist participants in addressing tangible barriers to their successful reentry to the community post-incarceration.

The Home to Hope program sincerely appreciates your consideration of grant funding to help us deliver aid to our clients in efforts to provide stability and the building of self-sufficiency in their lives. The program has grown exponentially since its development and implementation in October 2019. The assistance we are

requesting is based on to-date spending and projections moving forward to supplement the City's investment. We look forward to working with your organization to deliver effective and transformative services to our clients, thereby improving the Charlottesville community.

Sincerely,

Hollie Lee

Hollie Lee
Chief of Workforce Development Strategies
Charlottesville Office of Economic Development
610 E. Market Street; Charlottesville, VA 22902
leeh@charlottesville.org | (434) 970-3117



**Home to Hope: Peer
Recovery Services for
Citizens with Lived Criminal
Justice Experience**

ABSTRACT

The City of Charlottesville is seeking a grant to fund supportive services for clients of the Home to Hope peer support program. The objective is to have sufficient discretionary funding to assist participants in navigating the barriers that impede lasting stability as they transition from incarceration to the community.

SUBMITTED BY:

The City of Charlottesville Office
of Economic Development

Statement of Need

Over a five-year period ending in 2016, 79% of individuals serving a 30+ day sentence in Albemarle Charlottesville Regional Jail (ACRJ) returned to custody to serve another 30+ day sentence. 22% returned five times or more over that timeframe. The main contributors that led to this recidivism included a lack of stable housing, unemployment, transportation issues, and the dearth of life skills and mentoring. Of those returning to incarceration, 70% of failure occurs in the first year of their release. This recidivism has a cascade effect on the Charlottesville community, placing burden on families with loved ones behind bars, stressing services providers with increasing caseloads and client responsibilities, and taxing the court and correctional systems. Providing substantive assistance to releasing offenders helps alleviate these burdens and allows individuals to have the best chance of lasting success and achieving self-sufficiency.

Program Description

In 2019, Mayor Nikuyah Walker proposed a program, Home to Hope, to train individuals with prior justice involvement to provide peer support services to those being released to the City. In partnership with the Office of Economic Development and other community service agencies, a curriculum was developed to provide skills in peer recovery support, wellness and recovery planning, relationship building, group facilitation, resource connecting, and other fundamentals of peer navigation. At the conclusion of the training, four graduates were offered full-time positions with the City and began to put their knowledge into practice beginning October 2019.

The Home to Hope program actively engages with individuals prior to release from ACRJ and the Department of Corrections through one-on-one meetings, as well as support and Wellness Recovery Action Plan (WRAP) classes. Prospective clients are encouraged to complete an intake for services at that time or once released. The program also accepts walk-ins and referrals from partner agencies. Once active, the participant completes a cooperative case plan to determine how to measure their individual success. Their assigned peer navigator, or another member of the team, then helps guide that participant through those identified steps. This peer relationship helps build participant confidence and skill level in steering through the labyrinth of wraparound services.

Peers also help their clients in searching for stable employment, securing housing, obtaining reliable transportation, and a myriad of other needs that are individual to each participant. To that end, the program utilizes discretionary funding to assist in meeting these needs. Examples of this supportive service funding include

providing clients with bus passes for job searches, gift cards for groceries, clothing and fuel, and rental assistance in crisis situations. Home to Hope staff makes determinations for such assistance on a case-by-case basis by considering individual circumstances, need, and active participation in peer recover support services.

By the Numbers

The Home to Hope program was integrated into the Office of Economic Development the week of November 18, 2019. Since that time, 61 participants have been enrolled, with 45 being active as of February 17, 2020. For 2019, Home to Hope provided 53 supportive services for 25 participants totaling \$5,414.98. January 2020 saw 56 supportive services for 33 clients at a total of \$3,616.57. The majority of services were for work clothing, food, and basic necessities, with the largest amounts of money spent on emergency housing situations.

Over the four-month duration that the program has been in operation, Home to Hope has also provided 30-day bus passes to 55 clients. These allow access to the Charlottesville Area Transit bus system and are used to seek employment, get to and from jobs, and make scheduled appointments for other services, doctor's visits, or probation meetings.

Only one participant that has been involved with Home to Hope has reentered, or 1.6%. Virginia's statewide reentry rate is just over 20% and, as previously mentioned, Charlottesville has a much higher rate. Repeat offenders represent 76.1% of all police bookings in Charlottesville. The clear takeaway, even over this limited sample size, is that interactions with peers who can assist with facing the diverse challenges of release has a positive impact on those who choose to enroll in the program. The mission of Home to Hope is vital in addressing the reentry needs of the Charlottesville community and its citizens who struggle with finding stability after release.

Goals

Home to Hope exists to serve clients using authentic, lived experience to impact and inspire time-served individuals by introducing resources, providing peer support, and advocating for fairness in order to help our community. This program seeks to make contact with all individuals who are being released from local jails and the Department of Corrections who identify Charlottesville as their home plan. Home to Hope will remain a voluntary program, and participants are encouraged to be active participants and engage with staff and each other.

Participants will be eligible to receive monetary assistance on a case-by-case basis for services that benefit their self-efficacy.

Budget

Given current growth rates for the program, it is anticipated that 200 participants will be enrolled in the Home to Hope program over the duration of 2020. Projections on the dollar amount of supportive services given to clients based on weekly totals thus far is \$33,129.45. See the table below for a breakdown of supportive service spending.

Table 1:

Week Ending	Bus Pass	Gift Card	Credit Card	Housing	Total
11/22/2019	-	90	130.55	-	220.55
11/29/2019	-	-	-	-	-
12/6/2019	44	89.71	216.80	625	975.51
12/13/2019	88	29.06	14.97	1,036.94	1168.97
12/20/2019	154	174.40	89.75	411.94	830.09
12/27/2019	-	60	-	2,025.00	2,085.00
1/3/2020	66	119.41	170	-	355.41
1/10/2020	176	220.54	129.82	362.72	889.08
1/17/2020	154	104.52	212.42	-	470.94
1/24/2020	88	52.30	220.00	1,280.00	1,640.30
1/31/2020	88	30	498.25	-	616.25
2/7/2020	66	55	-	-	121.00
2/14/2020	110	25	62.70	-	197.70
Total:	\$1,834.00	\$1,049.94	\$1,745.26	\$5,741.60	\$9,570.80

Please note that this forecast is based on a flat number of participants. If the number of monthly intakes continues to increase at a steady rate, the supportive services projection rises concurrently. Numbers are also expected to fluctuate based on funding levels of other agencies/organizations. (For example, partner funds tend to be expended towards the end of the calendar year, leaving more demand placed on Home to Hope – especially for rent assistance.) Believing strongly in the peer approach to recovery, the City has already invested approximately \$400,000 in Home to Hope to not only staff the program, but also to help fund the abovementioned supportive services. For this reason, we are asking that Red Light Management match up to \$100,000 in order for the program to be able to expand its capacity and deliver even more effective supportive services for participants.

Home to Hope Staff Information

Shadeé Gilliam is a Peer Navigator for the City of Charlottesville Home to Hope Program. Shadeé walks alongside “time-served” individuals who have reentered the Charlottesville community, helping them rebuild their lives post-incarceration. He navigates participants to resources, assisting/addressing basic needs (e.g., food, shelter, clothing, etc.). He is also a WRAP (Wellness Recovery Action Plan) certified facilitator and has received training as a Peer Support Specialist. In his spare time, Shadeé coaches boy’s junior varsity basketball at the Covenant School and for the non-profit AAU program Team Thrill. He is also a husband and father of two.

Ramanda Jackson is one of four Peer Navigators for the City of Charlottesville initiative “Home to Hope.” Through Home to Hope, she helps individuals who are newly released from incarceration. She works with participants on a one-on-one basis as well as in group form. Ramanda is a certified WRAP facilitator and has received training as a Peer Support Specialist. Prior to working with Home to Hope, Ramanda worked in the mental health and behavioral health field with at-risk youth and in alternative education with the school system for 15 years. She has worked as a volunteer for the City of Charlottesville School System, and in her spare time, she has worked with high school girl’s afterschool to encourage positive self-esteem and to give them a place to exhale from their day.

Whitmore Merrick is a Peer Navigator with Home to Hope. He specializes in peer support and facilitating Wellness Recovery Action Plan (WRAP) groups. He helps individuals who have been incarcerated and recently released to society, connecting them to resources such as housing, food, clothing, and transportation. In addition to his work with Home to Hope, Whitmore has been employed with Charlottesville Area Transit as a bus operator for three years. He is also a business owner and created a movement known as Freedom For Felons, which informs those reentering the community of opportunities related to entrepreneurship, inspiring change advocating for a second chance. Whitmore is a graduate of Charlottesville High School.

Stacey Washington is a Peer Navigator for the City of Charlottesville Home to Hope Program. Her passion is to help her peers in any areas that may be hindering them from achieving success and walking with them in recovery. She has certification in WRAP Facilitation Training and also completed Peer Support Specialist training. Prior to joining the Home to Hope team, Stacey worked in food management. In her spare time, she enjoys relaxing at home with her family and watching television.



Ms. Ann Kingston
 Red Light Management
 455 Second Street, SE
 Charlottesville, VA 22902

June 3, 2020

Dear Ms. Kingston,

Please find this letter as an addendum to Home to Hope's original request for grant funding from Red Light Management to supplement supportive services to participating clients in order to expand the program's capacity and assist these individuals with successful reentry into the community.

As mentioned in the previous proposal, Home to Hope enrolled 65 participants in the program from late November 2019 to late February 2020. During this time, staff provided \$9,570.80 in supportive services to 58 individuals. The majority of services were for work clothing, food, and basic necessities, with the largest amounts of money spent on emergency housing situations.

On March 16, 2020, Home to Hope suspended operations in its physical location in the lower level of the Jefferson Madison Regional Library due to COVID-19. Despite this however, staff has continued to enroll new clients in the program virtually. From mid-March to the end of May, Home to Hope has experienced an increase of approximately 30 clients (from 65 to 94), with many of these individuals coming to Home to Hope directly from the Albemarle Charlottesville Regional Jail (ACRJ) after being released from incarceration on Home Electronic Monitoring (HEM) due to the coronavirus.

Since mid-March, Home to Hope has also continued to offer clients supportive services, primarily as a result of individuals being released from jail or being laid off or furloughed from employment because of COVID-19. During this time, Home to Hope has expended nearly \$12,000 to clients in supportive services to help them address basic needs. The table below provides an overview of expenditures by week from mid-March to the end of May.

Week Ending	Food & Care Bags	Gift Cards	Credit Card	Housing	Total
March 20, 2020	\$257.32				\$257.32
March 27, 2020	\$926.51		\$175.46	\$1,540.00	\$2,641.97

April 3, 2020		\$219.28	\$245.29	\$640.00	\$1,104.57
April 10, 2020		\$204.31	\$20.53	\$440.93	\$665.77
April 17, 2020		\$289.77	\$562.51	\$920.00	\$1,772.28
April 24, 2020		\$105.06	\$117.98		\$223.04
May 1, 2020		\$101.62	\$290.00		\$391.62
May 8, 2020	\$65.23	\$77.11	\$1,000.00		\$1,142.34
May 15, 2020		\$148.68		\$1,611.00	\$1,759.68
May 22, 2020		\$58.07	\$240.76	\$334.00	\$632.83
May 29, 2020	\$249.49	\$30.00	\$444.75	\$590.00	\$1,314.24
Total:	\$1,498.55	\$1,233.90	\$3,097.28	\$6,075.93	\$11,905.66

A majority of the supportive services have been for food and basic household necessities (food/care bags, Kroger and Walmart gift cards, and individual credit card purchases exceeding \$30). As part of this, Home to Hope even held two food drives when the pandemic first began to address immediate needs for food since food pantries and soup kitchens were at maximum capacity. Additionally, quite a bit of funding has been used to help participants with rent – many people who lost employment or experienced reduced hours have not been able to make their rent payments. There are also a handful of first month rent and deposit supportive services for individuals being released from ACRJ on HEM.

The original estimate was that Home to Hope would have approximately 200 clients by the end of 2020 and expend approximately \$33,000 over the course of the year on supportive services. Based on more recent numbers and increased need from clients due to COVID-19, the supportive services estimate could ultimately be closer to \$50,000, as Home to Hope has been providing higher dollar support to clients (e.g., rental assistance, car down payments, private transportation to and from employment (those on HEM cannot use public transportation), etc.).

Home to Hope will be reopening its physical location in phases beginning Monday, June 15, 2020. Staff looks forward to continuing its partnership with the jail as more individuals are released into the community, as well as serving others in the City with lived experience. Again, thank you for your consideration of our proposal to Red Light Management. If you have questions or need additional information, please feel free to contact us.

Sincerely,

Hollie Lee

Hollie Lee
 Chief of Workforce Development Strategies
 Charlottesville Office of Economic Development
 610 E. Market Street; Charlottesville, VA 22902
leeh@charlottesville.org | (434) 970-3117

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 19, 2020
Action Required:	Appropriation
Presenter:	Pat O'Donnell, Coordinator Victim and Witness Assistance Program
Staff Contacts:	Pat O'Donnell, Coordinator Victim and Witness Assistance Program Ryan Davidson, Sr. Budget and Management Analyst
Title:	<i>Victim Witness Assistance Program Grant \$265,024</i>

Background:

The City of Charlottesville, through the Commonwealth's Attorney's Office, has received the Victim Witness Program Grant from the Virginia Department of Criminal Justice Services in the amount of \$168,018 in Federal Funds and \$56,006 in State General Funds, and \$41,000 supplement from the Commonwealth Attorney's operating budget for a total award of \$265,024.

Discussion:

The victim's rights movement began in the 1970s as a result of victims being re-victimized by the criminal justice process. Victims had difficulty navigating the complexities of the criminal justice system and no voice or recourse when their cases were continued or pled out without their knowledge or consent. Prosecutors did not have the time or skills to respond to victims who were traumatized, but knew that in order to proceed with their case, many victims would need more services than the prosecutor's office could provide. In response to this need, the federal Victims of Crime Act was passed in 1984 and funds became available through the Virginia Department of Criminal Justice to respond to the needs of victims. The Charlottesville Victim/Witness Assistance Program was established in 1989 and has been meeting the needs of Charlottesville crime victims ever since. The Program is one of more than 60 such programs in the state that provides crisis intervention and advocacy, information and support during and after criminal justice proceedings, access to compensation and restitution, referrals to local community agencies and ensures victims are afforded their rights as outlined in Virginia's Crime Victim and Witness Rights Act. The Program also provides training on victim issues to law enforcement and allied agencies. It regularly serves more than 900 victims and 20 witnesses each year.

Alignment with City Council's Vision and Strategic Plan:

Approval of this agenda item aligns directly with Council's vision for Charlottesville to be America's Healthiest City, a Community of Mutual Respect and a Smart, Citizen-Focused Government. According to the Bureau of Justice Statistics, the total economic loss to crime victims was \$1.19 billion for violent offenses and \$16.2 billion for property crime in 2008. Statistics vary on the amount of intangible losses victims accumulate, such as the effects of the crime on their sense of security, mental health and relationships. The Charlottesville Victim Witness Assistance Program contributes to the health of the community by connecting crime victims with medical and mental health providers through the Criminal Injury Compensation Fund. The Program helps create a **Community of Mutual**

Respect by responding to the needs of crime victims and helps achieve a **Smart, Citizen-Focused Government** by ensuring their rights are recognized throughout the local criminal justice system, including police, prosecution, judges and probation.

Community Engagement:

The Victim Witness Assistance Program is engaged daily with victims of crime who access services through referrals from police, court services, social services and other allied agencies. Program staff contacts crime victims within 48 hours of their reported victimization. Program staff serves on several coordinating councils, such as the Multi-Disciplinary Team on Child Abuse, the Domestic Violence Coordinating Council, the Sexual Assault Response Team, the Monticello Area Domestic Violence Fatality Review Team, the Charlottesville/Albemarle Human Trafficking Task Force, and the Charlottesville/Albemarle Evidence Based Decision Making Policy Team. The program regularly provides outreach in the forms of government services day, training and speaking engagements at UVA, PVCC and other allied agencies as requested.

Budgetary Impact:

There is no impact to the General Fund. The City's match of \$41,000 was previously appropriated as part of the Commonwealth's Attorney's Office FY2021 Adopted Budget. The Victim Witness Assistance Program Grant is renewed annually and the funds will be received and expensed in the grants fund.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

If grant funds are not appropriated, Charlottesville crime victims will have no access to compensation, advocacy or services afforded to them under Virginia's Crime Victim and Witness Rights Act.

Attachments:

Appropriation Memorandum

APPROPRIATION

Charlottesville Victim Witness Assistance Program Grant

\$265,024

WHEREAS, The City of Charlottesville, through the Commonwealth Attorney’s Office, has received an increase in the Victim Witness Program Grant from the Virginia Department of Criminal Justice Services in the amount of \$224,024; and

WHEREAS, the City is providing a supplement in the amount of \$41,000, the source of which is the Commonwealth’s Attorney’s operating budget;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$224,024 is hereby appropriated in the following manner:

Revenues

\$ 56,006	Fund: 209	Cost Center: 1414001000	G/L Account: 430110
\$168,018	Fund: 209	Cost Center: 1414001000	G/L Account: 430120
\$ 41,000	Fund: 209	Cost Center: 1414001000	G/L Account: 498010

Expenditures

\$251,000	Fund: 209	Cost Center: 1414001000	G/L Account: 519999
\$ 14,024	Fund: 209	Cost Center: 1414001000	G/L Account: 599999

Transfer

\$ 41,000	Fund: 105	Cost Center: 1401001000	G/L Account: 561209
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BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$224,024 from the Virginia Department of Criminal Justice Services.

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 19, 2020
Action Required:	Appropriation
Presenter:	Kaki Dimock, Director, Human Services
Staff Contacts:	Shayla Givens, Human Services Planner, Human Services Kaki Dimock, Director, Human Services
Title:	Annie E. Casey Foundation Grant Award Appropriation \$10,000

Background:

The Department of Human Services has been working in collaboration with the Honorable Judge David M. Barredo, the City of Charlottesville’s Commonwealth’s Attorney’s office, the Charlottesville Police Department, and the 16th District Court Service Unit on a capstone project with Annie E. Casey Foundation and Georgetown University to address probation transformation. During the time that this collaboration project has been in development, our community has working with kids and families in creative, new and challenging ways.

On behalf of this collaboration, The Department of Human Services sought and received funding from the Annie E. Casey to facilitate virtual communication to more efficiently and effectively meet the needs of our local youth and families involved in the juvenile justice system.

Discussion:

There have been some exciting developments in adjusting longstanding community programming and family engagement into virtual opportunities, and this project expands on those developments. These supported purchases will assist with communication between community youth, families, probation officers and service providers in a way that is intended to support them and reduce their time in the system and not as a reason to extend their stay in detention.

There is also considerable momentum to continue virtual services and contact as a way to alleviate transportation issues once our community is at a Phase Three COVID-19 designation. The 16th District Court Service Unit, the Department of Human Services and other local partners will look for ongoing opportunities to sustain this type of flexible support for families.

Funds are approved to purchase:

- (5) iPhones with cases for Probation Officers: \$500
- (8) Webcams for Probation Officers, youth/families, large conference room: \$800.00

- (2) Tablets for Detention/youth: \$1,000.00
- (1) Large Monitor/Screen and (1) whole room camera for Group Room: \$1,100.00
- (6) Wi-Fi Hotspots/Internet Connections and 6 months of service for youth/families: \$3,000
- (1) Tablet with 3 months of service for youth/families: \$680.00
- (1) Cell phones with 6 months of service for youth/families: \$460.00
- (2) Cell phones with 3 months of service for youth/families: \$560.00
- Gift Cards for Food, Clothing, and Incentives: \$1,900.00

Alignment with City Council’s Vision and Strategic Plan:

This project is aligned with City Council goal #2 – a healthy and safe city.

Community Engagement:

This project is a collaborative effort among many system representatives who have been working together for several months as a learning and planning cohort.

Budgetary Impact:

There is no impact on the general fund. The grant funds do not require a City match and will be expensed and reimbursed to a separate internal order in a Grants Fund.

Recommendation:

Staff recommend appropriating these funds as written

Alternatives:

Council may decide not to appropriate these funds which we result in this project not being completed as described.

Attachments:

Appropriation

APPROPRIATION
Annie E. Casey Foundation
\$10,000

WHEREAS, the City of Charlottesville has been awarded \$10,000 from the Annie E. Casey Foundation;

WHEREAS, the funds will be used to purchase equipment identified by the collaborating members of the capstone project cohort;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$10,000 is hereby appropriated in the following manner:

Revenue – \$10,000

Fund: 210 Internal Order: 1900382 G/L Account: 431110

Expenditures - \$10,000

Fund: 210 Internal Order: 1900382 G/L Account: 519999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$10,000 from the Annie E. Casey Foundation.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Approval and Appropriation
Presenter:	Kaki Dimock, Director, Human Services
Staff Contacts:	Kaki Dimock, Director, Human Services
Title:	Housing Opportunities for People with AIDS/H.I.V. (H.O.P.W.A.): \$20,050

Background:

The Department of Human Services, in coordination with the Thomas Jefferson Area Coalition for the Homeless (T.J.A.C.H.) and the Service Provider Council (S.P.C.), received a grant from the Virginia Department of Housing and Community Development. The Housing Opportunities for People with AIDS/H.I.V. (H.O.P.W.A.) award is \$20,050 and is a supplemental grant based on the COVID-19 pandemic for July 1, 2020 – June 30, 2021.

Discussion:

The City of Charlottesville has staff from Human Services and Social Services taking leadership roles in the governance of T.J.A.C.H. H.O.P.W.A. is an important resource in our community's efforts to end homelessness. The grant provides services in four key areas.

1. **Tenant-Based Rental Assistance (TBRA):** The Thomas Jefferson Health District (T.J.H.D.) partners with The Haven to provide T.B.R.A. to eligible participants. The T.J.H.D. screens participants for eligibility and inspects the proposed property to ensure that it meets H.U.D. requirements. Upon successful screening, The Haven contacts the landlord to arrange monthly rent payment, similar to rapid re-housing.
2. **Short-term Rental, Mortgage and Utility Assistance:** T.J.H.D. screens eligible participants for short-term assistance including emergency utility payments to avoid shut-off. .
3. **Supportive Services:** T.J.H.D. provides supportive services including crisis intervention, case management and service referrals.
4. **Homeless Management Information System(H.M.I.S.):** The City of Charlottesville as the award recipient will ensure that H.M.I.S. data is complete through an agreement with T.J.A.C.H. to have the Executive Director ensure data quality. Our Continuum of Care(C.O.C.) has a well-populated database for individuals experiencing homelessness. HMIS collaboration provides real-time monitoring of the needs and progress of individuals and households facing homelessness. Collaborative use of H.M.I.S. among

T.J.A.C.H. C.o.C. Service Providers expedites communication and reduces the need to interface disparate documentation systems.

5. **Administration:** The City of Charlottesville as the award recipient is eligible for an administrative fee. Staff proposes that we pass these dollars through to T.J.H.D. & The Haven to support the supervision of assigned staff.

Community Engagement:

This grant and plan are the product of extensive engagement of the service provider community for persons experiencing homelessness. This partnership is reflective of the new governance model for T.J.A.C.H. and the priority requests of the Interfaith Movement Promoting Action by Congregations Together (IMPACT).

Alignment with City Council’s Vision and Strategic Plan:

This grant advances the City of Charlottesville’s Strategic Plan Goal #1 of enhancing the self sufficiency of our residents. Specifically, it will facilitate the objective of increasing affordable housing options. This item primarily aligns with Council’s vision for Quality Housing Opportunities for All.

Budgetary Impact:

This grant will be entirely State, and Federal pass-through funds. No local match is required. There is no budget impact for the City of Charlottesville. All funds will be distributed to sub-recipients for service provision.

Recommendation:

Staff recommends approval and appropriation of grant funds.

Alternatives:

Council may elect to not accept the funds and the community will not have the capacity to administer the following services to persons experiencing a housing crisis while managing AIDS/H.I.V.: short-term rental assistance, utility assistance, rapid rehousing, H.M.I.S., and administration.

Attachments:

Appropriation

APPROPRIATION
H.O.P.W.A. Grant \$20,050

WHEREAS, The City of Charlottesville, through the Department of Human Services, has received the H.O.P.W.A. Grant from the Virginia Department of Housing and Community Development in the amount of \$20,050

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$20,050 is hereby appropriated in the following manner:

Revenues

\$20,050 Fund: 209 IO: 1900390 (H.O.P.W.A.) G/L: 430120 Federal Pass-Thru State

Expenditures

\$20,050 Fund: 209 IO: 1900390 (H.O.P.W.A.) G/L: 530550 Contracted Services

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon receipt of \$20,050 in funds from the Virginia Department of Housing and Community Development.

MEMORANDUM

TO: THE HONORABLE CHARLOTTESVILLE CITY COUNCIL

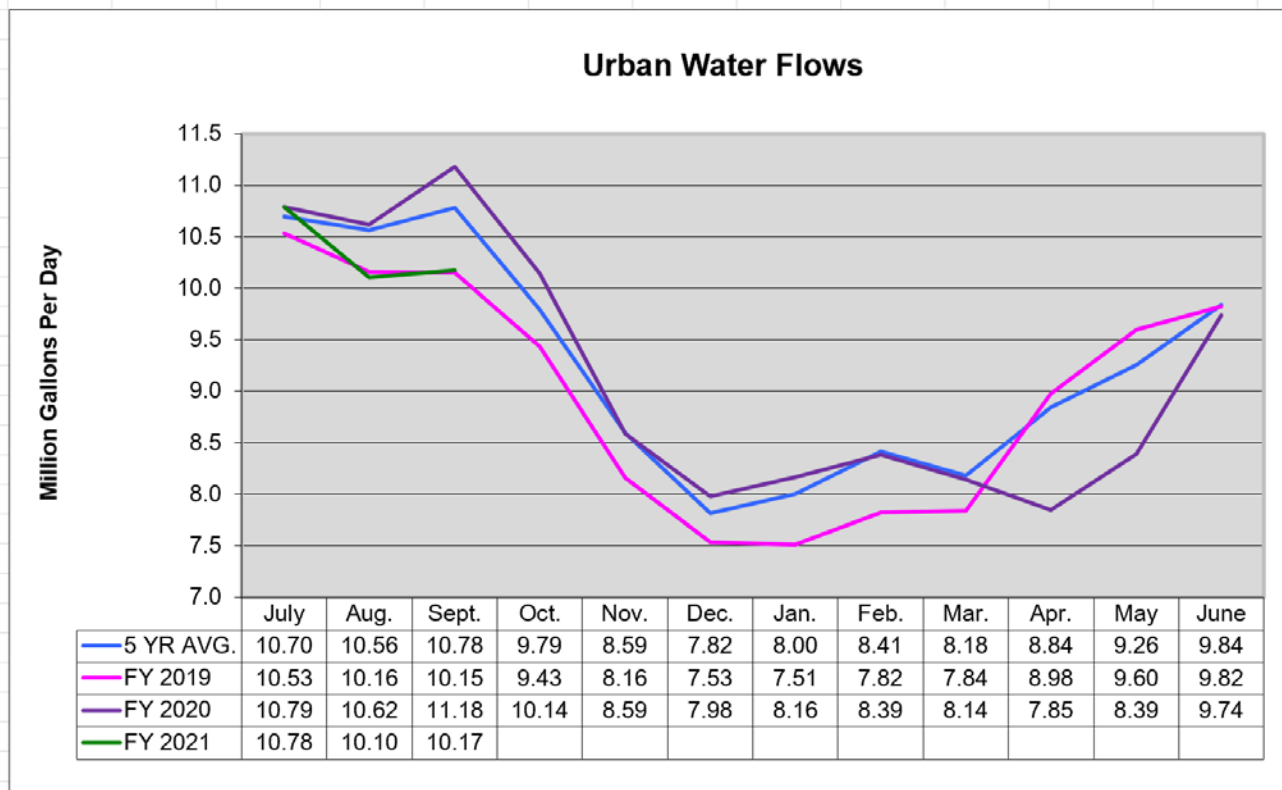
**FROM: BILL MAWYER, EXECUTIVE DIRECTOR
RIVANNA WATER & SEWER AUTHORITY
RIVANNA SOLID WASTE AUTHORITY**

SUBJECT: QUARTERLY UPDATE

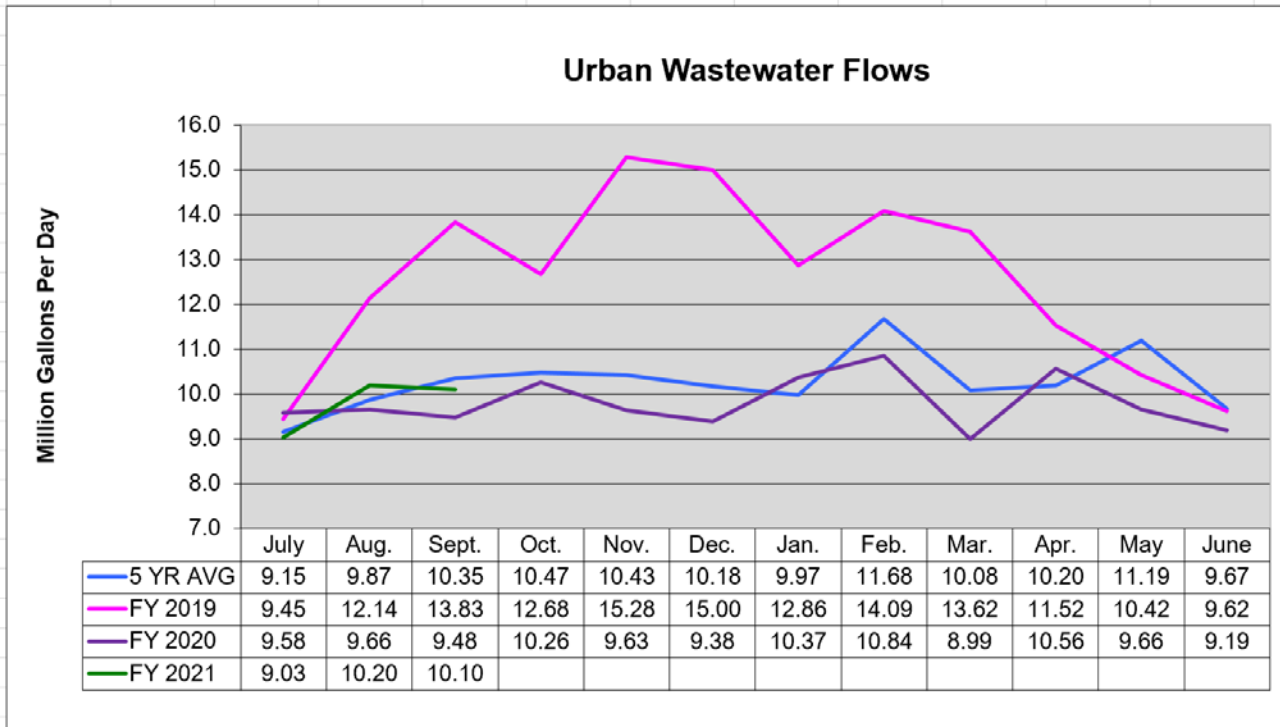
DATE: OCTOBER 2020

This quarterly update is to provide general information on the drinking water, wastewater and solid waste programs managed by the Rivanna Authorities, as follows:

1. The production of drinking water for the Urban area (Charlottesville and adjacent developed areas of Albemarle) averaged 10.17 million gallons per day (mgd) in September 2020, which was slightly below the five-year average for September (10.78 mgd), as shown by the following graph:



2. Urban wastewater flow for September 2020 (10.10 mgd), including flows from Crozet, was below the five-year average for September (10.35 mgd), as shown by the following graph:



3. A general overview of significant current and upcoming Capital Improvement projects includes:

A. Water Treatment Plant Improvements

Scope: Replace equipment which has reached end-of-service life at the South Rivanna and Observatory Water Treatment Plants. Increase water treatment capacity from 7.7 to 10 million gallons per day at the Observatory Water Treatment Plant.

Completion: 2020 - 2023

Cost: \$43 million

B. South Rivanna Dam – Gate Repairs

Scope: Repair original gates installed in 1966. These gates are located near the bottom of the dam, and are used to release water from the reservoir.

Completion: December 2020

Cost: \$900,000

C. Sugar Hollow Dam – Gate Replacement and Intake Tower Repairs

Scope: Replace the inflatable rubber device that sits on top of the concrete dam and regulates the normal water level in the reservoir. The gate is over 20 years old, and has reached the end of its service life. Concrete repairs will be made on the intake tower.

Completion: Fall 2021

Cost: \$1.7 million

D. South Rivanna to Ragged Mountain Reservoir Pipeline Easements

Scope: Determine alignment and acquire easements for a pipeline and pumping station to transfer raw (untreated) water between the South Rivanna Reservoir and the Ragged Mountain Reservoir, as required by the Community Water Supply plan. The Board of Directors of the Albemarle County Service Authority renewed its endorsement to complete this water supply project from 2027 – 2033. This endorsement is consistent with the project schedule in our CIP. Progress continues in our efforts to acquire the 9.5 miles of easements and agreements (with VDOT) for this 36” water line. City Council approved easements on four properties located near Ragged Mtn reservoir on September 8th. Easements have been obtained from 8 private owners, and negotiations continue with the remaining 4 private owners. We have completed our process to notify VDOT about our planned locations in the street right-of-ways. Discussions continue for remaining easements with the UVA Foundation and the County School Board.

Completion: 2021

Cost: \$2.3 million

E. Ragged Mountain Reservoir to Observatory Water Treatment Plant Raw Water Line and Raw Water Pump Station

Scope: Replace two 18-inch cast iron raw water pipes, which have been in service for more than 70 and 110 years, respectively. Replace the existing Stadium Road and Royal raw water pump stations, which have exceeded their service lives or will require significant upgrades, to support the Observatory Water Treatment Plant expansion.

Completion: 2023 - 2026

Cost: \$18 million

F. Upper Schenks Branch Wastewater Piping Replacement, Phase II

Scope: Replace sewer piping installed in the mid 1950’s in conjunction with the City’s sewer upgrade program to increase system capacity. The new underground piping would be located near McIntire Road.

Completion: TBD

Cost: \$4 million

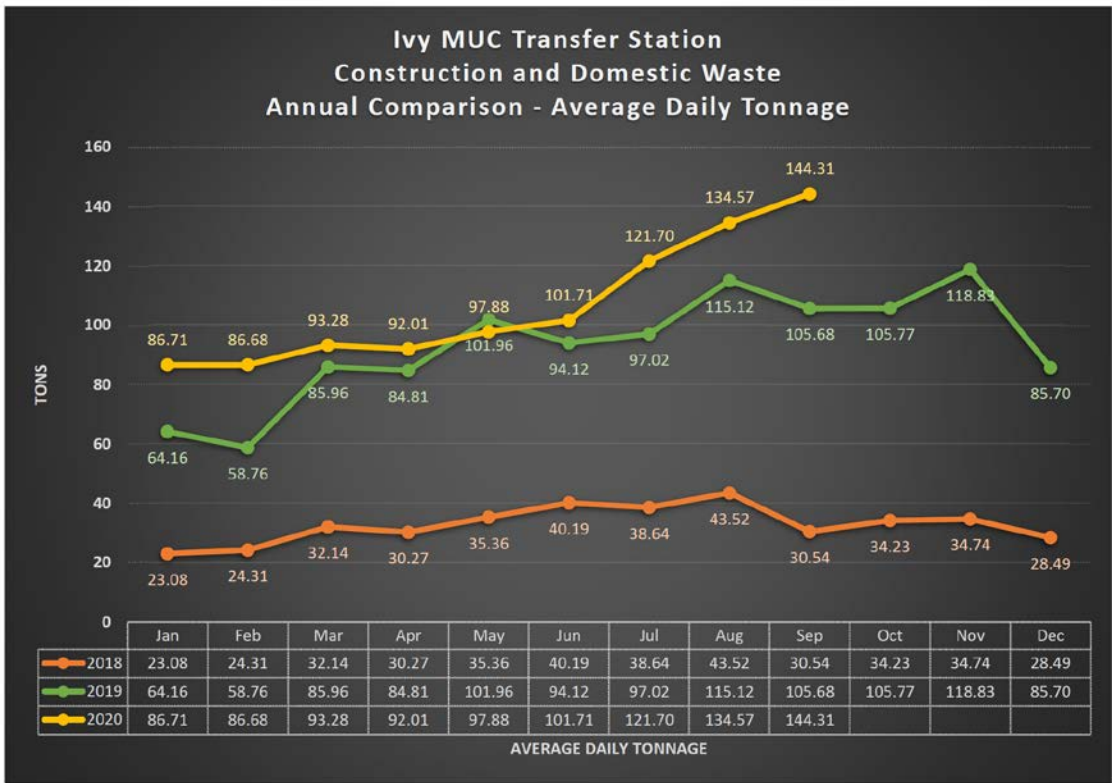
G. Urban Finished Water Master Plan

Scope: Identify drinking water infrastructure improvements, including distribution system piping and storage tanks, to provide capacity and pressure in the urban water system.

Completion: January 2021

Cost: \$253,000

4. Refuse volume at the Ivy Transfer Station has increased from 30.54 tons per day in September 2018 to 144.31 tons per day in September 2020, as shown below:



Please let me know if you have any questions.

cc: RSWA Board of Directors
RWSA Board of Directors

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Approval of Ordinance
Presenter:	Chris Engel, Director of Economic Development
Staff Contacts:	Chris Engel, Director of Economic Development Lisa Robertson, Deputy City Attorney Craig Fabio, Assistant Zoning Administrator
Title:	Café Space Fee Wavier and Reduction

Background:

The City of Charlottesville has permitted the use of public space for sidewalk cafés in designated areas of the city for many years. Restaurants operating nearby these areas may apply to rent space to conduct outdoor dining on an annual basis. The fees are collected bi-annually by the zoning administrator. The process is addressed specifically in City Code Chapter 28-214.

Discussion:

At the onset of the COVID-19 pandemic use of these café spaces were restricted due to state and local ordinances. As a result, the City Manager deferred the two annual payments until September 2020.

With the continued impact the pandemic is having on restaurants and given that outdoor dining appears to be in the public interest, an adjustment to the fee structure is appropriate. The proposed ordinance waives the fee for months in which restaurants could not operate (March and April 2020) and provides a 50% reduction in fee for the time operations were restricted to 50% capacity. Any accounts paid prior to the start of the pandemic or the City Manager’s deferral shall receive a credit in an equal amount.

In addition, restaurants wishing to rent a public parking space in an effort to increase outdoor dining adjacent to their business may do so with a 50% reduction in cost.

Both reductions will be in effect until March 8, 2021 unless otherwise extended by the City Council.

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the City Council’s Strategic Plan Goal Four: A Strong Diversified Economy.

Community Engagement:

Staff in both the Office of Economic Development and Neighborhood Development Services have received requests and comments regarding this issue from business owners.

Budgetary Impact:

No new funding is being requested. The proposed waiver/reduction in fees does reduce the amount of funds that flow to Parks and Recreation for mall maintenance.

Recommendation:

Staff recommends approval of the Ordinance.

Attachments:

Proposed Ordinance

**ORDINANCE
TO MODIFY DEADLINES, MODIFY PUBLIC MEETING
AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS
CONTINUITY OF OPERATIONS ASSOCIATED WITH THE PANDEMIC DISASTER**

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order 51 declaring a state of emergency for the Commonwealth of Virginia due to the potential spread of COVID-19; and

WHEREAS, Governor Northam’s March 12, 2020 declaration found that the anticipated effects of COVID-19 constitute a disaster pursuant to Virginia Code Section 44-146.16; and

WHEREAS, the City Manager, who is the City’s Director of Emergency Management, declared the potential spread of COVID-19 an emergency on March 12, 2020 pursuant to authorization within a Resolution adopted by the Charlottesville City Council; and

WHEREAS, Virginia Code Section 15.2-1413 provides that a locality may, by ordinance, provide a method to assure continuity in government in the event of a disaster “notwithstanding any contrary provision of law, general or special”; and

WHEREAS, the Virginia Freedom of Information Act (Code of Virginia Section 2.2-3700, et seq.) provides that all meetings shall be open to the public unless a public body elects to exercise an exemption provided by the Act “or any other statute”; and

WHEREAS, the Charlottesville City Council enacted an ordinance provided for by Virginia Code Section 15.2-1413 on March 25, 2020 and re-enacted the ordinance on September 8, 2020; and

WHEREAS, the September 8, 2020 ordinance will expire on March 8, 2021; and

WHEREAS, the Charlottesville City Council wishes to amend the continuity of operations ordinance pursuant to the authority granted by Virginia Code Section 15.2-1413.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that the September 8, 2020 ordinance adopted pursuant to the authority granted by Virginia Code Section 15.2-1413 is amended and reenacted to include all of the following in addition to the provisions previously re-enacted on September 8, 2020:

BE IT FURTHER ORDAINED that the café permit fee assessed pursuant to Charlottesville City Code Section 28-214(c) be waived for the months of March and April 2020; and

BE IT FURTHER ORDAINED that the café permit fee assessed pursuant to Charlottesville City Code Section 28-214(c) for the months of May, June, July, August, September, October, November, and December 2020 and for the months of January and February 2021 shall be reduced by fifty percent; and

BE IT FURTHER ORDAINED that the City Manager may grant a credit to any café permit holder that paid the full amount of the café permit fees for March, April, May, June, July, August, September, October, November, and December 2020

and January and February 2021 for future years.

BE IT FURTHER ORDAINED that the rental fee assessed pursuant to Charlottesville City Code Section 28-5 and the City Council's approved fee schedule, for a City parking space to be used for outdoor dining, shall be reduced by fifty percent for the months of May, June, July, August, September, October, November, and December 2020 and for the months of January and February 2021; and

Pursuant to Charlottesville City Code Section 2-96, this ordinance is enacted on the date of its introduction by a four-fifths vote of the Charlottesville City Council.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Adoption of (2) Ordinances
Presenter:	Brenda Kelley, Redevelopment Manager Lisa Robertson, Acting City Attorney
Staff Contacts:	John C. Blair, II, Acting City Manager Lisa Robertson, Acting City Attorney Brenda Kelley, Redevelopment Manager
Title:	Ordinance Authorizing a Grant of Public Funding to Subsidize a Redevelopment of Public Housing owned by Charlottesville Redevelopment and Housing Authority (“CRHA”) (South First Street Phase One Redevelopment) Ordinance Authorizing a Grant of Public Funding to Subsidize a Rehabilitation of Public Housing owned by CRHA (Crescent Halls Redevelopment)

Background:

Charlottesville Redevelopment and Housing Authority (“CRHA”) is proceeding with redevelopment plans for its public housing properties. Two projects have been planned, designed and are awaiting approval from the United States Department of Housing and Urban Development (“HUD”): the renovation of 105 existing units in Crescent Halls and the construction of 62 new rental housing units on the currently vacant land at South First Street. These redevelopment of public housing efforts have been in discussion for over the past ten years and recently planning and implementation has progressed through a public-private partnership among CRHA, a new Community Development Corporation (“CCDC”), a local developer, and private entities taking advantage of the benefits of Low Income Tax Credit (LIHTC) Financing. Following the issuance of a competitive procurement CRHA/CCDC contracted with a development partner, and together, these entities designed the renovation of the existing units at Crescent Halls and new units at South 1st Street, secured various funding commitments, and a general contractor for construction has been selected. In June 2019, the Projects were awarded a commitment of Low Income Housing Tax Credits (LIHTC) in the amount of approximately \$16,250,000 for the redevelopment of Crescent Halls and South 1st Street Phase 1. (LIHTC is a program that is sponsored by the U.S. Treasury Department and administered by Virginia Housing). This program provides owners a federal income tax credit through an incentive for private investors to participate in the construction and rehabilitation of housing for low-income families. One of the key elements of the redevelopment of public housing has been the focus on resident-led efforts – public housing residents have been actively engaged and involved in the entire redevelopment process. The goal is for construction of the Projects to begin in the fall/winter of

2020, following receipt of HUD approvals.

Currently, CRHA owns and operates 376 public housing units and issues approximately 427 HUD Section 8 vouchers. Redevelopment will focus on a one-for-one replacement of existing public housing units (the U.S. Department of Housing and Urban Development (HUD) does not currently allow for the construction or acquisition of any additional public housing units). As part of the redevelopment process, CRHA will also add additional subsidized affordable housing units that will be owned by an entity receiving the LIHTC credits, but will be operated and managed by CRHA. Upon completion of redevelopment efforts, Crescent Halls will maintain 53 public housing units and provide 52 subsidized units; and South 1st Street Phase 1 will provide 13 public housing units, 24 subsidized units and 25 units with no operating subsidy attached (but still at or below 60% AMI). During the overall redevelopment process some public housing units may be demolished but eventually all public housing units will be replaced, and additional affordable housing units added to the CRHA inventory. CRHA will continue to own the land and will provide property management services for all of the rental units.

As part of the FY19/20 Budget, City Council approved a total of \$3,000,000 in City Capital Improvements Program funding for Public Housing Redevelopment for Crescent Halls renovation and South 1st Street Phase 1 construction. To facilitate the allocation of the approved FY19/20 CIP funding for CRHA's Phase 1 redevelopment, City staff has been working closely with CRHA staff and their development team to develop the attached Ordinance that spells out the specifics of how and when the funding will be disbursed, and for what the funding may be expended.

Discussion:

South 1st Street – Phase 1

South 1st Street Phase 1 includes the construction of 62 new affordable rental units (12 1-bedroom units, 32 2-bedroom units and 18 3-bedroom units). 13 of the units will be public housing units, 24 of the units will be Section 8 units, and 25 of the units will have no operating subsidy attached. 31 of the units will be at or below 50% AMI and the remaining 31 units will be at or below 60% AMI. The project will also include construction of a community resource space, resident storage, and outdoor recreation space.

\$1,125,000 of the total amount of FY19/20 funding City Council allocated toward public housing redevelopment will be used for South First Street Phase 1 construction. While this funding will be in the form of a grant for the construction of affordable units and infrastructure, CRHA has informed staff that the funds will be lent to the CCDC/project by CRHA as a soft construction/permanent loan for a 30-year term at 0% interest. Because of this requirement, the city was required to issue a taxable bond instead of a tax-exempt bond, as previously anticipated.

A substantial portion of the funding for this project comes from Low Income Housing Tax Credits (LIHTC). Due to the complex nature of the LIHTC funding, several entities need to be created to own, manage and distribute funding for the project. Following is a brief description of the entities involved in this redevelopment, in one capacity or another:

- CRHA: Landowner; Landlord under long term lease; Property Manager; a tax-exempt entity
- AHG, LLC: the development partner; a private entity and guarantor of construction costs made up of Riverbend Development (RBD), and Castle Development Group (CDG); technical assistance to the development; pre-development lender

- CCDC: Charlottesville Community Development Corporation - a separate entity created by CRHA; the Board is the same membership as the governing Board of CRHA; not exempt from local real estate taxes; City Council approved the creation of the CCDC in May 2019 as required by Section 36-19(12) of the Virginia Code; Developer of record; recipient of grants
- South First Phase One, LLC: Project Owner and Tenant; a separate entity created by the CCDC; CCDC is the sole member; not exempt from local real estate taxes; subject to lease and mortgages for LIHTC
- South First Phase One Management, LLC: Managing Member and Owner; a separate entity created by the CCDC; CCDC is the sole Managing Member
- VAHM, LLC: Special Investor Member; created by AHG, LLC
- VCDC: Virginia Community Development Corporation – a private entity that manages tax credit equity funds
- Housing Equity Fund of Virginia XXIII, LLC - a separate entity organized by VCDC to be the Investor Member in the LIHTC tax credit/redevelopment; they are the investment member in South First Phase One, LLC
- Virginia Housing: the State agency that administers the Low Income Housing Tax Credits (formerly known as VHDA, Virginia Housing Development Authority)
- VaDHCD: Virginia Department of Housing and Community Development – the State agency that manages the National Housing Trust Fund
- Affordable Housing Opportunity Fund (AHOF): Charlottesville Area Community Foundation Fund; a 501(c)(3) formed by AHG, LLC to receive charitable contributions from the community; grantor to CCDC

The overall project cost is approximately \$17 million. The following funding/investment sources will be used towards funding the project:

LIHTC (tax credit equity):	\$ 6,600,000
VHDA 30-year loan at 0.5% (First Mortgage):	\$ 4,500,000
City of Charlottesville (grant to CRHA; CCDC will loan to the project):	\$ 1,125,000
CRHA (value of leasehold interest)	\$ 1,100,000
VaDHCD NHT Fund Loan 20-year term at simple interest:	\$ 800,000
Affordable Housing Opportunity Fund #1:	\$ 1,200,000
Affordable Housing Opportunity Fund #2:	\$ 600,000
Federal Home Loan Bank:	\$ 500,000
Deferred Developer Fee:	\$ 500,000

Affordability Commitments tied to the redevelopment:

- The Annual Contributions Contract (ACC) between CRHA and HUD remains in place but will be revised to reflect the additional “mixed-finance” units in the redevelopment. This contract addresses the commitment by HUD to funding for operating and capital improvements. It ensures that the Applicable Public Housing Requirements are binding upon the Owner Entity and any partner of CRHA, and to the extent determined necessary by HUD.
- Virginia Housing requires a Deed of Trust to ensure an affordability term due to the LIHTC award for 30 years. However, the Operating Agreement for South First Phase One, LLC says that the Investor Member has a right to sell to a party who will not be subject to these use restrictions prior to the end of the 30-year LIHTC term (in Year 15). This could result in the termination of an Extended Use Agreement after Year 15.
- A Declaration of Trust/Restrictive Covenants required by HUD will establish 10-, 20, or 40-year affordability period restrictions requiring units to be operated in accordance with public housing requirements.

- CRHA is providing a long-term ground lease (99 years) to South First Phase One, LLC (the sole member of this LLC is the CCDC) that requires the premises to be used only for provision of affordable housing and related facilities for the first 40 years of the lease.

The development project team shared substantial draft documents with city staff which were reviewed and comments/questions returned back to the Project Development Team on those drafts. City staff has provided a significant overview in this agenda memo as to the information contained in those draft documents.

Here are some key elements of the attached proposed Ordinance for the South First Street Phase 1 redevelopment:

- The City funding will be disbursed as a grant to the CRHA. CRHA will provide the funds to the CCDC, whereby the CCDC will lend to the project as an interest free, 30-year loan. The intent of the City funding is to fund the construction of rental units and the related infrastructure improvements associated with the project. The source of funding is from previously approved taxable bond funds (FY19/20 CIP).
- 100% of the units constructed will be provided for rental by low and moderate income persons: no fewer than 13 units will be public housing units; no fewer than 24 units will participate in the project-based, Section 8 program; the remaining 25 units will be reserved for occupancy by persons having a household income at or below 60% AMI
- City funding in the amount of \$1,125,000 will support this redevelopment project; a maximum of \$144,000 of the total amount will be allowed to go towards “soft costs”. This was approximately the amount of predevelopment costs included in the application CRHA submitted to HUD. CRHA will be allowed to make 3 drawdown requests:
 - o Request 1 (not to exceed \$500,000): with submittal of HUD approvals; and executed project related documents of record; and executed construction contract, schedule and budget; and evidence a building permit has been issued
 - o Request 2 (not to exceed \$343,750): with evidence that construction has started; and following the first payment application from the construction contractor has been submitted for the project; and documentation that funds received from Request 1 were used to pay project related costs
 - o Request 3 (not to exceed \$281,250): with documentation that funds received from Request 2 were used to pay project related costs; and evidence that no grant funds previously allocated remain unspent; and a budget-to-actual expenditure report and a construction schedule for the project; and a Sustainability Plan (40 years) for CRHA properties – this Sustainability Plan must be presented to the City Council and the City Council must be satisfied with the Plan prior to this funding being released.
- if construction of the buildings is not commenced on or before June 30, 2021, this Grant shall expire
- CRHA is requesting that City Council approve an annual recurring subsidy equal to the dollar amount of the real estate taxes assessed and billed to the new Project Owner, who is a taxable entity. (Currently, CRHA is required to make annual payments in lieu of taxes (PILOT) to the City in accordance with the Cooperation Agreement entered into between the City and CRHA in 1958). The proposed Ordinance provides for a subsidy available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project.
- Approval of this Ordinance fulfills the requirement of Virginia Code § 36-19.2 that requires cities to instruct Housing Authorities to redevelop properties prior to proceeding with redevelopment.

Here are some key considerations regarding the redevelopment and the attached proposed

Ordinance:

- CRHA is not a member of South First Phase One, LLC which will be the Project Owner. CRHA will continue to hold title to the land on which the Project is constructed, and will provide property management services relative to housing units.
- CCDC is officially the “developer” of the Project, and will receive a \$1,000,000 developer fee. CCDC is an entity formed by CRHA with permission of the City Council, and the board of directors of CCDC is the same as the board of commissioners of CRHA.
- The private-sector Project Owner has an Investor Member, and the Investor Member has a right to sell its interests in the Project in Year 15. If the Investor Member’s interest cannot be bought out by CRHA or another investor who desires to operate public/subsidized housing, this could potentially result in termination of an Extended Use Agreement after Year 15.
- CRHA is requesting that City Council approve an annual recurring subsidy equal to the dollar amount of the real estate taxes assessed and billed to the new Project Owner, who is a taxable entity. The proposed Ordinance provides for a subsidy available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project. However, the CRHA Project Development Team is concerned that 15 years is not long enough. Staff concerns: (1) CRHA is building additional housing units while requesting that they receive full reimbursement of any real estate taxes paid for the Project (annually); and (2) this City Council cannot make any binding commitment beyond the current fiscal year of the City; and (3) the Investor Member has a right to sell to a party who will not be subject to use restrictions in Year 15.
- John Sales, on behalf of the Project Development Team, has concerns with the requirement to provide, and present to City Council for acceptance, a Sustainability Plan prior to submitting for payment Request 3.
- Year 15 may be a significant milestone whereby CRHA has an option to purchase the LIHTC redevelopment project. This raises unknowns, one of them being how much this purchase price may be and where will CRHA obtain the funding?

Crescent Halls

Redevelopment of Crescent Halls includes the renovation of the existing 105 public housing rental units (98 1-bedroom units and 7 2-bedroom units). 53 of the units will be public housing units and 52 of the units will be Section 8 units. 53 of the units will be at or below 50% AMI and the remaining 52 units will be at or below 60% AMI. The project will also include renovation of the existing common areas, community room and common kitchen, as well as incorporating an area for resident meetings, a library, and a health clinic. CRHA staff offices and maintenance areas will also receive extensive renovation. The overall project cost is approximately \$15.4 million.

\$1,875,000 of the total amount of FY19/20 funding City Council allocated toward public housing redevelopment will be used for Crescent Halls renovation. This funding will be in the form of a grant for the construction of affordable units and infrastructure. While this funding will be in the form of a grant for the construction of affordable units and infrastructure, CRHA has informed staff that it will make a loan of the funds to the CCDC as a soft construction/permanent loan for a 30-year term at 0% interest. Tax exempt bond proceeds could not be used for this type of loan transaction, so City funding will be provided using funds raised by taxable bond proceeds. Fortunately, interest rates at this time are favorable, despite the taxable bond status.

The financing structure is similar to South First Street Phase One, and the terms and conditions of

the various agreements/paperwork for Crescent Halls is virtually identical to those described above for South First Phase One. Separate new entities for the Crescent Halls redevelopment project have also been created to own, manage and distribute funding for this project.

Here are some key elements of the attached proposed Ordinance for the Crescent Halls redevelopment:

- The City funding will be disbursed as a grant to the CRHA. CRHA will provide the funds to the CCDC, whereby the CCDC will lend to the project as an interest free, 30-year loan. The intent of the City funding is to fund the renovation of the existing rental units, community spaces, staff and maintenance offices/areas and some exterior improvements. The source of funding is from previously approved taxable bond funds (FY19/20 CIP).
- 100% of the units constructed will be provided for rental by low and moderate income persons: no fewer than 53 units will remain public housing units; no fewer than 52 units will participate in the project-based, Section 8 program. All units will be reserved for occupancy by persons having a household income at or below 60% AMI
- City funding in the amount of \$1,875,000 will support this redevelopment project; a maximum of \$85,000 of the total amount will be allowed to go towards “soft costs”. This was approximately the amount of predevelopment costs included in the application CRHA submitted to HUD. CRHA will be allowed to make 3 drawdown requests:
 - o Request 1 (not to exceed \$500,000): with submittal of HUD approvals; and executed project related documents of record; and executed construction contract, schedule and budget; and evidence a building permit has been issued
 - o Request 2 (not to exceed \$906,250): with evidence that construction has started; and following the first payment application from the construction contractor has been submitted for the project; and documentation that funds received from Request 1 were used to pay project related costs
 - o Request 3 (not to exceed \$468,750): with documentation that funds received from Request 2 were used to pay project related costs; and evidence that no grant funds previously allocated remain unspent; and a budget-to-actual expenditure report and a construction schedule for the project; and a Sustainability Plan (40 years) for CRHA properties – this Sustainability Plan must be presented to the City Council and the City Council must be satisfied with the Plan prior to this funding being released.
- if construction of the buildings is not commenced on or before June 30, 2021, this Grant shall expire
- CRHA is requesting that City Council approve an annual recurring subsidy equal to the dollar amount of the real estate taxes assessed and billed to the new Project Owner, who is a taxable entity. (Currently, CRHA is required to make annual payments in lieu of taxes (PILOT) to the City in accordance with the Cooperation Agreement entered into between the City and CRHA in 1958). The proposed Ordinance provides for a subsidy available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project.
- Approval of this Ordinance fulfills the requirement of Virginia Code § 36-19.2 that requires cities to instruct Housing Authorities to redevelop properties prior to proceeding with redevelopment.

Here are some key considerations regarding the redevelopment and the attached proposed Ordinance:

- CRHA is not a member of Crescent Halls Reno, LLC, which will be the Project Owner. CRHA will continue to hold title to the land on which the Project is constructed, and will provide property management services relative to housing units.
- CCDC is officially the “developer” of the Project, and will receive a \$1,000,000 developer

fee. CCDC is an entity formed by CRHA with permission of the City Council, and the board of directors of CCDC is the same as the board of commissioners of CRHA.

- The private-sector Project Owner has an Investor Member, and the Investor Member has a right to sell its interests in the Project in Year 15. If the Investor Member's interest cannot be bought out by CRHA or another investor who desires to operate public/subsidized housing, this could potentially result in termination of an Extended Use Agreement after Year 15.
- CRHA is requesting that City Council approve an annual recurring subsidy equal to the dollar amount of the real estate taxes assessed and billed to the new Project Owner, who is a taxable entity. The proposed Ordinance provides for a subsidy available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project. However, the CRHA Project Development Team is concerned that 15 years is not long enough. Staff concerns: (1) CRHA is requesting that they receive full reimbursement of any real estate taxes paid for the Project (annually); and (2) this City Council cannot make any binding commitment beyond the current fiscal year of the City; and (3) the Investor Member has a right to sell to a party who will not be subject to use restrictions in Year 15.
- John Sales, on behalf of the Project Development Team, has concerns with the requirement to provide, and present to City Council for acceptance, a Sustainability Plan prior to submitting for payment Request 3.
- Year 15 may be a significant milestone whereby CRHA has an option to purchase the LIHTC redevelopment project. This raises unknowns, one of them being how much this purchase price may be and where will CRHA obtain the funding?

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the Council's Vision for quality housing opportunities that offers affordable housing for people of all income levels, racial backgrounds, life stages and abilities. This action aligns with the City Council's Strategic Plan Goal Four: A Strong Diversified Economy and Goal One: An Inclusive Community of Self-Sufficient Residents.

Budgetary Impact:

Approval of the attached Ordinance will establish the terms and conditions under which the CIP Funding previously approved for FY19/20 can be expended.

Alternatives:

City Council can decline to adopt the attached Ordinance, which may significantly affect the redevelopment of these CRHA properties.

Attachments:

- Proposed Ordinance for South 1st Street Phase 1
- Proposed Ordinance for Crescent Halls

ORDINANCE
AUTHORIZING A GRANT OF PUBLIC FUNDING
TO SUBSIDIZE CONSTRUCTION OF FOR-RENT AFFORDABLE
HOUSING TO BE OCCUPIED BY PERSONS OF LOW AND MODERATE
INCOME AS PART OF A REDEVELOPMENT OF PUBLIC HOUSING
(SOUTH FIRST STREET PHASE ONE REDEVELOPMENT)

WHEREAS, the production of new housing for persons of low and moderate income is a public purpose and use for which the General Assembly has authorized public funds to be expended, and such production is a governmental function of concern to the Commonwealth of Virginia; and

WHEREAS, pursuant to Virginia Code §15.2-958 the City of Charlottesville 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; and

WHEREAS, Charlottesville Redevelopment and Housing Authority (“CRHA”) is a political subdivision of the Commonwealth of Virginia, organized and operating under the laws of the Commonwealth of Virginia and having the purposes and authority set forth within Virginia Code Title 36, Chapter 1 (Housing Authorities Law), and the City of Charlottesville, acting by and through its City Council, is authorized to make grants or loans to CRHA to enable or assist CRHA to carry out its purposes; and

WHEREAS, pursuant to Virginia Code § 36-19.2 the City of Charlottesville has requested that the CRHA address the redevelopment of existing public housing sites and the provision of additional affordable housing units that will be committed for rental to persons of low and moderate income; and

WHEREAS, CRHA is planning the redevelopment of its property on South First Street in multiple phases, funded by Low Income Housing Tax Credit (LIHTC) program funding, loans, private donations, and a grant of local funding from the City of Charlottesville; and

WHEREAS, CRHA has requested the City of Charlottesville award a grant of funding to subsidize the costs of producing new units of residential rental property occupied, or to be occupied, following construction, by persons of low and moderate-income, said undertaking being described in CRHA’s Mixed Finance Development Proposal submitted to the Department of Housing and Urban Development in 2020, referred to as “South First Street Phase One” (the “Project”), as well as to subsidize the costs of maintaining those units in residential rental use for a period longer than ten years; and

WHEREAS, the City is willing to provide the requested local funding, subject to certain certifications and assurances, and binding obligations, as set forth within this Ordinance; and

WHEREAS, in consideration of the funding to be provided by the City for the Project, CRHA has agreed to provide certifications and assurances, and to enter into certain binding obligations, as set forth within this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council that local public funding is hereby approved, subject to the following conditions:

Section 1. Public purpose of the City Grant

A grant of City funding (“Grant Funds”) is hereby authorized (i) to support the construction of new for-rental housing units within a housing development project referred to as South First Street Phase One (“Project”), as more specifically described herein below, and (ii) to support the operation of the residential units within the Project in residential rental use, over a period of no less than fifteen (15) years, or the expiration of the initial compliance period applicable to the Project under the Low Income Housing Tax Credit Program (“LIHTC”), whichever first occurs.

Section 2. Representations and warranties; remedies for breach

The Charlottesville Redevelopment and Housing Authority (“CRHA”), the Charlottesville Community Development Corporation (“CCDC”), and South First Phase One, LLC (the “Project Owner”), shall through their duly authorized officers, members, or agents, execute a written acceptance of the terms and conditions of the Grant Funding awarded by this Ordinance, and as part of that written acceptance each entity shall verify that they have made the following representations and warranties to the City, each of which is a material representation and warranty that has induced the City to make this Grant:

(A) The CCDC is the Developer of the Project.

(B) Grant Funds provided for the purpose of supporting the production of affordable residential rental units shall be used or expended exclusively for costs and expenditures expressly authorized within Section 3, Paragraph (A), herein below.

In the event of a breach of this warranty, then in addition to any other remedies available to the City, CRHA and the CCDC shall be jointly and severally obligated to repay to the City all amount(s) used or expended in breach of this warranty. All amounts to be repaid to the City shall be due and owing to the City within thirty (30) days after the written notice of breach given by the City, unless the breach is cured by the CCDC or CRHA within the 30-day period. (Due Date: 30 days after the date of the notice). If the City does not receive payment in full within the 30-day period, then the City shall not thereafter make any additional disbursement(s) of Grant Funding referenced within Section 3 (A) of this Ordinance, and the City shall have the right to institute proceedings to collect the amounts due under this paragraph.

(C) Following completion of construction, each of the residential units within the Project shall be reserved for rental by low and moderate income individuals throughout a term (“Affordability Period”) that is co-extensive with the term of a long-term ground lease entered into between CRHA, as landlord, and the Project Owner, as tenant (“Ground Lease”). The Ground Lease shall contain the following terms and conditions: for the first forty (40) years of the term of the Ground Lease, the demised premises described therein shall be used exclusively for residential purposes and related amenities; thereafter, in addition to residential uses previously established within the Project, the premises may also be used for

commercial purposes. CRHA shall not amend the Ground Lease to modify or delete the provisions required by this paragraph, except with the advance written notice to the City.

In the event of a breach of this warranty, then in addition to any other remedies available to the City, the City shall give written notice to CRHA and the Project Owner and, if the breach is not cured within thirty (30) days after the date of such notice, the City shall not thereafter make any additional payment(s) of Grant Funds under Section 3(B) of this Ordinance.

(D) On the date as of which construction of the Project is complete:

(i) the Project shall include no fewer than thirteen (13) units of Public Housing legally obligated to be operated in accordance with Va. Code §36-22 and/or federal public housing requirements, including, without limitation, a Declaration of Trust/ Restrictive Covenants recorded in the land records of the City; and

(ii) in addition to the required public housing units, the Project shall contain no fewer than forty-nine (49) for-rent affordable dwelling units legally obligated to be operated as follows: twenty-four (24) units shall participate in the project-based [federal] Section 8 program, and twenty-five (25) units shall be legally obligated to be reserved for occupancy by persons having a household income at or below sixty-percent (60%) of Charlottesville's Area Median Income.

For purposes of this paragraph (D) the term "legally obligated" refers either to a land use restriction imposed within an instrument recorded in the land records of the Charlottesville Circuit Court, or to a grant assurance or obligation given to the Department of Housing and Urban Development, the Virginia Department of Housing and Community Development or other federal or state public agency or funding source.

In the event of a breach of the warranties set forth in this paragraph (D), in addition to any other remedies available to the City, the City shall give written notice of breach to CRHA and the Project Owner and, if the breach is not cured within thirty (30) days after the date of such notice, the City shall not thereafter make any additional payment(s) of Grant Funds under Section 3 (B) of this Ordinance.

(E) CRHA will continue to make annual payments in lieu of taxes (PILOT) to the City, in accordance with the Cooperation Agreement entered into between the City and CRHA, dated May 13, 1958, as amended, provided that any residential units within the Project that are owned by an entity other than CRHA or CCDC will not be part of the PILOT calculation.

(F) Miscellaneous

i. City shall have a right to compel performance of these warranties by CRHA, the CCDC and the Project Owner, and to collect any payments due to the City, through legal action initiated within a court having jurisdiction within the City of Charlottesville, Virginia.

ii. Interest shall accrue at the rate of six (6) percent per annum on all amounts due and owing to the City pursuant to this Section 2, from the Due Date until paid.

iii. No forbearance by the City in exercising any right or remedy afforded either by this Ordinance, or by the laws of the Commonwealth of Virginia, shall constitute a waiver of or preclude the exercise of any such right or remedy. The rights and remedies set forth within this Ordinance are cumulative and the use of any one right or remedy by the City shall not preclude or waive its right to use any or all other remedies. All of said rights and remedies are in addition to any other rights the City may have by law, statute, ordinance or otherwise.

iv. Throughout the fifteen (15) year initial compliance period of the LIHTC program, the Project Owner will promptly notify the City of its receipt of any notice or determination stating that the Project does not comply with the requirements of the LIHTC program, and the Project Owner shall provide a copy of any such notice or determination to the City Attorney.

Section 3. Authorized Expenditures; Budget

(A) City Council hereby approves funding in an amount up to **\$1,125,000** to subsidize the cost of producing new units of residential rental property occupied, or to be occupied, following construction by persons of low and moderate income. Grant Funds disbursed as authorized by this Ordinance shall not be used or expended for payment of current expenses of CRHA, the CCDC or any other legal entity. The Grant Funds shall be used only to pay the following costs of the Project (subject further to the limit on “soft costs” as set forth below): the cost of improvements, property or equipment, the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all land, property, rights, easements and franchises acquired, financing charges, interest before and during construction and for up to one year after completion of construction, Project start-up costs, and operating capital for the Project, and other expenses as may be necessary or incident to the financing or construction of the Project.

Notwithstanding the foregoing:

- i. not more than **\$144,000.00** of the Grant Funds shall be used to pay “soft costs”, including, without limitation, the cost of plans and specifications, surveys and estimates of cost and of revenues, the cost of engineering, legal and other professional services, expenses incident to determining the feasibility or practicability of the project, the Developer’s administrative expenses, amounts to be deposited to reserve or replacement funds, and other similar expenses associated with Project feasibility, planning or design;
- ii. if construction of the buildings within the Project is not commenced on or before **June 30, 2021**, this Grant shall expire and the City shall have no obligation to the Recipient hereunder; and
- iii. the CCDC shall establish a Budget for construction of the Project, and will submit the Budget to the City for its review. The City will communicate in writing to the CCDC within ten (10) business after receipt of the Budget whether or not the City has any

concerns. After the Budget is reviewed and the City has responded to Recipient, all subsequent changes to the Budget shall likewise be subject to review and comment by the City.

(B) In addition to the funding approved in Section 3(A), above, City Council also hereby approves an annual recurring subsidy for the purpose of inducing CRHA, CCDC and the Project Owner to undertake and complete the Project and as an inducement for the Project Owner to operate the Project pursuant to the terms of this Ordinance. The amount of the annual subsidy shall be the dollar amount of the real estate taxes assessed and billed to the Project owner for each tax year (January 1 – December 31). This subsidy shall be available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project, or until the expiration of the LIHTC initial compliance period, whichever first occurs. Notwithstanding the foregoing, the subsidy shall not be payable by the City within any tax year in which the household incomes of renters, and maximum rents, of residential units within the Project are not in compliance with income and rent requirements set forth within the Extended Use Agreement executed by the Project Owner for and in connection with the LIHTC Tax Credit program. The annual subsidy shall be paid as a grant by the City to CRHA. CRHA agrees to provide said grant funds to CCDC, which will in turn provide a loan of those funds to the Project Owner for use in the development and operation of the Project in compliance with the terms of this Ordinance.

- i. While recognizing that it is not empowered under Virginia law to make any binding commitment beyond the current fiscal year of the City, it is the current intention of the Council to make sufficient annual appropriations to fund the annual subsidy for which Grant Funds are approved under this Section 3 (B). To that end, the City Manager or other officer charged with the responsibility of preparing the City's budget shall include in the proposed budget for each fiscal year of the City a request that the Council appropriate sufficient amounts to cover the annual subsidy referenced within this Section 3 (B).
- ii. If at any time during any fiscal year of the City, the amount appropriated in the City's annual budget is insufficient to pay the annual subsidy referenced within this Section 3 (B), then the City Manager or other officer charged with the responsibility of preparing the City's budget shall submit to the Council, as promptly as practicable, a request for a supplemental appropriation sufficient to cover the deficit.

Section 4. Disbursement of Grant Proceeds

(A) Preconditions, General

No City official or employee shall disburse any Grant proceeds authorized by Section 3 (A) or 3 (B), unless and until the Recipient has furnished all of the following documents to the City for the Project:

- i. Evidence of HUD Approval: copies of all written approvals required from the Department of Housing and Urban Development for the Project, specifically including, without limitation: HUD’s approval of Recipient’s applications seeking approval of a Mixed Finance Development and for approval of a Demolition/Disposition of Recipient’s property.

- ii. Documents of Record: copies of each of the following fully-executed documents, or written notice given to the City identifying the deed book and page number at which the documents are recorded in the land records of the Charlottesville Circuit Court (if the documents are required to be recorded):
 - a. Memorandum of the Ground Lease for the Project (fully-executed) along with a fully-executed copy of the Ground Lease for the Project;
 - b. HUD Declaration of Trust/ Restrictive Covenants for the Project;
 - c. The Regulatory and Operating Agreement executed for the Project by and among the members of the entity that is the Project Owner;
 - d. A copy of the Consolidated Annual Contributions Contract (“ACC”), number P-5513, dated August 30, 1996, and all amendments thereto
 - e. Fully-executed Mixed-Finance Development Certifications and Assurances (HUD) for the Project
 - f. Fully-executed Extended Use Agreement executed by the Project Owner for and in connection with the LIHTC Tax Credit Program.

- iii. Construction Contract and Schedule: a copy of the contract for construction executed between the Project Owner and the General Contractor for Construction, and a copy of the approved Construction Schedule that will be implemented by the Construction Contractor.

- iv. Building Permit: evidence that a building permit for the Project has been approved and issued.

- v. The Budget for the Project (see Section 3, above).

(B) Disbursements as Reimbursement for Expenditures Authorized by Section 3 (A)

- i. CRHA or the CCDC may, in writing, request disbursements of the Grant Funds authorized by Section 3 (A) of this Ordinance, and disbursements may be made by the City from time to time, as construction of the Project progresses. Disbursement requests may be submitted to the City, no more frequently than the following Milestone Dates, and only in the amounts indicated:

- a. **Request 1 (not to exceed \$500,000)**: may be submitted on or after the date on which the City verifies that it is in possession of all of the documents referenced in 4(A), above. Disbursement Request 1 shall not be deemed complete until the City verifies that it has received all of the required documents. The City's receipt of all of the required documents is a condition precedent to any obligation on the City's part to disburse the Grant Funds.
- b. **Request 2 (not to exceed \$343,750)**: may be submitted to the City on or after the date on which the City verifies that it has received all of the following: **(i)** a document verifying the date on which construction was commenced; **(ii)** a copy of the first payment application submitted by the General Construction Contractor to the Project Owner, **and** **(iii)** copies of financial and accounting records kept in the normal course of business, demonstrating to the satisfaction of the City that all Grant Funds disbursed in response to Request 1 were used only to pay costs authorized pursuant to Section 3(A), above. Financial and accounting records shall include, without limitation: copies of invoices for specific amounts, written descriptions of the materials or services described in the invoices in sufficient detail to demonstrate eligibility for Grant Funding pursuant to Section 3(A), above, and corresponding evidence of payment of said invoices by check, wire transfer, etc. Purchase Orders or other encumbrances shall not be acceptable as evidence of payment. Disbursement Request 2 shall not be deemed complete until the City verifies that it has received all of the required documents and records. The City's receipt of all the required documents and records is a condition precedent to any obligation on the City's part to disburse the Grant Funds to the Recipient.
- c. **Request 3 (not to exceed \$281,250)** may be submitted to the City on or after the date on which the City verifies that it has received all of the following: **(i)** copies of financial and accounting records kept in the normal course of business, demonstrating to the satisfaction of the City that all Grant Funds disbursed in response to Request 2 were used only to pay costs authorized pursuant to Section 3(A), above. The words "financial and accounting records" shall mean and include, without limitation: copies of invoices for specific amounts, written descriptions of the materials or services described in the invoices in sufficient detail to demonstrate eligibility for Grant Funding pursuant to Section 3(A), above, and corresponding evidence of payment of said invoices by check, wire transfer, etc. Purchase Orders or other encumbrances shall not be acceptable as evidence of payment.; **(ii)** evidence, satisfactory to the City, that no Grant Funds previously disbursed to Recipient remain unspent (i.e., financial and accounting records demonstrate that all previously-disbursed Grant Funds have been used to pay costs authorized pursuant to Section 3 (A) of this Ordinance); **(iii)** a budget-to-actual expenditure report for the Project, current through the date of the disbursement request; **(iv)** a Construction Schedule report, documenting the

actual progress of construction (inclusive of public infrastructure and housing units) compared with the approved Construction Schedule for the Project, **and** (v) a written **Sustainability Plan** prepared for the purpose of demonstrating the levels at which CRHA and the Project Owner will establish and provide operational funding and capital and other reserves sufficient to assure the continued use of all of the residential units within the CRHA properties as affordable rental units for a period not less than 40 years from the Commencement Date of the Ground Lease for the Project; the Sustainability Plan shall be given to City Council in writing, and it shall be presented to City Council at a public meeting for Council's discussion and consideration. Disbursement Request 3 shall not be complete, until the City verifies that it has received all of the required documents and a majority of City Council, by a vote of confidence, is satisfied as to the adequacy of the Sustainability Plan. The City's receipt of all the requested documents, and the vote of confidence, are conditions precedent to any obligation on the City's part to disburse the Grant Funds to the Recipient.

- ii. The City shall issue payment of Grant Funds to the Recipient, in the specified amount, within 30 days of the City's receipt of a complete Disbursement Request. It shall be the sole responsibility of CRHA, the CCDC and the Project Owner to deliver all required documents to the City as a complete application package, along with any written Disbursement Request Form the City Manager or Finance Director may require.

(C) **Payment of the Annual Subsidy Authorized by Section 3(B)**

The City Manager, in consultation with the City Assessor and the Treasurer, shall establish administrative forms and procedures by which CRHA may request and receive the annual subsidy authorized by Section 3(B) of this Ordinance.

Section 5. General Grant Conditions

(A) **Compliance with Government Requirements.** In all of its actions and activities undertaken to provide for the construction, management and operation of the Project, the Recipient shall comply with:

- i. Any Recovery Agreement entered into between Recipient and the Department of Housing and Urban Development on or after July 1, 2020,
- ii. The 1958 Cooperation Ordinance between CRHA and the City, as amended,
- iii. The Consolidated Annual Contributions Contract ("ACC"), number P-5513, dated August 30, 1996, and all amendments thereto,
- iv. The Ground Lease between CRHA and the Project Owner,
- v. The Declaration of Trust/ Restrictive Covenants for the Project,
- vi. The Regulatory and Operating Agreement between CRHA and the Project Owner,

- vii. HUD's Mixed-Finance Development Certifications and Assurances for the Project, and
- viii. Any other legal obligations and requirements imposed on the Project, or any aspect of the Project, as a result of any federal or state law, regulation or grant Ordinance, or by any City ordinance.

(B) Project Approval. By its adoption of this Ordinance, the City Council approves the Project for which the Grant Funds are awarded and requests the Recipient to construct and operate the Project. (Va. Code §36-19(2). Before the Recipient gives final approval to the Budget for the Project, Recipient shall hold at least one public hearing to receive the views of residents of the City of Charlottesville. The Recipient shall cause public notice to be given at least 10 days prior to the public hearing, by publication in a newspaper having a general circulation within the City of Charlottesville, as required by Va. Code §36-19.2.

(C) Public Disclosure of Ordinance Documents: The Recipient acknowledges and understands that this Ordinance, 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 (Va. Code §2.2-3700 et seq.) and the Virginia Public Procurement Act (Va. Code §2.2-4300 et seq.) to the extent that either of those laws applies.

(D) No Waivers: No failure on the part of the City to enforce any provision(s) of this Ordinance 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 breach or failure to perform by the Recipient shall be construed as or deemed to be a waiver of any other and/or subsequent breach or failure to perform.

(E) Severability: In the event that any term, provision, or condition of this Ordinance, 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 Ordinance, 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.

(F) No Other Understandings: There are no understandings or agreements between the City and the Recipient, other than those set forth within this Ordinance, and the provisions of this Ordinance supersede all prior conversations, discussions, correspondence, memoranda, or other communications between or among any employees or officials of the City and the Recipient.

(G) Notices: All notices required by this Ordinance shall be given in writing, and shall be deemed to be received on the date that is either:

- i. five (5) business days after being mailed by first class mail, postage prepaid, return receipt requested, or

- ii. one (1) business day after being placed for next day delivery with a nationally recognized overnight courier service, or
- iii. the same date on which the notice is delivered by hand to the City.

All notices shall be 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 Charlottesville Redevelopment and Housing Authority, Attention: Executive Director, 500 South 1st Street, Charlottesville, Virginia, 22902.

(H) Authorized Signatures: The Clerk of Council shall provide a certified copy of this Ordinance, along with a written Grant Acceptance Form approved by the City Attorney. The Grant Acceptance Form shall be signed by a duly authorized officer, member or agent of CRHA, the CCDC, and the Project Owner.

ORDINANCE
AUTHORIZING A GRANT OF PUBLIC FUNDING
TO SUBSIDIZE CONSTRUCTION OF FOR-RENT AFFORDABLE
HOUSING TO BE OCCUPIED BY PERSONS OF LOW AND MODERATE
INCOME AS PART OF A REDEVELOPMENT OF PUBLIC HOUSING
(CRESCENT HALLS RENOVATION/ REDEVELOPMENT)

WHEREAS, the production of new housing for persons of low and moderate income is a public purpose and use for which the General Assembly has authorized public funds to be expended, and such production is a governmental function of concern to the Commonwealth of Virginia; and

WHEREAS, pursuant to Virginia Code §15.2-958 the City of Charlottesville 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; and

WHEREAS, Charlottesville Redevelopment and Housing Authority (“CRHA”) is a political subdivision of the Commonwealth of Virginia, organized and operating under the laws of the Commonwealth of Virginia and having the purposes and authority set forth within Virginia Code Title 36, Chapter 1 (Housing Authorities Law), and the City of Charlottesville, acting by and through its City Council, is authorized to make grants or loans to CRHA to enable or assist CRHA to carry out its purposes; and

WHEREAS, pursuant to Virginia Code § 36-19.2 the City of Charlottesville has requested that the CRHA address the redevelopment of existing public housing sites and the provision of additional affordable housing units that will be committed for rental to persons of low and moderate income; and

WHEREAS, CRHA is planning the renovation and redevelopment of its property known as Crescent Halls, funded by Low Income Housing Tax Credit (LIHTC) program funding, loans, private donations, and a grant of local funding from the City of Charlottesville; and

WHEREAS, CRHA has requested the City of Charlottesville award a grant of funding to subsidize the costs of renovating existing units of residential rental property occupied, or to be occupied, following construction, by persons of low and moderate-income, said undertaking being described in CRHA’s Mixed Finance Development Proposal submitted to the Department of Housing and Urban Development in 2020, referred to as “Crescent Halls” (the “Project”), as well as to subsidize the costs of maintaining those units in residential rental use for a period longer than ten years; and

WHEREAS, the City is willing to provide the requested local funding, subject to certain certifications and assurances, and binding obligations, as set forth within this Ordinance; and

WHEREAS, in consideration of the funding to be provided by the City for the Project, CRHA has agreed to provide certifications and assurances, and to enter into certain binding obligations, as set forth within this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council that local public funding is hereby approved, subject to the following conditions:

Section 1. Public purpose of the City Grant

A grant of City funding (“Grant Funds”) is hereby authorized (i) to support the renovation of existing for-rental housing units within a housing development project referred to as Crescent Halls (“Project”), as more specifically described herein below, and (ii) to support the operation of the residential units within the Project in residential rental use, over a period of no less than fifteen (15) years, or the expiration of the initial compliance period applicable to the Project under the Low Income Housing Tax Credit Program (“LIHTC”), whichever first occurs.

Section 2. Representations and warranties; remedies for breach

The Charlottesville Redevelopment and Housing Authority (“CRHA”), the

Charlottesville Community Development Corporation (“CCDC”), and Crescent Halls Reno, LLC (the “Project Owner”), shall through their duly authorized officers, members, or agents, execute a written acceptance of the terms and conditions of the Grant Funding awarded by this Ordinance, and as part of that written acceptance each entity shall verify that they have made the following representations and warranties to the City, each of which is a material representation and warranty that has induced the City to make this Grant:

(A) The CCDC is the Developer of the Project.

(B) Grant Funds provided for the purpose of supporting the renovation of affordable residential rental units shall be used or expended exclusively for costs and expenditures expressly authorized within Section 3, Paragraph (A), herein below.

In the event of a breach of this warranty, then in addition to any other remedies available to the City, CRHA and the CCDC shall be jointly and severally obligated to repay to the City all amount(s) used or expended in breach of this warranty. All amounts to be repaid to the City shall be due and owing to the City within thirty (30) days after the written notice of breach given by the City, unless the breach is cured by the CCDC or CRHA within the 30-day period. (Due Date: 30 days after the date of the notice). If the City does not receive payment in full within the 30-day period, then the City shall not thereafter make any additional disbursement(s) of Grant Funding referenced within Section 3 (A) of this Ordinance, and the City shall have the right to institute proceedings to collect the amounts due under this paragraph.

(C) Following completion of renovation/construction, each of the residential units within the Project shall be reserved for rental by low and moderate income individuals throughout a term (“Affordability Period”) that is co-extensive with the term of a long-term ground lease entered into between CRHA, as landlord, and the Project Owner, as tenant (“Ground Lease”). The Ground Lease shall contain the following terms and conditions: for the first forty (40) years of the term of the Ground Lease, the demised premises described therein shall be used exclusively for residential purposes and related amenities; thereafter, in addition to residential uses previously established within the Project, a portion of the premises may also be used for commercial purposes. CRHA shall not amend the Ground Lease to modify or delete the provisions required by this paragraph, except with the advance written notice to the City.

In the event of a breach of this warranty, then in addition to any other remedies available to the City, the City shall give written notice to CRHA and the Project Owner and, if the breach is not cured within thirty (30) days after the date of such notice, the City shall not thereafter make any additional payment(s) of Grant Funds under Section 3(B) of this Ordinance.

(D) On the date as of which construction of the Project is complete:

(i) the Project shall include no fewer than fifty-three (53) units of Public Housing legally obligated to be operated in accordance with Va. Code §36-22 and/or federal public housing

requirements, including, without limitation, a Declaration of Trust/ Restrictive Covenants recorded in the land records of the City; and

(ii) in addition to the required public housing units, the Project shall contain no fewer than fifty-two (52) for-rent affordable dwelling units which shall participate in the project-based [federal] Section 8 program, and shall be legally obligated to be reserved for occupancy by persons having a household income at or below sixty-percent (60%) of Charlottesville's Area Median Income.

For purposes of this paragraph (D) the term "legally obligated" refers either to a land use restriction imposed within an instrument recorded in the land records of the Charlottesville Circuit Court, or to a grant assurance or obligation given to the Department of Housing and Urban Development, the Virginia Department of Housing and Community Development or other federal or state public agency or funding source.

In the event of a breach of the warranties set forth in this paragraph (D), in addition to any other remedies available to the City, the City shall give written notice of breach to CRHA and the Project Owner and, if the breach is not cured within thirty (30) days after the date of such notice, the City shall not thereafter make any additional payment(s) of Grant Funds under Section 3 (B) of this Ordinance.

(E) CRHA will continue to make annual payments in lieu of taxes (PILOT) to the City, in accordance with the Cooperation Agreement entered into between the City and CRHA, dated May 13, 1958, as amended, provided that any residential units within the Project that are owned by an entity other than CRHA or CCDC will not be part of the PILOT calculation.

(F) Miscellaneous

i. City shall have a right to compel performance of these warranties by CRHA, the CCDC and the Project Owner, and to collect any payments due to the City, through legal action initiated within a court having jurisdiction within the City of Charlottesville, Virginia.

ii. Interest shall accrue at the rate of six (6) percent per annum on all amounts due and owing to the City pursuant to this Section 2, from the Due Date until paid.

iii. No forbearance by the City in exercising any right or remedy afforded either by this Ordinance, or by the laws of the Commonwealth of Virginia, shall constitute a waiver of or preclude the exercise of any such right or remedy. The rights and remedies set forth within this Ordinance are cumulative and the use of any one right or remedy by the City shall not preclude or waive its right to use any or all other remedies. All of said rights and remedies are in addition to any other rights the City may have by law, statute, ordinance or otherwise.

iv. Throughout the fifteen (15) year initial compliance period of the LIHTC program, the Project Owner will promptly notify the City of its receipt of any notice or determination stating that the Project does not comply with the requirements of the LIHTC program, and the Project Owner shall provide a copy of any such notice or determination to the City Attorney.

Section 3. Authorized Expenditures; Budget

(A) City Council hereby approves funding in an amount up to **\$1,875,000** to subsidize the cost of renovating existing units of residential rental property occupied, or to be occupied, following construction by persons of low and moderate income. Grant Funds disbursed as authorized by this Ordinance shall not be used or expended for payment of current expenses of CRHA, the CCDC or any other legal entity. The Grant Funds shall be used only to pay the following costs of the Project (subject further to the limit on “soft costs” as set forth below): the cost of improvements, property or equipment, the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all land, property, rights, easements and franchises acquired, financing charges, interest before and during construction and for up to one year after completion of construction, Project start-up costs, and operating capital for the Project, and other expenses as may be necessary or incident to the financing or construction of the Project.

Notwithstanding the foregoing:

- i. not more than **\$85,000.00** of the Grant Funds shall be used to pay “soft costs”, including, without limitation, the cost of plans and specifications, surveys and estimates of cost and of revenues, the cost of engineering, legal and other professional services, expenses incident to determining the feasibility or practicability of the project, the Developer’s administrative expenses, amounts to be deposited to reserve or replacement funds, and other similar expenses associated with Project feasibility, planning or design;
- ii. if construction of the buildings within the Project is not commenced on or before **June 30, 2021**, this Grant shall expire and the City shall have no obligation to the Recipient hereunder; and
- iii. the CCDC shall establish a Budget for construction of the Project, and will submit the Budget to the City for its review. The City will communicate in writing to the CCDC within ten (10) business after receipt of the Budget whether or not the City has any concerns. After the Budget is reviewed and the City has responded to Recipient, all subsequent changes to the Budget shall likewise be subject to review and comment by the City.

(B) In addition to the funding approved in Section 3(A), above, City Council also hereby approves an annual recurring subsidy for the purpose of inducing CRHA, CCDC and the Project Owner to undertake and complete the Project and as an inducement for the Project Owner to operate the Project pursuant to the terms of this Ordinance. The amount of the annual subsidy shall be the dollar amount of the real estate taxes assessed and billed to the Project owner for each tax year (January 1 – December 31). This subsidy shall be available with respect to the Project for a total of fifteen (15) tax years, beginning with the first tax year in which the Project Owner receives a real estate assessment and bill for the Project, or until the expiration of the LIHTC initial compliance period, whichever first occurs. Notwithstanding the foregoing, the subsidy shall not be payable by the City within any tax

year in which the household incomes of renters, and maximum rents, of residential units within Project are not in compliance with income and rent requirements set forth within the Extended Use Agreement executed by the Project Owner for and in connection with the LIHTC Tax Credit program. The annual subsidy shall be paid as a grant by the City to CRHA. CRHA agrees to provide said grant funds to CCDC, which will in turn provide a loan of those funds to the Project Owner for use in the development and operation of the Project in compliance with the terms of this Ordinance.

- i. While recognizing that it is not empowered under Virginia law to make any binding commitment beyond the current fiscal year of the City, it is the current intention of the Council to make sufficient annual appropriations to fund the annual subsidy for which Grant Funds are approved under this Section 3 (B). To that end, the City Manager or other officer charged with the responsibility of preparing the City's budget shall include in the proposed budget for each fiscal year of the City a request that the Council appropriate sufficient amounts to cover the annual subsidy referenced within this Section 3 (B).
- ii. If at any time during any fiscal year of the City, the amount appropriated in the City's annual budget is insufficient to pay the annual subsidy referenced within this Section 3 (B), then the City Manager or other officer charged with the responsibility of preparing the City's budget shall submit to the Council, as promptly as practicable, a request for a supplemental appropriation sufficient to cover the deficit.

Section 4. Disbursement of Grant Proceeds

(A) Preconditions, General

No City official or employee shall disburse any Grant proceeds authorized by Section 3 (A) or 3 (B), unless and until the Recipient has furnished all of the following documents to the City for the Project:

- i. Evidence of HUD Approval: copies of all written approvals required from the Department of Housing and Urban Development for the Project, specifically including, without limitation: HUD's approval of Recipient's applications seeking approval of a Mixed Finance Development and for approval of a Demolition/Disposition of Recipient's property.
- ii. Documents of Record: copies of each of the following fully-executed documents, or written notice given to the City identifying the deed book and page number at which the documents are recorded in the land records of the Charlottesville Circuit Court (if the documents are required to be recorded):
 - a. Memorandum of the Ground Lease for the Project (fully-executed) along with a fully-executed copy of the Ground Lease for the Project;

- b. HUD Declaration of Trust/ Restrictive Covenants for the Project;
 - c. The Regulatory and Operating Agreement executed for the Project by and among the members of the entity that is the Project Owner;
 - d. A copy of the Consolidated Annual Contributions Contract (“ACC”), number P-5513, dated August 30, 1996, and all amendments thereto
 - e. Fully-executed Mixed-Finance Development Certifications and Assurances (HUD) for the Project
 - f. Fully-executed Extended Use Agreement executed by the Project Owner for and in connection with the LIHTC Tax Credit Program.
- iii. Construction Contract and Schedule: a copy of the contract for construction executed between the Project Owner and the General Contractor for Construction, and a copy of the approved Construction Schedule that will be implemented by the Construction Contractor.
 - iv. Building Permit: evidence that a building permit for the Project has been approved and issued.
 - v. The Budget for the Project (see Section 3, above).

(B) Disbursements as Reimbursement for Expenditures Authorized by Section 3 (A)

- i. CRHA or the CCDC may, in writing, request disbursements of the Grant Funds authorized by Section 3 (A) of this Ordinance, and disbursements may be made by the City from time to time, as construction of the Project progresses. Disbursement requests may be submitted to the City, no more frequently than the following Milestone Dates, and only in the amounts indicated:
 - a. **Request 1 (not to exceed \$500,000)**: may be submitted on or after the date on which the City verifies that it is in possession of all of the documents referenced in 4(A), above. Disbursement Request 1 shall not be deemed complete until the City verifies that it has received all of the required documents. The City’s receipt of all of the required documents is a condition precedent to any obligation on the City’s part to disburse the Grant Funds.
 - b. **Request 2 (not to exceed \$906,250)**: may be submitted to the City on or after the date on which the City verifies that it has received all of the following: **(i)** a document verifying the date on which construction was commenced; **(ii)** a copy of the first payment application submitted by the General Construction Contractor to the Project Owner, **and (iii)** copies of financial and accounting records kept in the normal course of business, demonstrating to the satisfaction of the City that all Grant Funds disbursed in response to Request 1 were used only to pay costs authorized pursuant to Section 3(A), above. Financial and accounting records shall include, without limitation: copies of invoices for specific amounts, written

descriptions of the materials or services described in the invoices in sufficient detail to demonstrate eligibility for Grant Funding pursuant to Section 3(A), above, and corresponding evidence of payment of said invoices by check, wire transfer, etc. Purchase Orders or other encumbrances shall not be acceptable as evidence of payment. Disbursement Request 2 shall not be deemed complete until the City verifies that it has received all of the required documents and records. The City's receipt of all the required documents and records is a condition precedent to any obligation on the City's part to disburse the Grant Funds to the Recipient.

- c. **Request 3 (not to exceed \$468,750)** may be submitted to the City on or after the date on which the City verifies that it has received all of the following: **(i)** copies of financial and accounting records kept in the normal course of business, demonstrating to the satisfaction of the City that all Grant Funds disbursed in response to Request 2 were used only to pay costs authorized pursuant to Section 3(A), above. The words "financial and accounting records" shall mean and include, without limitation: copies of invoices for specific amounts, written descriptions of the materials or services described in the invoices in sufficient detail to demonstrate eligibility for Grant Funding pursuant to Section 3(A), above, and corresponding evidence of payment of said invoices by check, wire transfer, etc. Purchase Orders or other encumbrances shall not be acceptable as evidence of payment.; **(ii)** evidence, satisfactory to the City, that no Grant Funds previously disbursed to Recipient remain unspent (i.e., financial and accounting records demonstrate that all previously-disbursed Grant Funds have been used to pay costs authorized pursuant to Section 3 (A) of this Ordinance); **(iii)** a budget-to-actual expenditure report for the Project, current through the date of the disbursement request; **(iv)** a Construction Schedule report, documenting the actual progress of construction (inclusive of public infrastructure and housing units) compared with the approved Construction Schedule for the Project, **and (v)** a written **Sustainability Plan** prepared for the purpose of demonstrating the levels at which CRHA and the Project Owner will establish and provide operational funding and capital and other reserves sufficient to assure the continued use of all of the residential units within the CRHA properties as affordable rental units for a period not less than 40 years from the Commencement Date of the Ground Lease for the Project; the Sustainability Plan shall be given to City Council in writing, and it shall be presented to City Council at a public meeting for Council's discussion and consideration. Disbursement Request 3 shall not be complete, until the City verifies that it has received all of the required documents and a majority of City Council, by a vote of confidence, is satisfied as to the adequacy of the Sustainability Plan. The City's receipt of all the requested documents, and the vote of confidence, are conditions precedent to any obligation on the City's part to disburse the Grant Funds to the Recipient.
- ii. The City shall issue payment of Grant Funds to the Recipient, in the specified amount, within 30 days of the City's receipt of a complete Disbursement Request. It shall be the

sole responsibility of CRHA, the CCDC and the Project Owner to deliver all required documents to the City as a complete application package, along with any written Disbursement Request Form the City Manager or Finance Director may require.

(C) **Payment of the Annual Subsidy Authorized by Section 3(B)**

The City Manager, in consultation with the City Assessor and the Treasurer, shall establish administrative forms and procedures by which CRHA may request and receive the annual subsidy authorized by Section 3(B) of this Ordinance.

Section 5. General Grant Conditions

(A) Compliance with Government Requirements. In all of its actions and activities undertaken to provide for the construction, management and operation of the Project, the Recipient shall comply with:

- i. Any Recovery Agreement entered into between Recipient and the Department of Housing and Urban Development on or after July 1, 2020,
- ii. The 1958 Cooperation Ordinance between CRHA and the City, as amended,
- iii. The Consolidated Annual Contributions Contract (“ACC”), number P-5513, dated August 30, 1996, and all amendments thereto,
- iv. The Ground Lease between CRHA and the Project Owner,
- v. The Declaration of Trust/ Restrictive Covenants for the Project,
- vi. The Regulatory and Operating Agreement between CRHA and the Project Owner,
- vii. HUD’s Mixed-Finance Development Certifications and Assurances for the Project, and
- viii. Any other legal obligations and requirements imposed on the Project, or any aspect of the Project, as a result of any federal or state law, regulation or grant Ordinance, or by any City ordinance.

(B) Project Approval. By its adoption of this Ordinance, the City Council approves the Project for which the Grant Funds are awarded and requests the Recipient to construct and operate the Project. (Va. Code §36-19(2). Before the Recipient gives final approval to the Budget for the Project, Recipient shall hold at least one public hearing to receive the views of residents of the City of Charlottesville. The Recipient shall cause public notice to be given at least 10 days prior to the public hearing, by publication in a newspaper having a general circulation within the City of Charlottesville, as required by Va. Code §36-19.2.

(C) Public Disclosure of Ordinance Documents: The Recipient acknowledges and understands that this Ordinance, 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 (Va. Code §2.2-3700 et seq.) and the Virginia Public Procurement Act (Va. Code §2.2-4300 et seq.) to the extent that either of those laws applies.

(D) No Waivers: No failure on the part of the City to enforce any provision(s) of this Ordinance 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 breach or failure to perform by the Recipient shall be construed as or deemed to be a waiver of any other and/or subsequent breach or failure to perform.

(E) Severability: In the event that any term, provision, or condition of this Ordinance, 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 Ordinance, 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.

(F) No Other Understandings: There are no understandings or agreements between the City and the Recipient, other than those set forth within this Ordinance, and the provisions of this Ordinance supersede all prior conversations, discussions, correspondence, memoranda, or other communications between or among any employees or officials of the City and the Recipient.

(G) Notices: All notices required by this Ordinance shall be given in writing, and shall be deemed to be received on the date that is either:

- i. five (5) business days after being mailed by first class mail, postage prepaid, return receipt requested, or
- ii. one (1) business day after being placed for next day delivery with a nationally recognized overnight courier service, or
- iii. the same date on which the notice is delivered by hand to the City.

All notices shall be 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 Charlottesville Redevelopment and Housing Authority, Attention: Executive Director, 500 South 1st Street, Charlottesville, Virginia, 22902.

(H) Authorized Signatures: The Clerk of Council shall provide a certified copy of this Ordinance, along with a written Grant Acceptance Form approved by the City Attorney. The Grant Acceptance Form shall be signed by a duly authorized officer, member or agent of CRHA, the CCDC, and the Project Owner.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Approval of Resolution
Presenter:	John Sales, Executive Director Charlottesville Redevelopment and Housing Authority
Staff Contacts:	John C. Blair, II, Acting City Manager Lisa Robertson, Acting City Attorney Brenda Kelley, Redevelopment Manager
Title:	Resolution approving and authorizing the Mayor to execute the Recovery Agreement required by the United States Department of Housing and Urban Development for the Charlottesville Redevelopment and Housing Authority

Background:

In May 2019 the City was notified that in December 2018 the U.S. Department of Housing and Urban Development (HUD) designated the Charlottesville Redevelopment and Housing Authority (CRHA) as being in “Troubled” Status. Following that notice HUD conducted an on-site assessment and audit of CRHA and conducted interviews with key stakeholders, management staff, Board members, local officials and residents.

HUD issued an Audit Report in August 2019 that documented their findings. The outcome of the Audit Report identified concerns and deficiencies related to financial, physical, management and/or governance issues.

Due to the findings, HUD requires each troubled agency to enter into a “recovery agreement” (the “Recovery Agreement”) to establish performance targets, set out strategies for meeting targets, provide incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of at least a Standard Performer. CRHA will be required to develop an Action Plan to address concerns and provide an implementation strategy, and a Sustainability Plan.

Discussion:

Because the City Council originally activated the CRHA within the City of Charlottesville, and City Council appoints the members of the CRHA's governing board, HUD requests that the City also be a party to the Recovery Agreement. By signing this Recovery Agreement, the City:

- Agrees to work with CRHA to develop and implement a Sustainability Plan if necessary to achieve recovery; and
- Acknowledges the importance of effective governance as part of the recovery and sustainability of the CRHA. "As a signatory of this Agreement, the City of Charlottesville commits to monitor the duly appointed Commissioners, the appointees to the Charlottesville RHA Governing Board, in the discharge of their duties. Upon the discovery of any failure of the Charlottesville RHA Board to discharge its duties under this Agreement, the City of Charlottesville shall work with HUD to ensure compliance with the terms of the Agreement. Such assistance from the City of Charlottesville shall not obligate it to assume any financial obligations of the Charlottesville RHA under the terms of the ACC."

The City Attorney's office has reviewed the recovery agreement proposed by HUD (attached) and has approved the form of the agreement for Council's consideration.

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the Council's Vision for quality housing opportunities that offers affordable housing for people of all income levels, racial backgrounds, life stages and abilities. This action aligns with the City Council's Strategic Plan Goal Four: A Strong Diversified Economy and Goal One: An Inclusive Community of Self-Sufficient Residents.

Budgetary Impact:

This request does not require any additional funding from the City budget.

Alternatives:

City Council can decline to approve the attached Resolution.

Attachments:

- Proposed Resolution
- Recovery Agreement

RESOLUTION
APPROVING A RECOVERY AGREEMENT BETWEEN CHARLOTTESVILLE
REDEVELOPMENT AND HOUSING AUTHORITY AND THE UNITED STATES
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE CITY OF
CHARLOTTESVILLE

WHEREAS, in May 2019, the City of Charlottesville was notified by the U.S. Department of Housing and Urban Development (“HUD”) that Charlottesville Redevelopment and Housing Authority (“CRHA”) has been designated “Troubled” for financial, physical and/or management indicators, or other deficiencies as HUD has identified; and

WHEREAS, in August 2019, HUD issued an Audit Report that identified specific deficiencies in operations. HUD requires each troubled agency to enter into agreements that establish performance targets to remedy deficiencies, set out strategies for meeting targets, provide for incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of a least a Standard Performer; and

WHEREAS, HUD requests that the City of Charlottesville be a party to the Recovery Agreement and to take certain actions in the event CRHA’s governing board does not effectively perform under the Recovery Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlottesville, Virginia, **THAT**:

The Recovery Agreement proposed by HUD and CRHA is hereby approved, and City Council hereby authorizes the Mayor to execute the Recovery Agreement on behalf of the City of Charlottesville and City Council.

Approved by Council
October 19, 2020

Kyna Thomas, CMC
Clerk of Council

Recovery Agreement between
Charlottesville Redevelopment and Housing Authority
And
the United States Department of Housing and Urban Development
And
the City of Charlottesville

This Recovery Agreement is entered into between the Charlottesville RHA, the UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (“HUD”) and the City of Charlottesville as of this ___ day of _____, 2020.

RECITALS

WHEREAS, under the United States Housing Act of 1937, as amended, (“Act”), 42 U.S.C. § 1437 *et seq.*, the United States Department of Housing and Urban Development (“HUD”) is responsible for administering low income housing programs, and pursuant to the Act, HUD has entered into an Annual Contributions Contract (“ACC”) with the Charlottesville RHA to develop and operate public housing projects of the Charlottesville RHA; and

WHEREAS, pursuant to the Act, HUD must evaluate public housing performance and has instituted the Public Housing Assessment System (“PHAS”); and

WHEREAS, on the basis of an annual PHAS score, the Charlottesville RHA has been designated Troubled or Substandard for financial, physical and/or management indicators, or other such deficiencies as HUD has identified; and

WHEREAS, the Act requires HUD to enter into agreements that establish performance targets, set out strategies for meeting targets, provide for incentives and sanctions for effective implementation of the strategies leading to recovery of performance and attain an improved status of at least a Standard Performer; and

WHEREAS, the recovery of performance is intended to lead to a sustainable sound fiscal management and good governance; and

WHEREAS, the parties desire to correct all HUD-identified deficiencies through the implementation of this Recovery Agreement, (“Agreement”);

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, HUD, the Charlottesville RHA and the City of Charlottesville agree as follows:

- I. The Charlottesville RHA agrees to achieve the outcomes outlined in the Action Plan and incorporated into this Agreement as Exhibit A.
- II. The Charlottesville RHA and the City of Charlottesville agree to work together to develop and implement a Sustainability Plan if necessary to achieve recovery.

- III. The Action Plan describes the results following HUD's review and assessments of PHA performance, the measures that need to be implemented to improve the performance and the desired outcomes to be achieved and establishes a timetable to achieve those outcomes. The Action Plan also identifies the available remedies to resolve HUD's determination of non-performance.
- IV. Upon execution of the Agreement, the Charlottesville RHA will commence with the required actions listed in the Plan within the timeframes set forth therein.
- V. The Charlottesville RHA will cure identified deficiencies within the timeframes established in the Action Plan.
- VI. Subject to section XII, regardless of possible changes in the Charlottesville RHA's Board composition, or the decision-making individuals for HUD or the City of Charlottesville, the term of this Agreement is effective as of the execution date of this document and will continue until completion of the Action Plan in accordance with 6(j) (2) and (3) of the Act, and any agreed upon extensions. This Agreement will remain in effect until the Charlottesville RHA has completed all items listed in the Plan, even if HUD removes the Charlottesville RHA's troubled/substandard designation.
- VII. HUD, in its discretion, may provide technical assistance, including training or contract support, to the Charlottesville RHA to facilitate accomplishment of the items in the Action Plan. The Charlottesville RHA's compliance with the Action Plan, however, shall not be contingent on HUD's provision of any technical assistance or other discretionary assistance.
- VIII. The Charlottesville RHA shall provide HUD with written progress reports as identified in the Action Plan. The report shall detail the Charlottesville RHA's progress towards the completion of the items required by the Action Plan. The reports shall identify those items that have been completed and provide any necessary documentation to support this determination.
- IX. HUD will review the Action Plan progress reports submitted by the Charlottesville RHA and supporting documentation. HUD will confirm in writing to the Charlottesville RHA the items that HUD determines to have been successfully completed, those that require additional documentation and those that are past due.
- X. If the Charlottesville RHA disagrees with HUD's determination concerning the completion of any item, the Charlottesville RHA may request a reconsideration of the determination and submit additional information to support its position. HUD will provide the Charlottesville RHA with a written notice of its decision.
- XI. The failure of the Charlottesville RHA, its employees, officers, agents, or contractors to comply with this Agreement, including the failure to achieve the agreed-upon outcomes or to take the actions or comply with the time frame set forth in the Action Plan, may result in HUD seeking any available remedies, including any of the following actions sequentially or simultaneously:

- a. Consolidation;
 - b. Consortia/Joint Venture;
 - c. Contraction of Operational Activities;
 - d. Cooperative Endeavor Agreement;
 - e. Debarment;
 - f. Deliver possession and control of project(s) to HUD;
 - g. Limited Denial of Participation;
 - h. Receivership; and/or
 - i. Suspension.
- XII. The parties by mutual written agreement may agree to extend the timeframes set forth in the Action Plan from time to time. In the event said timeframes are extended, HUD agrees that it will not take any of the actions against the Charlottesville RHA as set forth in this section of the Agreement for noncompliance with original timeframes.
- XIII. Communication related to the Recovery Agreement and Action Plan shall be provided to the Public Housing Director and the HUD Recovery Team leader, if applicable.
- XIV. HUD, the Charlottesville RHA and their employees, subcontractors, partners or assigns, and the City of Charlottesville shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this Agreement to which their activities are subject.
- XV. Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, riots, civil commotion, force majeure, acts of God, or for any other cause of same character which is unavoidable through the exercise of due care and beyond the control of the parties, provided that said failure or delay in the performance of this Agreement attributed to any of the events described herein is acknowledged in writing by HUD. Upon the issuance of HUD's written acknowledgement, the failure to perform shall be deemed excused during the continuance of such circumstances as determined by HUD, but this Agreement shall otherwise remain in effect.
- XVI. In the event of any conflict between terms in this Agreement, including all exhibits, attachments and all other documents specifically incorporated by reference, and HUD's applicable Public Housing requirements including, but not limited to, the Act, HUD regulations there under (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the ACC, HUD notices, the HUD-approved Declaration of Trust or Declaration of Restrictive Covenants in favor of HUD, and all applicable Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time to time, the applicable Public Housing requirements shall prevail. HUD reserves the right to resolve any conflict.

- XVII. Any modification or amendment of any condition or provision in this Agreement by either party will not imply or constitute a further modification or amendment of the same or any other condition or provision, nor shall it relieve the parties from performing any subsequent obligations strictly in accordance with the term of this Agreement. No modification or amendment shall be effective unless in writing and signed by the party against whom enforcement is sought. Such modification or amendment shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a modification or amendment of any other provision. No modification or amendment of this Agreement shall constitute a HUD-approved waiver of regulatory requirements.
- XVIII. Should any term or provision of this Agreement be held, to any extent invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- XIX. To the extent authorized by the Act and HUD regulations, HUD can unilaterally amend this Agreement. Otherwise, this agreement may be amended by mutual agreement of the parties.
- XX. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. However, this Agreement does not supersede, modify or amend the ACC as further described in Paragraph XXII. The parties recognize that any representations, statements or negotiations made by the staff of either party does not suffice to legally bind either party in a contractual relationship unless they have been reduced to writing and signed by their authorized representative(s). This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.
- XXI. This Agreement may be executed and delivered in separate counterparts, which, when so executed and delivered, shall be deemed an original.
- XXII. This Agreement does not supersede, modify or amend the ACC between HUD and the Charlottesville RHA, or in any way excuse the Charlottesville RHA from complying fully with its obligations under the ACC. HUD does not waive its statutory, regulatory or contractual rights. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD's right to take any remedial action allowed by the ACC or any provision of the Act or related regulations. Nothing contained in this Agreement shall serve to limit, modify or preclude HUD or the Charlottesville RHA's right to take any remedial action allowed by the Agreement.
- XXIII. The parties agree that any cost associated with the implementation of this Agreement, the Action Plan and the Sustainability Plan shall be their individual responsibility unless specifically agreed in writing between the parties.

XXIV. The City of Charlottesville, through its Appointing Authority, acknowledges the importance of effective governance as part of the recovery and sustainability of the Charlottesville RHA. As a signatory of this Agreement, the City of Charlottesville commits to monitor the duly appointed Commissioners, the appointees to the Charlottesville RHA Governing Board, in the discharge of their duties. Upon the discovery of any failure of the Charlottesville RHA Board to discharge its duties under this Agreement, the City of Charlottesville shall work with HUD to ensure compliance with the terms of this Agreement. Such assistance from the City of Charlottesville shall not obligate it to assume any financial obligations of the Charlottesville RHA under the terms of the ACC.

IN WITNESS WHEREOF, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

[signature page follows]

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

By: _____
Mr. Robert Davenport
Public Housing Director
Richmond Field Office

CRHA
ATTEST: BY ITS BOARD OF
COMMISSIONERS

By: _____
Ms. Betsy Roettger
Board Chair
Charlottesville RHA

By: _____
Mr. John Sales
Executive Director
Charlottesville RHA

CITY OF CHARLOTTESVILLE,
Approved by Resolution of Its City Council

By: _____
Nikuyah Walker, Mayor

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Adoption of Ordinance, including all related attachments and schedules
Presenter:	Brenda Kelley, Redevelopment Manager Lisa Robertson, Acting City Attorney
Staff Contacts:	John C. Blair, II, Acting City Manager Lisa Robertson, Acting City Attorney Brenda Kelley, Redevelopment Manager
Title:	Ordinance Authorizing a Forgivable Loan to Piedmont Housing Alliance to Support Redevelopment of Friendship Court for the Purpose of Producing New Housing for Low and Moderate Income Persons

Background:

Piedmont Housing Alliance (PHA) intends to redevelop the 11.75-acre Friendship Court property in four phases over the next 8-9 years. This \$100+ million project includes the creation of approximately 450 affordable units with tiers of affordability. Additionally, the redevelopment will include commercial and community space, and associated infrastructure and parking. Phase 1 of the project includes the creation of 106 Affordable Units, including the 1:1 replacement of 46 of the existing Project-based Section 8 Rental Affordable Units.

As part of the FY 2020 Budget, City Council approved a total of \$5,545,159 in City Capital Improvements Program funding for Friendship Court Infrastructure Improvements and Friendship Court Redevelopment for Phase 1.

To facilitate the allocation of the approved FY19/20 CIP funding for Phase 1, City staff has been working closely with PHA staff and consultants to develop the attached Ordinance and Affordable Housing Covenant(s) that spell out the agreed-to specifics of how and when the funding will be disbursed, and for what the funding may be expended. These documents further provide protections and guarantees in place to insure that Affordable Units and infrastructure are built in accordance to the agreed upon performance requirements to disburse funding. (Please note: there is an additional [separate] request by PHA, through arrangements with the Charlottesville Economic Development Authority (CEDA), for reimbursement of real estate taxes paid if the Redevelopment achieves certain performance measures; that CEDA Agreement is a separate item on Council's Agenda).

PHA has received a commitment of Low Income Housing Tax Credits (LIHTC) from Virginia Housing (formerly known as VIRGINIA HOUSING) and they are in the process of finalizing the remaining necessary financing. PHA's goal had been to begin construction on Phase 1 in the spring of 2020, but COVID-related matters have temporarily slowed down the LIHTC closing process.

PHA continues to try to begin construction as soon as is possible with a goal to start before the end of 2020.

Discussion:

Phase 1 includes 106 Affordable Units spanning the spectrum of affordability from below 30% AMI up to 80% AMI. The City would enter into a forgivable Loan to PHA for costs expended in the construction of Infrastructure, affordable rental units, and relocation assistance in Phase I, over a Loan Period of 40 years.

All Affordable Units will have a Required Affordability Period of 99 years. These affordability terms will also be enforced by the state through Virginia Housing due to the LIHTC (Low Income Housing Tax Credit) award, and also through (i) the terms of the 40-year deferred payment forgivable loan period, and (ii) a 99-year Affordable Housing Covenant.

Years 1-40: If PHA breaches the terms of the Loan (including the Required Affordability provisions) during the initial 40-year Loan Period, the entire amount of the Loan would become payable in full to the City and the City would have all other remedies available—including the ability to obtain injunctive relief in court for specific performance of the Affordability Covenant. If the 40-year Loan Period expires, and the Affordability Covenant has been complied with throughout that time, the entire amount of the Loan will be forgiven (principal and interest).

Years 41 through and 99: the Loan will have been forgiven in Year 40 if all Affordability Requirements were continuously implemented; however, in years 41 through 99 the City will have the ability to file an action in court to obtain an injunction requiring Affordable Units to be provided within the Project throughout the 99-Year Required Affordability Period.

Here are some key elements of the attached documents:

- 100% of the units constructed within the Project will be provided for rental or ownership by low and moderate income persons. All Affordable Units, whether Rental or For-Sale Units, will be and remain affordable for a period of 99 years.
- Within Phase 1 of the Project: (i) 46 Rental Affordable Units shall be provided as 1:1 replacements for 46 existing units with Project-based Section 8 operating subsidy; (ii) an additional 30 Rental Affordable Units will be provided for households with incomes of not more than 60% AMI; (iii) an additional 30 Rental Affordable Units will be provided for households with incomes of not more than 80% AMI.
- A Master Affordable Housing Covenant will be recorded to provide assurances of affordability for the entire site. As each phase (beyond Phase 1) of redevelopment proceeds, a new Affordable Housing Covenant for that phase of development will be approved by City Council and executed and recorded by the parties. In addition, if the City is providing funding to support the redevelopment of subsequent phases, an Ordinance will be approved by City Council to specify the terms of that funding.
- The Phase 1 Affordable Housing Covenant does not incorporate any other scope of the project beyond Phase 1.
- The Project, upon completion, shall be constructed in accordance with the Master Plan developed by PHA/Friendship Court with input from Friendship Court residents.
- Loan proceeds can only be used for: (a) for the installation, construction, or reconstruction of public streets (inclusive of sidewalk, curb and gutter, stormwater, landscaping), utilities, and parks, essential to the Project (Public Infrastructure); (b) to prevent the displacement of low and moderate income resident of the existing property to be redeveloped, and for

construction of new Phase 1 housing units for rental by low and moderate income persons (ADU Construction); and (c) to cover “soft costs” associated with the planning and design for construction of infrastructure for the Project and /or construction of Rental Affordable Units within Phase 1 of the Project.

- Prior to the first disbursement of funding, the following documents are required to be provided to the City: (i) a public infrastructure plan; (ii) a Resident Relocation Plan; (iii) a Construction Schedule; (iv) the Budget for the Project; (v) the Affordable Housing Covenant to be executed and recorded in the public records; (vi) an Affordable Marketing Plan;
- Each disbursement of funding is required to provide documentation that such amount(s) have actually been paid to construction contractor(s), subcontractor(s) and/or independent contractors for work or services already completed (In other words: reimbursement for completed work or services).
- The disbursement of City funds shall constitute loan proceeds. The term of the Loan is forty (40) years, commencing on the date of the final disbursement of Loan proceeds by the City. As security for the Loan, the City will be granted as assignment of its subordinate interest in Phase 1. Interest shall accrue on outstanding amounts of the Loan at the annual rate of 3%. If the Project is completed and operated continuously in accordance with all terms, then the Loan and the accrued interest shall be forgiven.
- Beginning with the first occupancy of any Affordable Unit, PHA will be required to provide an annual report, which shall include at a minimum: (a) the number of affordable units that are occupied; (b) the number of affordable units that are vacant; (c) for each unit that is vacant, the manner in which the unit became vacant and the progress in re-leasing the unit; (d) for each occupied unit, current household information; (e) a sworn statement that occupants of the affordable units meeting the eligibility criteria; (f) a copy of each new or revised Certification of Income; (g) a copy of each new or revised Certification of Residency; (h) a copy of each inspection report and Certification of Inspection for each unit; and (i) a copy of all forms, policies, procedures, and other documents reasonably requested related to the affordable rental units.
- Once the Affordable Housing Covenant is recorded, then the Affordability Requirements become binding not only on the current landowner(s), but also upon any third parties to whom the Project may be sold in the future. (In other words: the Affordability Requirements will run with the Land).
- Following the expiration of the LIHTC extended use period, the City will have the exclusive right to lease up to 20% of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four persons having an income of 80% AMI.
- The City shall have the right to purchase a For Sale Affordable Unit in the event of a foreclosure on the unit. The City may designate another agency or other third party to take title to the unit.
- **PHA has requested that the documents contain provisions that specify that (affordability) restrictions on the Project will terminate in the event the Project is foreclosed upon by Virginia Housing (provider of LIHTC). This request is pursuant to certain development policies established by Virginia Housing. We have drafted the documents in a manner that complies with the Virginia Housing policies.**

Here are some key considerations regarding the redevelopment:

- In the event that the Project is foreclosed upon, the affordability restrictions will terminate.
- At some point, in order to maintain affordability, the City may have the opportunity to

control affordable units in the Project. However, if the City were to take advantage of this opportunity, there will be a cost to the City associated with this.

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the Council’s Vision for quality housing opportunities that offers affordable housing for people of all income levels, racial backgrounds, life stages and abilities. This action aligns with the City Council’s Strategic Plan Goal Four: A Strong Diversified Economy and Goal One: An Inclusive Community of Self-Sufficient Residents.

Budgetary Impact:

No additional funding is required at this time. Approval of the attached Ordinance will establish the terms and conditions under which the CIP Funding previously approved for FY19/20 can be expended.

Alternatives:

City Council can decline to adopt the attached Ordinance.

Attachments:

Proposed Ordinance (includes the Proposed Master Affordable Housing Covenant and related attachments/exhibits, and the Proposed Phase 1 Affordable Housing Covenant and related attachments/exhibits)

ORDINANCE
AUTHORIZING A FORGIVABLE LOAN TO PIEDMONT HOUSING ALLIANCE TO SUPPORT REDEVELOPMENT OF FRIENDSHIP COURT FOR THE PURPOSE OF PRODUCING NEW HOUSING FOR LOW AND MODERATE INCOME PERSONS

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

WHEREAS, pursuant to Virginia Code §15.2-958 the City of Charlottesville 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, Piedmont Housing Alliance (“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 and its joint venture partner are planning the redevelopment of Friendship Court in multiple phases, funded by Low Income Housing Tax Credits, private donations, grants, local government funding from the City of Charlottesville, and a mortgage; and

WHEREAS, PHA has requested the City of Charlottesville (the “City”) to award local public funding for the Project, in an amount sufficient to subsidize the projected cost of constructing the required public infrastructure for the Project as well as the construction of for-rent affordable units within Phase 1 (defined below) of the Project (defined below), the City desires to make a Loan to PHA pursuant to and in consideration for PHA’s activities in compliance with this Agreement and the Master Affordable Housing Covenant attached hereto as **Attachment 1**; and

WHEREAS, PHA will make a subordinate loan to the owner of the first phase of the development (“Phase 1 Project Owner”) in an amount not to exceed the loan from the City to PHA (the “Sponsor Loan”), which the Phase 1 Project Owner will use to undertake the improvements described herein (defined below); and

WHEREAS, the Sponsor Loan will be secured by a subordinate interest in the land for Phase 1 of the Project and such subordinate interest shall be assigned to the City as security for this loan; and

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council that local public funding is hereby approved for Piedmont Housing Alliance to support the Project, subject to the following terms and conditions, which shall be set forth within a written agreement that shall be executed by duly authorized agents of the City and Piedmont Housing Alliance (“Loan Agreement” or “Agreement”):

Section 1. Public purpose of the Loan

This Loan is provided to Piedmont Housing Alliance (“Recipient”) for the public purposes of providing for construction of streets, utilities, and other site improvements necessary for the Project, and to assist the construction of new for-rental housing units within the property known as Friendship Court, as part of a multi-phased redevelopment of that property (“Subject Property” or “Project”). Phase 1 and subsequent phases of the Project shall be diligently prosecuted by the Recipient, to the end that, upon completion of construction, **one hundred percent (100%) of the 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 2. Representations and Warranties by the Recipient

To induce the City to make the Loan, Recipient makes the following as its representations and warranties to the City:

- (A) Recipient 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.
- (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 1. 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 1. A loan to a third party shall be secured by a lien on the land within Phase 1. Recipient shall execute an assignment of such lien and interests as further security for the Loan from the City to the Recipient, subject to certain requirements of lenders and the investor member of Phase 1 Project Owner, including this Agreement and the Master Affordable Housing Covenant (or any phase-specific replacement covenant) 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 Phase 1 Project Owner.
- (D) Recipient shall in good faith take all measures necessary to ensure that one hundred percent (100%) of the dwelling units constructed within the Project will be Rental Affordable Units or For Sale Affordable Units for by low and moderate income persons, in accordance with the Master Affordable Housing Covenant attached to this Ordinance and any amendments thereto.
- (E) Recipient will use its best efforts to ensure the number of newly constructed affordable dwelling units constructed within subsequent phases of the development are in accordance with the Master Site Requirements attached as Exhibit E to the Master Affordable Housing Covenant (Attachment 1 to this Ordinance).

At all times within the Subject Property there will be one hundred fifty (150) for-rent affordable dwelling units subject to project-based federal Section 8 operating subsidies, including a combination of pre-existing and new units. This represents the current number of units existing within the Subject Property as of the date of this Agreement.

- (F) Recipient shall record a Master Affordable Housing Covenant for the Project (the “Covenant”) within the land records of the City, in the format attached hereto as **Attachment 1**.
- (G) To the best of its knowledge, NHTE Piedmont Garrett Square Limited Partnership (the “**Landowner**”) currently owns all right, title and interest in and to the land comprising the development site of the Project, and 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 Phase 1 Project Owner, until the Affordable Housing Covenant has been recorded in the City’s land records..
- (H) Recipient will use its best efforts to ensure the development of all phases of the Project shall be consistent with the Master Plan developed by the Recipient with public input from the community, a copy of which is depicted in ***Illustration 1***, following below, as may be amended from time to time consistent with the provisions of the Master Affordable Housing Covenant and the public purposes for which this Loan is offered pursuant to Virginia Code §15.2-958.

Illustration 1.



- (I) Recipient will execute any and all documents reasonably requested by the City to finalize the Loan authorized by this Ordinance, including, without limitation, any note, deed of trust, security agreement or guaranty.
- (J) The representations set forth within paragraphs (A) through (H) preceding above are material provisions of this Agreement.

Section 3. Authorized Expenditures; Budget

- (A) The Project is planned as a multi-phased redevelopment of land currently identified by Tax Parcel Identification No. 280112000, currently assigned the street address of 400-426 Garrett Street, Charlottesville, Virginia. As of the date of this Agreement, only Phase 1 is being designed for construction. As subsequent phases are designed, the parties may amend this Agreement as necessary or desirable to reflect additional public funding for the Project.
- (B) Phase 1 shall include no fewer than one hundred six (106) for-rent affordable dwelling units, of which: (i) forty-six (46) will be subject to project-based federal Section 8 operating subsidies; and **(ii)** a minimum of sixty (60) additional For-Rent dwelling units will be provided for rental to households having incomes from thirty percent (30%) to eighty percent (80%) AMI, as mutually agreed to by the City and the Recipient on or before [any disbursement of Loan funds].

- (C) Loan proceeds may be expended as follows:
- i. Up to **\$1,386,000.00** shall be expended for the installation, construction, or reconstruction of public streets (inclusive of sidewalk, curb and gutter, stormwater, landscaping), utilities, and parks, essential to the Project (“Public Infrastructure” or “Public Infrastructure Construction”), and
 - ii. Up to **\$3,604,159.00** shall be expended to prevent the displacement of low and moderate income residents of the existing property to be redeveloped, and for construction of new Phase 1 housing units for rental by low and moderate income persons (“ADU Construction”).
 - iii. Up to **\$555,000.00** is expected to cover “soft costs” associated with the planning and design for construction of infrastructure for the Project and/or construction of Rental Affordable Units within Phase 1 of the Project. Any portion of this amount not expended for Soft Costs may be expended in accordance with (i) or (ii), above;
- (D) Public Infrastructure Construction will commence within six months following loan closing on Phase 1 of the Project, and be diligently prosecuted by Recipient to completion.
- (E) Phase 1 Project Owner, with consultation from Recipient, shall establish a Budget for Public Infrastructure Construction for the Project and for construction of Rental Affordable Units within Phase 1, and will submit the Budget to the City for approval. Once the Budget is approved by the City, all material changes to the Budget shall be subject to the prior written approval of the City. Whenever any change order is under consideration by Recipient which would materially increase the cost of any aspect of construction, a Budget amendment shall be prepared for the City’s approval prior to execution of the change order.
- (F) [Reserved.]
- (G) The Budget shall establish stand-alone line items for Public Infrastructure Construction. The Budget shall also include line items for a Construction Contingency Amount, soft costs and other reserves acceptable to the City.

Section 4. Disbursement of Loan Proceeds

(A) **Preconditions, General**

Prior to the first disbursement of any Loan proceeds for expenses incurred pursuant to Section 3(C)(i) or (ii), the Recipient shall furnish all of the following documents to the City for Phase 1 of the Project, in a form acceptable to the City in all respects, for the City’s approval:

- i. A Public Infrastructure Plan: providing for construction of public streets, sidewalks, curb and gutter, utilities, stormwater, landscaping, and street lights (“Public Infrastructure”) for the Project, prior to commencement of construction of any

building(s) or structure(s) within Phase 1, or providing for the phased construction of Public Infrastructure, by (a) delineating sections within the Project in which infrastructure will be constructed in coordination with housing that will be served by that infrastructure, (b) within each delineated section, establishing a schedule for completion of construction of the Public Infrastructure, within that section in relation to the completion of construction and occupancy of dwelling units within that section; (c) providing a Cost Estimate establishing the cost of constructing the Public Infrastructure in each section, and (d) in the event that Public Infrastructure within a delineated section has been substantially constructed but has not met all requirements necessary for final acceptance into the City's public system for maintenance, then Recipient shall provide a maintenance and indemnifying bond, with surety acceptable to the City, in an amount sufficient for and conditioned upon the maintenance of the Public Infrastructure until such time as the Public Infrastructure is accepted into the City's public system for maintenance.

- ii. A Resident Relocation Plan establishing a schedule, consistent with the schedule established within the construction plan referenced in (i) above: (a) identifying how many of the newly constructed units in each section will be occupied by then-current residents of Friendship Court, (ii) establishing a budget for the relocation of Friendship Court residents, and (iii) setting forth how the Recipients will determine what Friendship Court residents will be relocated first, etc. The relocation plan shall demonstrate zero displacement.
- iii. A Construction Schedule that implements construction of the Rental Affordable Units in Phase 1, in all aspects, in accordance with paragraphs (i) – (ii) preceding above.
- iv. The Budget required by Section 3, above.
- v. Master Affordable Housing Covenant, in the form attached hereto as **Attachment 1**, executed by Recipient and recorded within the land records of the Circuit Court for the City of Charlottesville.

If the above-referenced documents demonstrate the adequacy of the Budget to complete the Public Infrastructure and the Rental Affordable Units within Phase 1, and if the Construction Schedule is realistic, then the City's approval shall not unreasonably be withheld.

(B) Disbursements for Infrastructure

- i. **Following the date on which the Master Affordable Housing Covenant is recorded within the City's land records**, the Recipient may request disbursements of the Loan funds, and disbursements may be made by the City from time to time during construction of the Public Infrastructure, as such construction progresses, no more frequently than once per calendar month, until the City has disbursed the aggregate amount specified within Section 3(C)(i)

above (and upon request, any amount(s) not previously disbursed under Section 3(C)(iii)).

- ii. As a condition precedent to each disbursement of loan proceeds for the Public Infrastructure, 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)** inspection report(s) signed by a City inspector, verifying that the work for which payment is sought was inspected by the City and was installed or completed in accordance with City standards and specifications; **(d)** a budget-to-actual expenditure report for the Public Infrastructure, current through the date of the disbursement request; **(e)** a Construction Schedule report, documenting the actual progress of construction (inclusive of Public Infrastructure and housing) compared with the approved Construction Schedule. In the aggregate, items (a)-(e) shall constitute a “Disbursement Request”.
- iii. Following receipt of a complete Disbursement Request, the City shall issue payment of Loan proceeds to the Recipient for the amounts documented within the Disbursement Request as having actually been paid to construction contractor(s) and subcontractor(s), for completed work. Payment shall be made within 30 days of the City’s receipt of a complete Disbursement Request.

(C) Disbursements for costs of tenant relocation and construction of affordable housing

- i. Following the date on which the Master Affordable Housing Covenant is recorded within the City’s land records: the Recipient may request disbursements, and 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 specified within Section 3(C)(ii), above (and, upon request, any amount(s) not previously disbursed under Section 3(C)(iii)).
- ii. As a condition precedent to each disbursement of loan proceeds for relocation and construction of new units of Rental Affordable Housing, 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 the form approved in advance by the City; **(b)** copies of payment approval forms, certified by an architect or engineer authorizing payment(s) which have been made by the Phase 1 Project Owner or Recipient, together with documentation of amount(s) actually paid to construction contractor(s) and subcontractor(s), for completed work referenced within such

payment approval forms; **(c)** a budget-to-actual expenditure report, current through the date of the disbursement request, for the relocation and housing construction Budget line items; **(d)** a Construction Schedule report, documenting the actual progress of construction compared with the approved Construction Schedule; **(e)** documentation of amount(s) actually paid by the Phase 1 Project Owner or Recipient to relocate tenants into a new affordable housing unit for which a certificate of occupancy (non-temporary) has been issued. In the aggregate, items (a)-(d) shall constitute a “Disbursement Request” for reimbursement of construction costs, and items (a), (c) and (e) shall constitute a “Disbursement Request” for reimbursement of relocation expenditures.

- iii. Following receipt of a complete Disbursement Request seeking reimbursement for tenant relocation costs, the City shall issue payment to Recipient reimbursing amounts documented within a Disbursement Request as having actually been paid to relocate tenants. Payment shall be made within 30 days of the City’s receipt of a complete Disbursement Request.

(D) Disbursements for Soft Costs

Following the date on which the Master Affordable Housing Covenant is recorded within the City’s land records, the Phase 1 Project Owner or Recipient may request disbursements of the Loan funds for the purposes referenced in Section 3(C)(iii), above. As a condition precedent to each disbursement of loan proceeds for Soft Costs, the Phase 1 Project Owner or 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 (“Disbursement Request”): (i) a Disbursement Certification in a form approved in advance by the City; and (ii) documentation evidencing expenditure of the Soft Costs to one or more independent contractors for work or services associated with the planning or design for construction of the Public Infrastructure or the For Rent Affordable Units within Phase 1 of the Project.

Following receipt of a complete Disbursement Request, the City shall issue payment of Loan proceeds to the Phase 1 Project Owner or Recipient for the amounts documented within the Disbursement Request as having actually been paid to independent contractors. Payment shall be made within 30 days of the City’s receipt of a complete Disbursement Request.

(E) 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(B), 4(C) and 4(D) preceding above. Disbursement shall be made up to the Loan maximum specified in Section 3(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 Loan Agreement. The following terms and conditions are material to the City’s agreement to enter into this Loan Agreement and shall be requirements of this Agreement enforceable in accordance with this Loan 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 for the development of Phase 1 that provide the City with the right to cure a default and exercise rights pursuant to a collateral assignment of Recipient's interest in Phase 1 under a Deed of Trust securing the Sponsor Loan, with wording acceptable to the City Manager and City Attorney. The income, rent and use restrictions required by this Agreement shall terminate upon a foreclosure of the Sponsor 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) Virginia Housing may permit additional units at 60% AMI to survive such a foreclosure, provided that Virginia Housing 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 Master Affordable Housing Covenant, 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 Virginia Housing, provided that (i) the renegotiated terms are no less than those Virginia Housing 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 Phase I 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 (40th) 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") of the Loan that is the subject of this Agreement. The term of the Loan shall be forty (40) years, 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 Master Affordable Housing Covenant 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 Phase 1, which secures its Sponsor Loan to the Phase 1 Project Owner. The assignment shall be subordinate to loans from Virginia Housing 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 Master Affordable Housing Covenant 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 Phase 1; or
 - d. upon the sale or transfer of the Phase 1 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 Phase 1, 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. 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 in excess of one hundred thousand dollars (\$100,000) and the Owner will agree either (a) to escrow such rents that exceed thirty percent (30%) of such tenants’ income above \$100,000 and to use such reserves when sufficient and with the approval of the City to target deeper income restrictions on future tenancies of the other restricted units by providing a rental subsidy to such tenants, or (b) 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 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 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 One of this Ordinance;

- b. Failure to comply with the terms and conditions of this Loan Agreement that apply to Phase 1;
 - c. Failure to comply with the requirements of the Master Affordable Housing Covenant, as it may be amended, or any phase-specific replacement covenant thereto;
 - d. Failure to perform any of Recipient's obligations under this Loan Agreement with respect to construction of the Public Infrastructure or construction of units of housing within Phase 1;
 - e. Failure to perform any of Recipient's obligations under the Master Affordable Housing Covenant, as it may be amended or any phase-specific replacement covenant thereto;
 - f. A successful legal challenge initiated by the Landowner, PHA, NHT Communities or any Project Owner, asserting that the Master Affordable Housing Covenant or any amendment thereto is invalid or unenforceable, in whole or as applied to such person;
 - g. Failure to perform as required by any document that secures this Loan and relates to Phase 1;
 - h. 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, the Landowner, or both and who will use it for any purpose other than that specified within Section 1 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 30-day notice period, the City may invoke foreclosure of this Loan 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 5. General Terms and Conditions

(A) Non-Appropriations Condition: The obligations of the City as to any funding beyond the end of Fiscal Year 2020 (June 30, 2020) 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 Loan 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 either the Landowner, the Project Owner or the Phase 1 Project Owner shall also be subject to approval by the Authority. 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 (Va. Code §2.2-3700 et seq.) and the Virginia Public Procurement Act (Va. Code §2.2-4300 et seq.) to the extent that either of those laws applies.
- (D) 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.
- (E) 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 (including COVID-19), 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 (including COVID-19), 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 Loan Agreement.
- (F) 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.

- (G) 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
- (H) 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.
- (I) Authorized City Signature: By its approval of this ordinance, the Charlottesville City Council authorizes the Charlottesville City Manager to execute this Agreement on its behalf.
- (J) Amendments. Except as otherwise specified within Section 5(E) of this Ordinance, the City Manager is hereby authorized to modify terms and conditions set forth within this Ordinance, without Council review and approval, but only if such amendment(s) do **not** materially modify: (i) the number of affordable dwelling units to be provided by Recipient, or the length of the Affordability Period, (ii) the requirement that Recipient provide a one-for-one replacement of all of the 150 for-rent, Section 8 subsidized dwelling units existing within Friendship Court as of the date of this Agreement (divided among all phases of the Project), (iii) the layout of land uses, or the general or approximate location of the public streets, as depicted in *Illustration 1*, above, within this Agreement, or (iv) the dollar amount(s) of the Loan, as set forth within Section 3(c) of this Agreement. Any amendments of the terms referenced in clauses (i) – (iv) preceding above within this paragraph must be approved by ordinance of City Council in the same manner as this Agreement.
- (K) 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 Erik T. Hoffman, Klein Hornig, LLP, 1325 G Street, N.W., Suite 770, Washington, DC, 20005 and a copy to the Project Lender at an address provided by the Recipient.

ATTACHMENT 1
MASTER AFFORDABLE HOUSING COVENANT
[see attached]

MASTER AFFORDABLE HOUSING COVENANT

THIS MASTER AFFORDABLE HOUSING COVENANT (this “Covenant”) is made as of the ____ day of _____, 2020 (“Effective Date”), by NHTE PIEDMONT GARRETT SQUARE LIMITED PARTNERSHIP (“Landowner”), having an address of 1101 30TH Street, N.W., Suite 400, Washington, District of Columbia, 20007, for the benefit of the City of Charlottesville, a municipal corporation, 605 East Main Street, City Hall, Charlottesville, Virginia, 22902 (the “City”).

RECITALS

R-1. Landowner is the fee simple owner of certain real property located in the City of Charlottesville as further described in Exhibit A (the “Property”) and such real property will be used for the Project, as defined below (the “Project”).

R-2. The Property includes an area of land (the “Parcel”) that will be used for construction of the first phase of the Project (“Phase 1”). With respect to the Parcel, Landowner entered into an option to lease dated March 12, 2019 (the “Option”) with FC Phase 1 LLC, a Virginia limited liability company (the “Phase 1 Project Owner”), whose managing member is controlled by Piedmont Housing Alliance, a Virginia nonprofit corporation (“PHA”), and NHT Communities, a District of Columbia nonprofit corporation (“NHT”), whereby the Phase 1 Project Owner can exercise the Option and enter into a long-term ground lease with the Landowner or its successors and assigns (the “Ground Lease”).

R-3. To further the public purpose of increasing the affordable housing stock within the City of Charlottesville and, in particular, on the Parcel, the City is willing to offer certain public funding to the Project Owner, in accordance with the provisions of Virginia Code §15.2-958, upon the acquisition of the leasehold interest from the Landowner.

R-4. By Ordinance adopted on _____, 2020, the City agreed to provide public funding pursuant to the provisions of Va. Code §15.2-958, to subsidize construction of streets, utilities and other site improvements essential to the Project and to support the production of new units of residential rental property within the Project, to be occupied following construction by persons of low and moderate income. The City’s adoption of the City Ordinance was induced by the Landowner’s, PHA’s and NHT’s representation that all of the residential units within the Project will, at Project buildout, be Affordable Units.

R-5. The City and the Landowner mutually acknowledge the value of assistance provided by the City and the value of the considerations rendered by the Landowner in maintaining the dwelling units at reduced rents for persons of low and moderate income.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the City and Landowner hereby declare, covenant and agree as follows:

ARTICLE I

DEFINITIONS

For the purposes of this Covenant, the capitalized terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as, the singular.

Affordability Period: is ninety-nine (99) years, calculated as set forth within Article X.

Affordability Requirement: has the meaning given in Section 2.1

Affordable Unit: means housing for occupant(s) at or below 80% of Area Median Income who are paying no more than 30% of income for Gross Housing Costs, including utilities, which housing will be used to satisfy the Affordability Requirement, all of which shall be identified in the Affordable Unit Index. Where the term “Committed Affordable Unit” or “Committed Rental Affordable Unit” is used, said term refers to an Affordable Unit of Rental Affordable Unit committed by means of this Covenant to satisfy the Affordability Requirement throughout the Affordability Period.

Affordable Unit Marketing Plan: means Project Owners’ plan(s) for marketing the rental or sale of the Affordable Units, as approved by the Agency pursuant to Section 2.3.

Affordable Unit Occupant: means a Qualified Tenant who lease(s) a Rental Affordable Unit, or, when the term is used in a context that refers to or includes a For Sale Affordable Unit, it means the Qualified Purchaser who owns and occupies a For Sale Affordable Unit.

Affordable Unit Owner: means a Qualified Purchaser who own(s) a For Sale Affordable Unit.

Agency: means the Office of the Charlottesville City Manager, and any successor department whose mission includes administration of the City’s Affordable Housing Program.

Area Median Income (AMI): means Median family income limits as adjusted by the U.S. Department of Housing and Urban Development (HUD) annually by household size.

Annual Household Income: means the aggregate annual income of a Household as determined by using the standards set forth in 24 CFR § 5.609, as may be amended, or as otherwise set forth by the Agency.

Annual Report: has the meaning given in Section 4.10.

Business Day means Monday through Friday, inclusive, other than holidays recognized by the City of Charlottesville government.

CAO means the Office of the City Attorney for the City of Charlottesville, Virginia.

Certificate of Tenant Eligibility means a certification by a Household at its initial occupancy of an Affordable Unit, in a form approved by the Agency, that shall be given to the Agency, Landowner, and the Certifying Authority, representing and warranting the following:

(a) the Household is a Qualified Tenant and has disclosed all of its Annual Household Income to the Certifying Authority, (b) the Household's Annual Household Income is at or below the maximum Annual Household Income for the applicable Affordable Unit, (c) the Household has been informed of its rights and obligations under this Covenant, (d) the Household intends to occupy the Affordable Unit as its principal residence, (e) that the Household size is within the Occupancy Standard for the Affordable Unit, and (f) any other reasonable and customary representations requested by the Agency.

Certification of Income: means a certification made by a Certifying Authority that verifies the Annual Household Income of a Qualified Tenant, as applicable, meets the Designated Affordability Level for an applicable Affordable Unit and meets the requirements of Section 4.5 or Section 5.2.1, as applicable, in such form as the Agency approves.

Certification of Inspection: means a certification by Landowner that it has performed or caused to be performed an inspection of a Rental Affordable Unit and that, to the best of Landowner's knowledge, such Rental Affordable Unit is in compliance with all applicable statutory and regulatory requirements, in such form as the Agency approves.

Certification of Residency: means a certification made by an Affordable Tenant that states that the Affordable Tenant or Affordable Unit Owner occupies the Affordable Unit as its principal residence, in such form as the Agency approves.

Certifying Authority: means PHA or any other entity or entities approved by the Agency pursuant to Section 2.4.

City Ordinance: means that certain ordinance adopted by the Charlottesville City Council on _____, 2020, pursuant to Virginia Code §15.2-958, and any amendments made thereto, to approve and establish guidelines for the production of new housing for persons of low and moderate income within the Project and to assure that such housing will be occupied following construction by low and moderate income persons throughout the Affordability Period.

Code: means the Internal Revenue Code of 1986, as amended.

Designated Affordability Level (DAL): means the percentage of AMI assigned to each Affordable Unit, at or below which a Qualified Purchaser's or Qualified Tenant's as applicable, Annual Household Income must fall.

For Sale Affordable Unit: means an Affordable Unit that is owned, or is to be owned, by a Qualified Purchaser.

Landowner: is identified in the preamble of this Covenant.

Foreclosure Notice: is defined in Section 8.4.

Household(s): means all individuals who will occupy the Affordable Unit, including all individuals over eighteen (18) years of age whose names will appear on the lease, the purchaser's or tenant's as applicable, spouse or domestic partner and children under eighteen (18) years of age. A Household may be a single family, one (1) individual living alone, two (2) or more families living together, or any other group of related or unrelated individuals who share living arrangements as allowable by this Covenant.

Household Size Adjustment Factor (HAF): means the factor related to the number of individuals in a Household for the purpose of establishing the Maximum Annual Household income of an Affordable Unit, as set forth in the following table:

Household Size	Household Adjustment Factor
1	0.7
2	0.8
3	0.9
4	1
5	1.1
6	1.2

Housing Cost: means (a) the total monthly payments for rent and Utilities for Rental Affordable Units and (b) the total monthly mortgage payments, property tax, hazard insurance, if applicable, and condominium or homeowner fees for For Sale Affordable Units.

HUD: means the United States Department of Housing and Urban Development.

Land Records: means the real property records for the City of Charlottesville located in the Recorder of Deeds.

Levels of Affordability refers to the Tiers of Affordable Housing defined in terms of AMI. Families earning: between 120 and 80% AMI are considered “moderate-income”; between 80 and 50% AMI, “low-income”; between 50 and 30% AMI, “very low-income” and below 30% AMI, “extremely low-income.”

Maximum Allowable Rent: as defined in Section 4.4.2.

Maximum Annual Household Income or **MAXI:** is the maximum Annual Household Income of a Household occupying an Affordable Unit as calculated pursuant to Section 4.5.1 for Rental Affordable Units or Section 5.2.1 for For Sale Affordable Units.

Maximum Resale Price: is the maximum resale price of a For-Sale Affordable Unit as determined pursuant to procedures established by the Agency.

Maximum Sales Price: as defined in Section 5.1.1. *See also* **Exhibit C**

Mortgage: means a mortgage, deed of trust, mortgage deed, or such other classes of instruments as are commonly given to secure a debt under the laws of the City of Charlottesville.

Mortgagee: means the holder of a Mortgage.

Occupancy Standard: means the minimum and maximum number of individuals permitted to occupy any given Affordable Unit, as identified in the following chart:

Affordable Unit Size (Number of Bedrooms)	Minimum Number of Individuals in Affordable Unit	Maximum Number of Individuals in Affordable Unit
Studio/Efficiency	1	1
1	1	2
2	2	4
3	4	6
4	6	8

5	8	10
6	10	12

Occupancy Standard Factor: means the factor related to the assumed number of occupants for the purpose of establishing the Maximum Allowable Rent or Maximum Allowable or Maximum Sales Price, as applicable, of an Affordable Unit as set forth in the following table:

Size of Affordable Unit	Occupancy Pricing Standard	Occupancy Standard Factor
Efficiency Studio	1	.7
1 Bedroom	2	.8
2 Bedroom	3	.9
3 Bedroom	5	1.1

Over-income Tenant: as defined in Section 4.6.5.

Owner: means any individual, nonprofit organization, limited partnership, limited liability company or other legal entity that holds title to any land or building within the Project.

Parcel: is defined in the Recitals.

Person: means any individual, corporation, limited liability company, trust, partnership, limited partnership, or other legal entity.

Phase 1: means the portion of the Project constructed on the Parcel.

Phase 1 Project Owner: means FC Phase 1 LLC, a Virginia limited liability company, and any successor(s) in interest.

Project: means the structures, landscaping, hardscape and/or site improvements to be constructed or placed on the Property developed and owned by the Landowner and/or the Project Owner, including without limitation the Rental Affordable Units and For Sale Affordable Units referred to within the definition of “**Affordability Requirement**”. The term “Project” includes all phases of the proposed redevelopment—including, without limitation, Phase 1 and all subsequent phases of the redevelopment of the real estate known as “Friendship Court” inclusive of the Parcel as well as other real estate identified, as of the date of this Covenant, by the City real estate parcel identification number 280112000 (currently assigned the street addresses of 400-426 Garret Street, Charlottesville, Virginia).

Project Owner(s): means the Phase 1 Project Owner and the owners of any subsequent phases.

Property: means the real estate described within Exhibit A, attached to this Covenant.

Qualified Tenant or Qualified Purchaser: each term means a Household that (i) has an Annual Household Income, as certified by the Certifying Authority, less than or equal to the Maximum Annual Household Income for the applicable Affordable Unit at the time of leasing and subsequent lease renewals, (ii) shall occupy the Affordable Unit as its principal residence, (iii) shall not permit exclusive occupancy of the Affordable Unit by any other individual(s), (iv) shall use and occupy the Affordable Unit as an Affordable Unit subject to the Affordability Requirement and this Covenant and (v) shall occupy the Affordable Unit within the Occupancy Standard Factor.

Rental Affordable Unit: means an Affordable Unit that shall be leased to a Qualified Tenant.

Rental Affordable Unit Lease Rider: is that certain lease rider, which is attached to this Covenant as **Exhibit B** and incorporated herein, as the same may be amended from time to time with the written approval of the Agency.

Rental Formula: is defined in Section 4.4.2.

Residential Unit: means a residential dwelling unit constructed as part of the Project.

Sale: is defined in Section 5.1.

Transferee: is defined in Section 5.8.

Utilities: means water, sewer, electricity, and natural gas.

ARTICLE II

USE RESTRICTIONS; AFFORDABILITY REQUIREMENT

2.1 **Residential Use of the Property; Affordability of Housing.** In order to assure the integrity of the Project, and to ensure that public funding is used for the public purposes authorized by Virginia Code §15.2-958 in accordance with the City Ordinance, the following land use restrictions are established for the mutual benefit and obligation of all owners of land within the Project:

2.1.1. Except for any lot(s) containing the use referred to within the City Ordinance as the “Phase 1 Early Childhood Center”, and except for land used as common open space, green space, public streets, public sidewalks, parking lots, recreation facilities, utilities, and other similar facilities or amenities, the Property shall be used exclusively for residential purposes consistent with the master development plan referenced within the City Ordinance. For purposes of this paragraph, a mixed-use building that contains any ground-floor retail, office or commercial use, but contains exclusively Residential Units on all other building floors, shall be considered as being used for residential purposes. The use of a portion of any Residential Unit as an office by the occupant thereof shall be considered a part of a residential use, if such office use complies with regulations applicable to “home occupations” prescribed by the zoning ordinance of the City of Charlottesville.

2.1.2. All Residential Units within the Project shall be Rental Affordable Units or For Sale Affordable Units.

2.1.3. All Rental Affordable Units and For Sale Affordable Units are subject to the Affordability Period.

2.1.4. All Rental Affordable Units and For Sale Affordable Units are subject to the income limitations under subsection (g)(1) and the rent restrictions under subsection (g)(2) of Section 42 of the Code.

2.1.5. Rental Affordable Units shall be subject to the following:

(a) At any given time within the area of the Property, no fewer than 150 of Residential Units within the Project (including both new and preexisting units) shall be Rental Affordable Units (“Required Rental Affordable Units”) participating in the federal Program-Based Section 8 Program, subject to subparagraph (i) below.

(i) The Required Rental Affordable Units shall participate in the federal Program-Based Section 8 Program throughout the Affordability Period, for so long as the federal Program is offered under federal law. In the event that the federal Program-Based Section 8 Program is discontinued by the federal government during the Affordability Period, then the Required Rental Affordable Units shall be maintained throughout the Affordability Period as Rental Affordable Units and shall not be converted to For Sale Affordable Units.

(b) 106 Rental Affordable Units shall be provided within Phase 1 of the Project, as follows:

(i) no fewer than 46 of the Required Rental Affordable Units will participate in the federal Program-Based Section 8 Program, subject to subparagraph 2.1.4(a)(i);

(ii) no fewer than 30 Required Rental Affordable Units shall be rented to Households that meet the Code requirements for the maximum percentage of 60% of Area Median Gross Income (as described in Section 142(d)(2)(B) of the Code); and

(iii) no fewer than 30 Required Rental Affordable Units shall be rented to Households that meet the Code requirements for the maximum percentage of 80% Area Median Gross Income (as described in Section 142(d)(2)(B) of the Code).

Rental Affordable Units, in addition to the 106 required above, may be provided within Phase 1.

(c) The provisions of 2.1.4(a) and (b), above, are, unless otherwise provided, subject to subsection (g)(1)(C) of Section 42 of the Code and the federal Average Income Test.

(d) The provisions of 2.1.1 and of 2.1.5(a) and (b), above may be modified in accordance with the provisions of Article X of this Covenant.

(e) Following the expiration of the LIHTC extended use period and outside of any subsequent LIHTC extended use period entered into with respect to the property pursuant to a recapitalization, the Office of the Charlottesville City Manager (the “Agency”) or its designee will have the exclusive right to lease up to twenty percent (20%) of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four (4) persons having an income of eighty percent (80%)

AMI.

2.2 **Affordable Unit Standards and Location.**

2.2.1 *[Reserved]*

2.2.2 *[Reserved]*

2.2.3 *[Reserved]*

2.2.4 *Exterior Finishes.* Exterior finishes of Affordable Units will be consistent across tiers of affordability.

2.2.5 *Interior Finishes.* Landowner agrees that the interior base finishes, appliances and equipment in the Affordable Units shall be similar across tiers of affordability.

2.2.6 *Affordable Unit Location.* As allowed within the parameters of LIHTC compliance guidelines or other federal law, Affordable Units of various tiers shall be dispersed throughout the Project, and shall not be concentrated on any one floor within a building, or within a section of the Project.

2.3 **Marketing Affordable Units.**

2.3.1 *Marketing Plan.* Landowner shall create an Affordable Unit Marketing Plan that sets forth its plan for marketing the Affordable Units to Households who may be Qualified Tenants or Qualified Purchasers, as applicable. The Affordable Marketing Plan shall be subject to the Agency's prior written approval and shall be submitted to and approved by the Agency prior to marketing any Affordable Units for sale or rent. Project Owner may contract with the Certifying Authority to implement the Affordable Unit Marketing Plan.

2.4 **Certifying Authority.** Project Owner shall select a Certifying Authority, which shall be subject to the Agency's prior written approval, not to be unreasonably withheld, conditioned or delayed. Project Owner may contact the Agency with questions and information about the selection of a Certifying Authority. The Certifying Authority shall review documentation and verify a Household's Annual Household Income and Household's size in order to determine whether that Household is a Qualified Tenant or Qualified Purchaser, as applicable. If a Household is determined to be a Tenant or Qualified Purchaser, as applicable, the Certifying Authority shall issue a Certification of Income for the subject Household.

ARTICLE III

EQUAL USE; MAINTENANCE OF AFFORDABLE UNITS

3.1 **Use.** Except as provided herein, all Rental Affordable Unit Occupants shall have the same and equal use of all the amenities of the Project and services provided at the Project (except if unique services are required for certain tenants as approved by the Agency). No restrictions, requirements or rules shall be imposed on Rental Affordable Unit Occupants at any tier of affordability that are not imposed equally on the tenants of the Rental Affordable Units within other tiers of affordability. If amenities, services, upgrades, or ownership or rental of parking and other facilities are offered as an option to Rental Affordable Unit Occupants at any tier of

affordability, such amenities, services, upgrades, or rental of parking and other facilities shall be offered to the Rental Affordable Unit Occupants of Rental Affordable Units at other tiers of affordability. If there is no cost or fee charged to the tenants of the Rental Affordable Units at one tier of affordability for such amenities, services, upgrades, or rental of parking and other facilities, there shall not be a cost or fee charged to tenants of Rental Affordable Units at other tiers of affordability. Except as provided herein, all For Sale Affordable Unit Owners shall have the same and equal use of all the amenities of the Project and services provided at the Project (except if unique services are required for certain tenants as approved by the Agency). No restrictions, requirements or rules shall be imposed on For Sale Affordable Unit Owners at any tier of affordability that are not imposed equally on the owners of the For Sale Affordable Units within other tiers of affordability. If amenities, services, upgrades, or ownership or rental of parking and other facilities are offered as an option to Affordable Unit Owners at any tier of affordability, such amenities, services, upgrades, or rental of parking and other facilities shall be offered to the Affordable Unit Owners of For Sale Affordable Units at other tiers of affordability. If there is no cost or fee charged to Affordable Unit Owners of the For Sale Affordable Units at one tier of affordability for such amenities, services, upgrades, or rental of parking and other facilities, there shall not be a cost or fee charted to Affordable Unit Owners of For Sale Affordable Units at other tiers of affordability.

3.2 Demolition/Alteration. Subject to normal wear and tear, Owner shall maintain, upkeep, repair and replace interior components (including fixtures, appliances flooring and cabinetry) of each Rental Affordable Unit with interior components of equal or better quality than those interior components being replaced. Affordable Unit Owners shall maintain, upkeep, repair and replace interior components (including fixtures, appliances flooring and cabinetry). Neither Owner nor Qualified Purchaser shall demolish or otherwise structurally alter an Affordable Unit or remove fixtures or appliances installed in an Affordable Unit other than for maintenance, repair and replacement of equal or better quality without the prior written approval of the Agency, which approval shall be in the sole discretion of the Agency or as needed to rebuild after a casualty or condemnation.

ARTICLE IV

RENTAL OF AFFORDABLE UNITS

4.1 Lease of Rental Affordable Units. Landowner shall reserve, maintain and lease the Rental Affordable Units to Qualified Tenants (a) in accordance with this Covenant, and (b) at a rate paid by the Tenant at or below the Maximum Allowable Rent.

4.2 Rental Affordable Unit Lease Requirements.

4.2.1 Form of Lease. To lease a Rental Affordable Unit to a Qualified Tenant, Project Owner shall use a lease agreement to which is attached and incorporated a Rental Affordable Unit Lease Rider, as may be amended from time to time. The Rental Affordable Unit Lease Rider shall be executed by Project Owner and each Qualified Tenant prior to the Qualified Tenant's occupancy of the Rental Affordable Unit. Any occupant of the Rental Affordable Unit who is eighteen (18) years or older shall be a party to the lease agreement and shall execute the Rental Affordable Unit Lease Rider.

4.2.2 Effectiveness of Lease. The lease of a Rental Affordable Unit shall only be effective if a Rental Affordable Lease Rider, a Certification of Income and a Certificate of Tenant Eligibility are attached as exhibits to the lease agreement. Failure to attach the

foregoing shall render the lease null and void *ab initio*.

4.2.3 *Landowner to Maintain Copies.* Project Owner shall maintain or cause to be maintained copies of all initial and renewed leases executed with Qualified Tenants for a period of no less than five (5) years from the expiration or termination of such lease.

4.3 **Rental Affordable Unit Admissions Process.**

4.3.1 *Referrals.* Project Owner may obtain referrals of prospective tenants of Rental Affordable Units from federal and City of Charlottesville agencies, provided such referrals comply with the requirements of this Covenant, Fair Housing laws, and the requirement that units be generally available to the public. In all events, before a prospective tenant leases a Rental Affordable Unit, their Annual Household Income shall be verified by a Certifying Authority.

4.3.2 *Consideration of Applicants.* For the initial occupancy of the Rental Affordable Units, Project Owner shall select Qualified Tenants through a first-come, first-served system, or other system approved by the Agency, as shall be further provided in the Affordable Unit Marketing Plan. Following the initial occupancy of the Affordable Units, Landowner shall consider each applicant in the order in which received by Project Owner, whether received pursuant to the Affordable Unit Marketing Plan or referred pursuant to Section 4.3.1. Tenants of Rental Affordable Units participating in the Project-Based Section 8 Program shall be selected in accordance with requirements of that federal program. Any and all of the provisions contained in this Section 4 shall be consistent with federal Fair Housing laws and regulations and any units financed under the Code (tax credit or tax exempt bond financed projects) must be generally available to the public.

4.3.3 *Rejection of Applicants.* In connection with the leasing of a Rental Affordable Unit, Landowner may reject any applicant if, after diligent review of such applicant's application, Landowner determines in good faith that such applicant does not meet Project Owner's criteria to lease or occupy a Rental Affordable Unit, provided such criteria do not violate applicable City of Charlottesville and federal laws. In the event any rejected applicant raises an objection or challenges Landowner's rejection of such applicant, Landowner shall be solely responsible for ensuring that its rejection of such applicant is not in violation of federal or local law. Landowner shall provide the Agency with all documents evidencing Landowner's review and rejection of an applicant, upon the request of the Agency.

4.3.4 *Determination of Eligibility.* Each tenant seeking to occupy a Rental Affordable Unit shall have its Annual Household Income verified by and obtain a Certification of Income from the Certifying Authority prior to leasing such unit. Housing Choice Vouchers (or vouchers from similar programs) shall be an acceptable source of verifiable household income, for the Rental Affordable Units other than those which are part of the Program-Based Section 8 Program.

4.4 **Initial Rental Affordable Unit Lease Terms.**

4.4.1 *Term.* The term of any new Rental Affordable Unit lease agreement shall be for a period of one (1) year.

4.4.2 *Establishment of Maximum Rent—Rental Formula.* Rents on Rental Affordable Units shall be rent restricted. Maximum Allowable Rent paid by the Tenant shall for the first lease year shall be based on the number of bedrooms and AMI as established annually by HUD. If a household pays for utilities, the maximum rent must be adjusted by the applicable utility allowance.

4.5 **Income Determinations.** The Annual Household Income for a prospective tenant of a Rental Affordable Unit shall be determined as of the date of the lease renewals for such Rental Affordable Unit either annually or every two years, at the City’s option and as may be permitted by the Code. A Household’s income eligibility to rent a Rental Affordable Unit is determined by calculating the Maximum Annual Household Income for a Household occupying the Rental Affordable Unit. The Certifying Authority shall verify that the Household’s Annual Household Income is not more than the MAXI.

4.5.1 *Maximum Annual Household Income.* The Maximum Annual Household Income is determined through AMI as established annually by HUD.

4.6 **Subsequent Lease Years**

4.6.1 *Use of Rental Formula.* For each lease year after the first lease year, Maximum Allowable Rent shall be determined in the same manner specified within 4.4.2, above.

4.6.2 *Renewal by Affordable Unit Occupant.* For each Affordable Unit Occupant who intends to renew its residential lease, no earlier than ninety (90) days and no later than thirty (30) days before each anniversary of the first day of a residential lease, Project Owner shall obtain the following: (i) a Certification of Residency from each such Affordable Unit Occupant; and (ii) a Certification of Income completed by the Certifying Authority. Project Owner shall not permit a renewal of an Affordable Unit Occupant’s lease unless the Affordable Unit Occupant has provided Project Owner with these documents as required herein and the tenant is determined to be a Qualified Tenant or is otherwise protected under applicable State or Federal law. The foregoing Certifications and requirements to be a continuing Qualified Tenant shall be as provided in Section 42 of the Code for any period when the requirements of the Low Income Housing Tax Credits and the Extended Use Agreement are binding on the Parcel.

4.6.3 *Annual Recertification of Tenants.* Upon receipt of an Affordable Unit Occupant’s renewal documents at the time of recertification, Certifying Authority shall determine the Affordable Unit Occupant’s income eligibility pursuant to Section 4.5 for the subject Rental Affordable Unit and notify Affordable Unit Occupant of the same within fifteen (15) days prior to the expiration of the then-current lease term. Any Affordable Unit Occupant whose Annual Household Income remains at or below the Maximum Annual Household Income for the subject Rental Affordable Unit will be eligible to remain in the Rental Affordable Unit and to renew his/her lease at the then-current lease rate for the particular Rental Affordable Unit. The foregoing Certifications and requirements to be a continuing Qualified Tenant shall be as provided in Section 42 of the Code for any period when the requirements of the Low Income Housing Tax Credits and the Extended Use Agreement are binding on the Parcel.

4.6.4 *Annual Recertification of Under Income Tenants.* Upon annual recertification, any Affordable Unit Occupant whose Annual Household Income remains at or below the Maximum Annual Household Income for the subject Rental Affordable Unit, but whose

Annual Household Income is less than the Minimum Annual Household Income for the subject Rental Affordable Unit, may elect either to (i) remain in the Rental Affordable Unit up to the then-current Maximum Allowable Rent for the subject Rental Affordable Unit or (ii) vacate the Rental Affordable Unit at the end of the tenant's lease term.

4.6.5 *Annual Recertification of Over-Income Tenants.* Upon annual recertification, if an Affordable Unit Occupant's Annual Household Income is determined to exceed the Maximum Annual Household Income for the subject Rental Affordable Unit (such tenant, an "**Over-Income Tenant**"), then the Over-Income Tenant may elect to remain in the Rental Affordable Unit and pay the rent applicable to (a) a higher Designated Affordability Level, if a higher Designated Affordability Level exists for the Parcel, for which the Over-Income Tenant's Annual Household Income qualifies, whereupon Project Owner shall change the Designated Affordability Level of the Rental Affordable Unit to the higher Designated Affordability Level pursuant to Section 4.6.6, or (b) may remain at the allowable rent level if protected by applicable State or Federal law.

4.6.6 *Changes to Unit Location.* If applicable, Project Owner may change the designation of a Rental Affordable Unit to a new Designated Affordability Level as necessary to allow an Over-Income Tenant to remain in the unit (i.e., to accommodate an existing tenant). Following any change in designation of a Rental Affordable Unit to a higher Designated Affordability Level of similar size and location in the property to the lower Designated Affordability Level from which the original Rental Affordable Unit had been changed in order to bring the Parcel in conformity with the Affordability Requirement.

4.6.7 *Rent from Subsidies.* Nothing herein shall be construed to prevent Project Owner from collecting rental subsidy or rental-related payments from any federal, state, or City of Charlottesville agency paid to Project Owner and/or the Affordable Unit Tenant, or on behalf of an Affordable Unit Tenant, to the extent receipt of such payment is otherwise in compliance with the requirements of this Covenant. Such rental subsidy or rental-related payment shall not be included in determining Maximum Chargeable Rent or the income of an otherwise Qualified Tenant, all as provided in the Code.

4.7 **No Subleasing of Rental Affordable Units.** An Affordable Unit Occupant may not sublease any portion of its Rental Affordable Unit or assign its lease to any other Household and Project Owner shall not knowingly allow such Rental Affordable unit to be subleased, except with the Agency's prior written consent, in the Agency's sole and absolute discretion. No Rental Affordable Unit may be offered or used for any short term rental/ transient occupancy.

4.8 **Representations of Affordable Unit Tenant.** By execution of a lease for a Rental Affordable Unit, each Affordable Unit Occupant shall be deemed to represent and warrant to the Agency and Project Owner, each of whom may rely thereon, that the Affordable Unit Occupant meets, and will continue to meet, all eligibility requirements contained in this Covenant for the rental of a Rental Affordable Unit.

4.9 **Representations of Project Owner.** By execution of a lease for a Rental Affordable Unit, Project Owner shall be deemed to represent and warrant to the Agency, which may rely on the following, that: (i) the Household is determined to be a Qualified Tenant by the Certifying Authority, and (ii) Project Owner is not collecting more than the Maximum Allowable Rent from the Tenant.

4.10 Annual Reporting Requirements. Beginning in the first year that any Affordable Unit is occupied, Project Owner shall provide an annual report (“**Annual Report**”) to the Agency regarding the Rental Affordable Units, which shall be submitted on each anniversary date of the Effective Date of this Covenant. The Annual Report shall include the following:

(a) the number and identification of the Rental Affordable Units, by bedroom count, that are occupied;

(b) the number and identification of the Rental Affordable Units, by bedroom count, that are vacant;

(c) for each Rental Affordable Unit that is vacant or that was vacant for a portion of the reporting period, the manner in which the Rental Affordable Unit became vacant (e.g. eviction or voluntary departure), the length of vacancy, and the progress in re-leasing that unit;

(d) for each occupied Rental Affordable Unit, the names, ages and ethnicity of all persons in the Household, the Household size, date of initial occupancy, and total Annual Household Income as of the date of the most recent Certification of Income;

(e) a sworn statement that, to the best of Project Owner’s information and knowledge, the Household occupying each Affordable Rental Unit meets the eligibility criteria of this Covenant;

(f) a copy of each new or revised Certification of Income for each Household renting a Rental Affordable Unit;

(g) a copy of each new or revised Certification of Residency for each Household renting a Rental Affordable Unit;

(h) a copy of each inspection report and Certification of Inspection for each Rental Affordable Unit; and

(i) a copy of all forms, policies, procedures, and other documents reasonably requested by the Agency related to the Rental Affordable Units.

The Annual reports shall be retained by Project Owner for a minimum of five (5) years after submission and shall be available, upon reasonable notice, for inspection by the Agency or its designee. Notwithstanding anything contained herein to the contrary, in the event that Project Owner provides a report to an agency within the City government with content substantially similar to the content of the Annual Reports described in this section, subject to the Agency’s prior written approval, then the reporting requirements under this section shall be satisfied upon Project Owner’s delivery of such report to the Agency. The Agency may request Project Owner to provide additional information in support of its Annual Report.

4.11 Confidentiality. Except as may be required by applicable law, including, without limitation to, the Virginia Freedom of Information Act. Project Owner: the Certifying Authority and the Agency shall not disclose to third parties, other than Project Owner’s investor members, the personal information of the Households, including the identity of the Households, submitted as a part of the Annual Report.

4.12 Inspection Rights. The Agency or its designee shall have the right to inspect the Rental Affordable Units, upon reasonable advance notice to the Project Owner and during normal

business hours as provided in the Leases. If Project Owner receives such notice, Project Owner shall, in turn, give reasonable advance notice of the inspection to the tenant(s) occupying the specific Rental Affordable Unit(s). The Agency or its designee shall have the right to inspect a random sampling of the Rental Affordable Units to confirm that the units are in compliance with applicable statutory and regulatory housing requirements and as otherwise permitted under this Covenant. The Agency or its designee shall have the right to conduct audits of a random sampling of the Rental Affordable Units and associated files and documentation to confirm compliance with the requirements of this Covenant.

ARTICLE V

SALE OF AFFORDABLE UNITS

5.1. Sale of For Sale Affordable Units. In the event the Project contains For Sale Affordable Units, the Owner shall comply with the provisions of this Article V for the sale of such Affordable Units. Owner shall not convey all or any part of its fee interest (“Sale”), whether or not for consideration, in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income and who is a Qualified Purchaser.

5.1.1. Maximum Sales Price. The sale price of each For Sale Affordable Unit upon an initial Sale shall not exceed an amount (the “Maximum Sales Price”) that is affordable to a Household with an Annual Household Income at the Designated Affordability Level, adjusted by the Occupancy Standard Factor, spending not more than thirty percent (30%) of their Annual Household Income on Housing Cost. The Agency shall determine the Maximum Sales Price in accordance with **Exhibit C**, attached and incorporated herein by reference, or by another formula consistent with applicable state or federal laws and acceptable to the Agency in its sole discretion. The Housing Cost includes mortgage payments, property taxes, condominium and homeowner fees, and hazard insurance, if applicable. The Agency shall approve the Maximum Sales Price for each For Sale Affordable Unit prior to the marketing and sale of such For Sale Affordable Unit.

5.1.2. Maximum Resale Price. The Maximum Resale Price for each Sale subsequent to the initial Sale shall be calculated in accordance with **Exhibit D** attached hereto and incorporated herein, or by another formula consistent with applicable state or federal laws and acceptable to the Agency in its sole discretion. The Agency shall approve the Maximum Resale Prices for each For Sale Affordable Unit prior to the marketing and resale of such For Sale Affordable Unit.

5.1.3. Housing Purchase Assistance Program and other Subsidized Funding. The Maximum Sales Price and Maximum Resale Price of a For Sale Affordable Unit shall be determined by the Agency as described in Sections 5.1.1 and 5.1.2, regardless of the prospective buyer’s use of Housing Purchase Assistance Program and/or other subsidized funding for the purchase of the For Sale Affordable Unit.

5.1.4. Sale to a Community Land Trust. Notwithstanding any other provision of this Covenant, for the purposes of this Section 5.1, the sale of a lot and a Residential Unit constructed on such lot to a community land trust will be deemed a sale to a Qualified Purchaser, if the following criteria are met: (i) the community land trust is reasonably expected to be and remain the fee owner of the lot, and (ii) ownership of the Residential Unit shall be held either by the community land trust that owns the lot, or by an

individual(s) who has/have a long term lease for the lot and who is/are a Qualified Purchaser.

5.2. Procedure for Sales. The following procedures shall apply with respect to the initial Sale of a For Sale Affordable Unit, and also to each subsequent Sale of a For Sale Affordable Unit.

5.2.1. Income Eligibility. For any Qualified Purchaser, the Annual Household Income shall be determined as of the date of the sales contract for such For Sale Affordable Unit. To the extent settlement for a For Sale Affordable Unit will not occur within 90 days after the sales contract, the Annual Household Income of the prospective Qualified Purchaser shall be determined again within 90 days prior to settlement. A Household's eligibility to purchase a For Sale Affordable Unit is determined by calculating both the Maximum Annual Household Income for a Household seeking to occupy the For Sale Affordable Unit and the Minimum Annual Household Income for a Household seeking to occupy the For Sale Affordable Unit and verifying that the prospective Household's Annual Household Income is between the MAXI and MINI. The Maximum Annual Household Income is determined through the use of the formula: $MAXI = (AMI * DAL * HAF)$. The Minimum Annual Household Income is determined by multiplying the total Housing Cost by twelve (12) and dividing this number by forty-one percent (41%). The Housing Cost is determined by calculating the monthly mortgage payments using the actual terms of the Household's approved mortgage, and adding all applicable property taxes, homeownership or condominium fees, and hazard insurance. Each Qualified Purchaser shall have its Annual Household Income verified by and obtain a Certification of Income from the Certifying Authority prior to entering into the contract.

5.2.2. Sale. A Sale of a For Sale Affordable Unit shall only be effective if **(i)** a certificate of purchaser eligibility submitted by a Household to Owner and dated within ninety (90) days of the closing of such Sale is recorded prior to or contemporaneously with the deed conveying the Affordable Unit and **(ii)** a Certification of Income is completed by a Certifying Authority within ninety (90) days before closing of such Sale. Owner, Mortgagee(s), District and any title insurer shall each be a third party beneficiary of each such Certificate of Purchaser Eligibility.

5.2.3. Resale. Prior to selling or otherwise transferring a fee interest in a For Sale Affordable Unit, the Affordable Unit Owner intending to re-sell such unit shall (i) contact the Agency to obtain the Maximum Resale Price and (ii) shall refer the prospective purchaser to the Agency to determine their eligibility to purchase the For Sale Affordable Unit. The Maximum Resale Price shall be determined by the Agency in accordance with **Exhibit D** attached hereto and incorporated by reference, or by such other formula acceptable to the Agency, in its sole discretion.

5.2.4. Sale to Community Land Trust. Notwithstanding any other provision of this Covenant, a sale of a For Sale Affordable Unit to a community land trust shall be effective if a Certificate of Purchaser Eligibility is provided by the Agency certifying that the requirements of paragraph 5.1.4 will be satisfied, such certificate is signed and dated within ninety (90) days of the closing of such Sale, and the certificate is recorded prior to or contemporaneously with the deed conveying the Affordable Unit.

5.3. Closing Procedures and Form of Deed.

5.3.1. Owner to Provide Copy of Covenant. Owner shall provide the Qualified

Purchaser with a copy of this Covenant prior to or at the closing on the Sale of the For Sale Affordable Unit.

5.3.2. Form of Deed. All deeds used to convey a For Sale Affordable Unit must have a fully executed Certificate of Purchaser Eligibility attached, and shall include the following statement in twelve (12) point or larger type, in all capital letters, on the front page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN AFFORDABLE HOUSING COVENANT, DATED AS OF _____, 20_ RECORDED AMONG THE LAND RECORDS OF THE CITY OF CHARLOTTESVILLE, VIRGINIA AS INSTRUMENT NUMBER _____, ON _____ 20___, WHICH AMONG OTHER THINGS IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

5.3.3. Deed for a For Sale Affordable Unit. A deed for a For Sale Affordable Unit shall not be combined with any other property, including parking spaces or storage facilities, unless the price of such property is included in the Maximum Sales Price (for initial Sales) or Maximum Resale Price (for subsequent Sales).

5.3.4. Post Closing Obligations. The purchaser of a For Sale Affordable Unit shall submit to the Agency within thirty (30) days after the closing a copy of the final executed HUD settlement statement, a copy of the deed recorded in the Land Records, the Certificate of Purchaser Eligibility, and the Certification of Income.

5.4. Rejection of Applicants. In connection with the Sale of a For Sale Affordable Unit, the owner of that unit ("Owner") may reject any applicant seeking to acquire a For Sale Affordable Unit who has not obtained a Certification of Income or other evidence of eligibility adopted by the Agency, if, based on such applicant's application, background and/or creditworthiness (including, without limitation, the applicant's inability to provide credible evidence that such applicant will qualify for sufficient financing to purchase the For Sale Affordable Unit), such Owner determines in good faith that such applicant does not meet the criteria to purchase or occupy a For Sale Affordable Unit, provided that such criteria does not violate applicable Virginia or federal laws and is the same criteria applicable to Market-Rate Units, except as required by this Covenant. In the event any rejected applicant raises an objection or challenges Owner's rejection of such applicant, Owner shall be solely responsible for ensuring that its rejection of any applicant is not in violation of state or federal law. Owner shall provide the Agency with all documents evidencing Owner's review and rejection of an applicant, upon the request of the Agency.

5.5. Representations of Owner. By execution of a deed for a For Sale Affordable Unit, the owner of the For Sale Affordable Unit Owner shall be deemed to represent and warrant to, and agree with, the Agency and, if applicable, the title company, each of whom may rely on the following: that (i) the Household is determined to be a Qualified Purchaser by the Certifying Authority at the Designated Affordability Level, and (ii) the sale price satisfies the terms of this Covenant.

5.6. Annual Certification of Residency. During the Affordability Period, the Affordable Unit Owner shall submit to the Agency annually on the anniversary of the closing date for a For Sale Affordable Unit, a Certification of Residency. The Certification of Residency shall be submitted

on or with such form as may be prescribed by Agency.

5.7. Leasing For Sale Affordable Units. An Affordable Unit Owner shall not lease, or permit a sublease of, a For Sale Affordable Unit without the Agency's prior written approval, in the Agency's sole and absolute discretion. If the Agency approves the lease of a For Sale Affordable Unit, then that Unit shall be leased in compliance with the Rental Affordable Unit provisions of this Covenant.

5.8. Transfers. Except as provided in Article VIII, in the event an Affordable Unit Owner voluntarily or involuntarily transfers all or part of the For Sale Affordable Unit pursuant to operation of law, court order, divorce, death to a transferee, heir, devisee or other personal representative of such owner of a For Sale Affordable Unit (each a "Transferee"), such Transferee, shall be automatically be bound by all of the terms, obligations and provisions of this Covenant and shall either: (i) occupy the For Sale Affordable Unit if he or she is a Qualified Purchaser, or (ii) if the Transferee does not wish to or is unable to occupy the For Sale Affordable Unit, he or she shall promptly sell it in accordance with this Covenant.

5.9. Prohibition on Occupancy. In no event shall a Transferee who is not a Qualified Purchaser reside in a For Sale Affordable Unit for longer than ninety (90) days.

5.10. Progress Reports. Until all initial Sales of For Sale Affordable Units are completed, Landowner shall provide Agency with annual progress reports, or more frequently upon request, on the status of its sale or rental of Affordable Units.

ARTICLE VI

ENFORCEMENT AND REMEDIES

6.1 Enforcement. The City, the Landowner, PHA, and NHT and each of their respective successors and assigns (each, an "Interested Party") shall each have the right to enforce this Covenant against the Landowner, after first giving sixty (60) days' written notice to the Landowner of its noncompliance. If the Landowner fails to cure the noncompliance within the 60-day period, then any Interested Party shall have the right to seek specific performance, injunctive relief and/or other equitable remedies, including compelling the re-sale or leasing of an Affordable Unit and the disgorgement of rents and sale proceeds in excess of the rental rates and sale prices permitted hereunder. In the event such cure cannot reasonably be affected within the above 60-day period, the Landowner may have such additional time as is necessary to cure such default provided the Landowner promptly initiated and diligently pursued such cure.

6.2 No Waiver. Any delay by the Agency in instituting or prosecuting any actions or proceedings with respect to a default hereunder, in asserting its rights or pursuing its remedies hereunder shall not operate as a waiver of such rights.

6.3 Right to Attorney's Fees. In any legal action brought by the City or any other Interested Party to enforce any provision(s) of this Covenant, if the Interested Party prevails in such action then the Interested Party shall be entitled to recover its litigation costs and expenses, including reasonable attorney fees. If the CAO is counsel for the City in such legal action, the reasonable attorney fees for the City shall be calculated based on the then applicable hourly rates prevailing within private practice within the City of Charlottesville, Virginia, and the number of hours that employees of the CAO prepared for or participated in any such action.

ARTICLE VII

COVENANT BINDING ON LANDOWNER'S SUCCESSORS AND ASSIGNS

The provisions of this Covenant shall run with the land and shall bind the Landowner and all successor(s) in interest as of the Effective Date and throughout the Affordability Period. No sale, transfer or foreclosure shall affect the validity of this Covenant, except as provided in Article X, §10.3.

ARTICLE VIII

MORTGAGES

8.1 **Subordination of Mortgages.** The provisions of this Article VIII shall only apply to For Sale Affordable Units, if applicable. All Mortgages placed against the Parcel, or any portion thereof, shall be subject and subordinate to this Covenant, except as provided in Section 8.3.3.

8.2 **Amount of Mortgage.** In no event shall the aggregate amount of all Mortgages placed against an Affordable Unit exceed an amount equal to one hundred five percent (105%) of the Maximum Resale Price for such unit. Prior to obtaining any Mortgage or refinancing thereof, the Affordable Unit Owner shall request from the Agency the then-current Maximum Resale Price for its For Sale Affordable Unit.

8.3 **Default of Mortgage and Foreclosure.**

8.3.1 **Notice of Default.** The Mortgagee shall provide the Agency written notice of any default and notice of intent to foreclose under the Mortgage on any For Sale Affordable Unit. Notwithstanding the foregoing, in no event shall failure to provide such notices preclude the Mortgagee's right to proceed with its remedies for default under the Mortgage.

8.3.2 **Right of Purchase by the City.** The Agency shall have the right to purchase a For Sale Affordable Unit in the event a notice of default or notice of intent to foreclose for a Mortgage in first position was recorded in the Land Records. The purchase price shall be an amount that is the greater of (i) the amount of the debt secured by all Mortgages recorded against the subject Affordable Unit, including commercially reasonable costs and expenses, if any, incurred by Mortgagee as a result of a default and due and payable under the terms of the Mortgage or (ii) the Maximum Resale Price. The Agency shall have thirty (30) days from the date a notice of default or a notice of foreclosure sale was recorded in the Land Records to exercise its option and to purchase the Affordable Unit. The Agency's right to purchase shall automatically expire upon the transfer of the Affordable Unit by foreclosure or deed in lieu thereof. The Agency may designate another agency or other third party to take title to the For Sale Affordable Unit.

8.3.3 **Termination Upon Foreclosure and Assignment.** In the event title to an For Sale Affordable Unit is transferred following foreclosure by, or deed in lieu of foreclosure to a Mortgagee in first position, or a Mortgage in first position is assigned to the Secretary of HUD, the terms of this Covenant applicable to such unit shall automatically terminate subject to Sections 8.3.4 and 8.4.

8.3.4 **Apportionment of Proceeds.** In the event title to a For Sale Affordable Unit is transferred according to the provisions of Section 8.3.3, the proceeds from such foreclosure or transfer shall be apportioned and paid as follows: first, to the Mortgagee, in the amount of debt secured under the Mortgage, including commercially reasonable costs and expenses, if any, incurred by Mortgagee and due and payable under the terms of the Mortgage; second, to any junior Mortgagees, in the amount of the debt secured under such Mortgages; third, to the For Sale Unit Owner, up to the amount of the Maximum Resale Price as of the date of such sale or transfer; and fourth, to the City.

8.3.5 [*Reserved*]

8.4 **Assignment of Mortgage to the Secretary of HUD.** In the event a Mortgage recorded in the first position against a For Sale Affordable Unit is assigned to the Secretary of HUD, the following shall occur upon the date of assignment: (i) the Agency's right to purchase, whether or not such right has been triggered, shall automatically expire and (b) the terms of this Covenant applicable to such unit shall automatically terminate pursuant to Section 8.3.3, except that upon sale of such unit or foreclosure or deed in lieu thereof, the proceeds of such sale shall be apportioned as provided in Section 8.3.4.

ARTICLE IX

AMENDMENT OF COVENANT

Except as otherwise provided herein, this Covenant, or any part hereof, may be amended, modified or released by an instrument in writing executed by a duly authorized official of the Agency on behalf of the City, and by a duly authorized representative of the Landowner. Any amendment to this Covenant that alters the terms and conditions set forth herein shall be recorded among the Land Records before it shall be deemed effective. No amendment shall include any term(s) or condition(s) inconsistent with the Project site requirements set forth in **Exhibit E**, attached. Prior to or at any point during the development of each phase of the Project, the Project Owner of such phase may elect to enter into an affordable housing covenant that provides use restrictions or minimum Affordable Unit counts specific to that phase and consistent with the provisions of **Exhibit E** attached to this Covenant. Any such phase-specific covenant shall be in the same format, and shall include the same content, of this Master Covenant, amended only as to use restrictions or minimum Affordable Unit counts for that phase, and the land within that phase of development shall be released from the obligations of this Covenant upon: (i) execution by the Project Owner(s) of the phase-specific covenant, (ii) execution by the City of the phase-specific covenant, confirming compliance with the requirements of this Article IX and Exhibit D, and (iii) recordation of the fully-executed phase-specific covenant within the land records of the Circuit Court for the City of Charlottesville. Once recorded, any such phase-specific covenant shall be deemed an amendment of this Covenant as to the area of land described therein. In connection with the closing of any sale or other conveyance of all of the Affordable Units within a specific phase by the Project Owner of that phase, the Project Owner may request the City to review the compliance of that phase with the requirements of this Covenant or its replacement phase-specific covenant. If the City provides written verification of the phase's compliance with the covenant, endorsed by the City Attorney, then following the date of such written verification, the City's sole recourse for enforcement of the covenant shall be against the Project Owner's successor(s) in interest.

ARTICLE X

AFFORDABILITY PERIOD

10.1. All Affordable Units in the Parcel shall be leased in accordance with the terms of this Covenant for **a period of ninety-nine (99) years (the “Affordability Period”)** which shall commence when the Project construction is complete, the residential buildings are placed in service and ready for occupancy pursuant to certificates of occupancy and shall continue for a period of ninety-nine (99) years thereafter. The Affordability Period for each For-Sale Affordable Unit shall commence on the date of recordation of the deed transferring the initial ownership of the For-Sale Affordable Unit to a Qualified Purchaser and shall continue for a period of 99 years thereafter. Notwithstanding the foregoing, this Covenant may be released and extinguished upon the approval of the Agency, in its sole and absolute discretion.

10.2. Notwithstanding the foregoing, in the event the Project or the interest in the Parcel are foreclosed upon by an institutional or governmental lender following foreclosure by, or deed in lieu of foreclosure to a Mortgagee in first position, or a Mortgage in first position is assigned to the Secretary of HUD, the terms of this Covenant applicable to such unit shall automatically terminate subject to Sections 10.3.

10.3. Notwithstanding the foregoing Section 10.2, if Virginia Housing (formerly known as Virginia Housing Development Authority) is first lienholder and senior lender, and Virginia Housing is the successful bidder at foreclosure and becomes the successor in interest, then the income, rent or use restrictions required by this Covenant shall terminate, 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) Virginia Housing may permit additional units at 60% AMI to survive such a foreclosure, provided that Virginia Housing 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. If such affordability survival materially and adversely affects the debt financing for any such phase, the City shall consider reducing such thresholds, but in all events each Phase will be subject to the tax credit Extended Use Agreement required by Virginia Housing. The City Manager, after consultation with the City Attorney’s Office, is the City official designated within the City Ordinance as having authority to approve an amendment of this Covenant to the extent necessary to facilitate PHA’s receipt of financing from Virginia Housing, provided that the renegotiated terms are no less than those Virginia Housing itself requires in its own Lending Policy and are not otherwise prohibited by the City Ordinance or any provision of this Covenant.

10.4. Notwithstanding any other provisions of this Article X, in accordance with the requirements of Virginia Code §15.2-958 in effect on the date this Covenant is recorded, the Landowner and its successors in interest shall provide a minimum of twenty percent (20%) of the residential units within Phase 1 as Rental Affordable Units, for a period of not less than ten (10) years, and no City official shall have authority to amend this Covenant in a manner that defeats these statutory required minimums.

ARTICLE XI

NOTICES

11.1 Any notices given under this Covenant shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight

commercial courier service to the applicable Person at the addresses specified in this Article, or to such other persons or locations as may be designated by the City or the Project Owner from time to time. All notices to be sent to the City shall be sent to the following address:

CITY: Charlottesville City Manager
P.O. Box 911, Charlottesville, Virginia 22902

With a copy to: Charlottesville City Attorney
P.O. Box 911, Charlottesville, Virginia 22902

11.2 All notices to be sent to Project Owner shall be sent to the address given in the preamble with copies to counsel and to the Landowner and to the investor member of the Project Owner, which may be provided and included in an amendment hereto. All notices to be sent to any Affordable Unit Occupant shall be sent to the unit number referenced in its lease. It shall be the responsibility of the applicable Person and any successor to the applicable Person to provide the City with a current address. The failure of the applicable Person to provide a current address shall be a default under this Covenant.

11.3 Notices shall be deemed delivered as follows: (i) if hand-delivered, then on the date of delivery or refusal thereof; (ii) if by overnight courier service, then on the next business day after deposit with the overnight courier service; and (iii) if by certified mail (return receipt requested, postage pre-paid), then on the date of actual delivery or refusal thereof.

ARTICLE XII

MISCELLANEOUS

12.1 **Applicable Law: Forum for Disputes.** This Covenant shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the Commonwealth of Virginia, without reference to the conflicts of laws provisions thereof. Project Owner, Affordable Unit Occupants and the City irrevocably submit to the jurisdiction of the Circuit Court for the City of Charlottesville, Virginia for the purposes of any suit, action or other proceeding arising out of this Covenant or any transaction contemplated hereby. Project Owner, Affordable Unit Occupants and the City irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Covenant or the transactions contemplated hereby in the Circuit Court of the City of Charlottesville and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

12.2 **Counterparts.** This Covenant may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument.

12.3 **Time of performance.** All dates for performance (including cure) shall expire at 5:00 p.m. (Eastern Time) on the performance or cure date. A performance date which falls on a Saturday, Sunday or City holiday is automatically extended to the next Business Day.

12.4 **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS COVENANT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.5 **Further Assurances.** Each party agrees to execute and deliver to the other party such additional documents and instruments as the other party reasonably may request in order to fully carry out the purposes and intent of this Covenant; provided that such additional documents and instruments do not materially increase the obligations or burdens upon the second party.

12.6 **Severability.** If any provision of this Covenant is held to be unenforceable or illegal for any reason, said provision shall be severed from all other provisions. Said other provisions shall remain in effect without reference to the unenforceable or illegal provision.

12.7 **Limitation on Liability.** Provided that Project Owner has exercised reasonable due diligence in the performance of its obligations and duties herein, Project Owner shall not be liable in the event a Household submits falsified documentation, commits fraud, or breaches any representation or warranty contained in this Covenant. Notwithstanding the foregoing, Project Owner shall be liable if Project Owner has knowledge or should have knowledge, that a Household submitted falsified documentation, committed fraud, or breached any representation or warranty contained in this Covenant.

12.8 **Agency Limitation on Liability.** Any review or approval by the City or the Agency shall not be deemed to be an approval, warranty, or other certification by the City or the Agency as to compliance of such submissions, the Project, any Affordable Unit or Parcel with any building codes, regulations, standards, laws, or any other requirements contained in this Covenant, or any other covenant granted in favor of the city that is filed among the Land Records; or otherwise contractually required. The City shall incur no liability in connection with the Agency's review of any submissions required under this Covenant as its review is solely for the purpose of protecting the City's interest under this Covenant.

12.9 **No Third Party Beneficiary.** Except as expressly set forth in this Covenant, there are no intended third party beneficiaries of this Covenant, and no Person other than City shall have standing to bring an action for breach of or to enforce the provisions of this Covenant.

12.10 **Representations of Project Owner.** As of the date hereof, Project Owner hereby represents and warrants to City as follows:

(a) This Covenant has been duly executed and delivered by Project Owner, and constitutes the legal, valid and binding obligation of Project Owner and Landowner and its successors and assigns, enforceable against Project Owner, and its successors and assigns, in accordance with its terms;

(b) Neither the entering into of this Covenant nor performance hereunder will constitute or result in a violation or breach by Project Owner of any agreement or order which is binding on Project Owner; and

(c) Project Owner (i) is duly organized, validly existing and in good standing under the laws of its state of jurisdiction and is qualified to do business and is in good standing under the laws of the City of Charlottesville. (ii) is authorized to perform under this Covenant; and (iii) has all necessary power to execute and deliver this Covenant.

12.11 **Federal Affordability Restrictions.** In the event the Parcel is encumbered by other affordability restrictions ("Federal Affordability Restrictions") as a result of federal funding or the issuance of Low-Income Housing Tax Credits for the Project, it is expressly understood such Federal Affordability restrictions, requirements, and provisions shall apply and it is agreed that

in the event the requirements in this Covenant would cause a default of or finding of non-compliance (“Conflict”) with the Federal Affordability Restrictions during the compliance period for the Federal Affordability Restrictions, then the requirements of the Federal Affordability Restrictions shall control to the extent of the Conflict. In all other instances, the requirements of this Covenant shall control.

[Signatures on Following Pages]

EXHIBIT A to MASTER AFFORDABLE HOUSING COVENANT

Legal Description of Property

[PHA to provide legal description of full property]

EXHIBIT B TO MASTER AFFORDABLE HOUSING COVENANT

Rental Affordable Unit Lease Rider

This Affordable Unit Lease Rider (“Rider”) is attached to and incorporated into the lease dated (“Lease”) between (“Resident” or “You”) and , as Management Agent (“Manager”) for (“Owner”) for Apartment (“Premises”). All capitalized terms not defined in this Rider shall have the meaning provided in the Affordable Housing Covenant (as defined below).

In consideration of the mutual covenants set forth in the Lease and below, you agree that your use and possession of the Premises is subject to the terms and conditions set forth in the Lease and the following terms and conditions, which are in addition to and supplement the Lease:

AFFORDABLE UNIT: Resident acknowledges that the Premises is subject to that certain Affordable Housing Covenant between Owner and the City of Charlottesville dated _____, 20____, as may be subsequently amended, (the “Affordable Housing Covenant”). The Premises is currently designated as an Affordable Unit, which requires the Resident’s household income to be less than or equal to [_____] of the area median income (AMI).

DEFINED TERMS: Those terms not specifically defined herein shall be assigned the definition provided in the Affordable Housing Covenant.

ELIGIBILITY: In order for you, as resident, to be eligible to rent an Affordable Unit, you must be and remain an “Affordable Unit Tenant” as defined in the Affordable Housing Covenant.

INCOME CERTIFICATION/INCOME RECERTIFICATION: No more than ninety (90) days and no less than forty-five (45) days before each anniversary of the first day of the lease (or at the City’s option, every two years after the first day of the Lease) the Manager shall request that the Resident provide the Certifying Authority with the following:

- (i) an executed Certification of residency that states that Resident occupies the Premises as his/her/their principal residence,
- (ii) all information pertaining to the Resident’s household composition and income for all household members,
- (iii) a release authorizing third party sources to provide relevant information regarding the Resident’s eligibility for the Affordable Unit, as well as how to contact such sources, and
- (iv) any other reasonable and customary representations, information or documents requested by the Certifying Authority.

Resident shall submit the foregoing listed documentation to the Certifying Authority within fifteen (15) days of Manager’s request. Within ten (10) days of Certifying Authority’s receipt of the foregoing documentation and based on the results of the annual income recertification review, Certifying Authority will determine whether the Resident remains income eligible for the Premises and notify the Resident of his or her household’s AMI percentage, and (a) if the Resident is no longer income eligible for the Premise, the income category for which the Resident is income eligible to lease a unit in the apartment community, or (b) if the Resident is income eligible for the Premises, provide a Certification of Income completed by the Certifying

Authority, verifying that the income of the Resident meets income eligibility for the Premises.

Upon annual recertification, if the Resident remains income eligible for the Premises, the Resident will be eligible to remain in the Premises and to renew his/her lease at the then-current lease rate for the Premises. If the Resident's Annual Household Income is determined to exceed the Maximum Annual Household Income applicable to the Premises, then the Resident may remain in the Premises and pay the rent applicable to an Affordable Unit at a higher affordability level for which the Resident's Annual Household Income qualifies. If the Resident's Annual Household is determined to exceed the Maximum Annual Income for the Affordable Unit with the highest AMI level in the Parcel, then the Owner may allow the Resident to remain in the Premises and to pay the applicable market-rate rent for the Premises.

Manager will notify Resident of all options (i.e., an Affordable Unit at a different AMI category or a market rate unit) for which Resident is income eligible prior to the expiration of the Resident's lease term. Prior to the expiration of the Resident's lease term, the Resident shall notify Manager in writing of the Resident's election to either (i) remain in the Premises and pay the rental rate applicable to the Resident's then current AMI category if the Resident's Annual Household Income is at or below the established AMI categories of [] AMI or [] AMI, (ii) remain in the Premises paying the market rate rent for that unit if the Resident's then current income is above the highest AMI level, or (iii) vacate the Premises at the end of the Resident's Lease term. Resident's failure to notify Manager of Resident's election prior to the expiration of the lease term will be deemed by Manager as Resident's election to vacate the Premises.

In the event that Resident fails to pay the applicable rental rate or vacate the Premises upon expiration of the lease term, Manager shall pursue an action for eviction of Resident. Resident's agreement to pay the applicable rental rate or vacate was a condition precedent to Manager's initial acceptance of Resident's eligibility and Manager has relied on Resident's agreement. Resident acknowledges and agrees that the criteria to be income eligible to occupy the Premises is and serves as a City policy and objective, and that failure to vacate the Premises or pay the applicable rental rate is both a default under the Lease and in violation of the Affordable Housing Covenant.

PROHIBITION ON SUBLETS AND ASSIGNMENTS: Resident may not sublease any portion of the Premises or assign its lease to any other person, except with the prior written consent of the City of Charlottesville City Manager's Office, in its sole and absolute discretion.

LEASE EFFECTIVE: The Lease of the Premises shall only be effective if this executed Rider, a Certification of Income, a Certificate of Tenant Eligibility (for initial lease term), and a Certificate of Residency (for lease renewals) are attached as exhibits to the lease agreement.

Resident Signature

Date

Resident Signature

Date

Resident Signature

Date

EXHIBIT C to MASTER AFFORDABLE HOUSING COVENANT

Maximum Sales Price

The following assumptions shall be used in calculating the Maximum Sales Price of a For Sale Affordable Unit.

- i. Condominium Fees, if applicable: Use the actual monthly condominium fees, or if unknown, estimate monthly condominium fees at \$0.60 per square foot. If the actual size of the Affordable Unit is unknown, use the square footage estimated below based on unit type:
 - Multi-Family Development
 - Studio—500 SF
 - 1-Bedroom—625 SF
 - 2-Bedroom—900 SF
 - 3-Bedroom—1,050 SF
- ii. Homeowner Fees, if applicable: Use the actual monthly homeowner fees, or if unknown, estimate monthly homeowner fees at \$0.10 per square foot. If the actual size of the Affordable Unit is unknown, use the square footage estimated below based on home type.
 - Single-Family Development
 - 2-Bedroom 1,100 SF
 - 3-Bedroom 1,300 SF
 - 4-Bedroom 1,500 SF
- iii. Monthly Hazard Insurance, if single family home: Estimated to be \$125.00 per month. If a more recent survey or source is available, the Agency shall instruct Developer to use a different estimate.
- iv. Monthly Real Property Taxes: Base monthly real property taxes on the estimated price of the Affordable Unit assuming the current homestead deduction at current local real estate tax rates
- v. Mortgage Rate: Mortgage rates are determined by the most recent monthly average of a 30 year fixed rate mortgage at www.freddiemac.com plus a one percent (1%) cushion.
- vi. Down payment: Assume a down payment of 5% on the purchase of the Affordable Unit.

EXHIBIT D to MASTER AFFORDABLE HOUSING COVENANT

Provisions Governing Calculation of Maximum Resale Price

1. The **Maximum Resale Price** (“MRP”) for a subsequent sale of a For Sale Affordable Unit shall be determined through use of the formula $MRP = P \times (F) + V$ (“Formula”), where:

(a) P = the price Owner paid for the Affordable Unit;

(b) V = the sum of the value of the Eligible Capital Improvements and Eligible Replacement and Repair Costs, as determined by the Agency pursuant to this section; and

(c) F = the average of the Ten Year Compound Annual Growth Rates of the Area Median Income (“AMI”) from the first year of ownership of the For Sale Affordable Unit to the year of the sale of the For Sale Affordable Unit by the Affordable Unit Owner. This average may be expressed: (1) As the result of the formula $F = (1 + [((AMI \text{ Year } m / AMI \text{ Year } m-10) ^ (1/10) -1) + \dots ((AMI \text{ Year } k / AMI \text{ year } k-1) ^ (1/10) -1) / n]) ^ n$, where m = the year after the Affordable Unit was purchased by Owner, k = the year in which the Affordable Unit is sold by Owner, and n = the number of years the Affordable Unit is owned by Owner; or (2) as otherwise published by the Agency.

2. For the purposes of determining the value of “V” in the Formula, the following improvements made to a For Sale Affordable Unit after the date of purchase may be included at the percentage of cost indicated, to the extent they are permanent in nature and add to the market value of the property: (a) Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by the Agency; and (b) Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by the Agency.

3. Ineligible costs shall not be included in the determining the value of “V” in the Formula.

4. The value of improvements may be determined by the Agency based upon documentation provided by the Affordable Unit Owner or, if not provided, upon a standard value established by the Agency.

5. The Agency may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if the Agency finds that the improvement diminished or did not increase the fair 32 market value of the For Sale Affordable Unit or if the improvements make the Affordable Unit unaffordable to all Qualified Purchasers at the Designated Affordability Level.

6. The Agency may reduce the value of a capital improvement if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, the capital improvement.

7. Owner shall permit a representative of the Agency to inspect the For Sale Affordable Unit upon request to verify the existence and value of any capital improvements that are claimed by Owner.

8. No allowance shall be made in the Maximum Resale Price for the payment of real estate brokerage fees associated with the sale of the For Sale Affordable Unit.

9. The value of personal property transferred to a purchaser in connection with the resale of a For

Sale Affordable Unit shall not be considered part of the sales price of the For Sale Affordable Unit for the purposes of determining whether the sales price of the For Sale Affordable Unit exceeds the MRP.

10. Any capitalized terms used in this Schedule that are not defined herein shall have the meanings set forth in the Covenant. As used in this Schedule, the following capitalized terms shall have the meanings indicated below:

Eligible Capital Improvement: major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of an Affordable Unit. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; (vi) smoke detectors; (vii) removal of toxic substances, such as asbestos, lead, mold, or mildew; (viii) insulation or upgrades to double-paned windows or glass fireplace screens; and (ix) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods. Improvements that meet these criteria will be given 100% credit by the Agency.

Eligible Replacement and Repair Cost: in-kind replacement of existing amenities and repairs and general maintenance that keep an Affordable Unit in good working condition. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (viii) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (ix) replacement of window sashes; (x) fireplace maintenance or in-kind replacement; (xi) heating system maintenance and repairs; and (xii) lighting system. Costs that meet these criteria will be given 50% credit for repairs as determined by the Agency.

Ineligible Costs: means costs of cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures not eligible for capital improvement credit as determined by the Agency. These improvements generally include: (i) cosmetic enhancements such as fireplace tile and mantel, decorative wall coverings or hangings, window treatments (blinds, shutters, 33 curtains, etc.), installed mirrors, shelving, refinishing of existing surfaces; (ii) non-permanent fixtures, such as track lighting, door knobs, handles and locks, portable appliances (refrigerator, microwave, stove/ oven, etc.); and (iii) installations with limited useful life spans, such as carpet, painting of existing surfaces, window glass and light bulbs.

EXHIBIT E to MASTER AFFORDABLE HOUSING COVENANT

Master Site Requirements Chart

Friendship Court
Master Site Requirements

The chart below includes the anticipated site requirements for all phases of the Project, but the requirements will be revisited and revised by Piedmont Housing Alliance (the “**Developer**”) and the City of Charlottesville before each phase (the “**City**”). The requirements for each phase will be binding on the entire site except for the early childhood center, community resources building, and commercial spaces built during each phase to provide healthcare, tenant services, and other commercial uses that benefit the tenants (the “**Unencumbered Parcels**”). Each phase of the project will be released from the Master Covenant upon execution of a site-specific covenant with the City at the time it is developed, which covenants will be approved by the City Manager and City Attorney. Any such covenants shall terminate upon foreclosure or deed in lieu of foreclosure. As noted below, Developer will use its best efforts to secure the right for the City to take action to prevent a foreclosure or deed in lieu of foreclosure. All capitalized terms not defined herein shall have the same meaning as defined in the Master Affordable Housing Covenant by and between the NHTE Piedmont Garrett Square Limited Partnership and the City, dated _____, 2020.

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
Minimum Unit Count Master Covenant Art. II, but see Article X, §10.3	Phase 1 should include a minimum of 106 Rental Units, 46 of which are dedicated Project-Based Section 8 Units. At a minimum, an additional 300 Affordable Units shall be provided between Phases Two, Three, or Four of the Project. Of these, 104 will be Project-Based Section 8 Units. The Developer may choose the unit count per phase for these additional units.	Phase 2 should include a minimum of 54 Project-Based Section 8 Units.	Phase 3 should include a minimum of 50 Project-Based Section 8 Units. By the end of Phase 3, all 150 of the original Project-Based Section 8 Units will be replaced.	Phase 4 should include a minimum of the number of Affordable Units necessary for the Project to reach between 425 and 475 Affordable Units total when combining Affordable Units from Phases 1, 2, 3, and 4, with a target of approximately 450 Affordable Units.
Affordability Master	All Affordable Units are reserved for households earning at or below 80% of	All Affordable Units are reserved for households earning at or below 80% AMI	All Affordable Units are reserved for households earning at or below 80% AMI	All Affordable Units are reserved for households earning at or below 80% AMI

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
Covenant, Article I (definition of Affordable Unit), but see Article X, §10.3	AMI who pay no more than 30% of income for Gross Housing Costs, including utilities.	who pay no more than 30% of their income on Gross Housing Costs, including utilities.	who pay no more than 30% of their income on Gross Housing Costs, including utilities.	who pay no more than 30% of their income on Gross Housing Costs, including utilities.
Affordability Distribution Master Covenant, Article II, and Article X §10.3	<p>106 Affordable Units include:</p> <ul style="list-style-type: none"> • 46 units are Project-Based Section 8 • 30 units will be reserved for households earning at or below 60% AMI • 30 units will be reserved for households earning at or below 80% AMI 	<p>Estimated 103-114 Affordable Units include:</p> <ul style="list-style-type: none"> • 54 units are Project-Based Section 8 • Est. 50% of additional units reserved for households earning at or below 60% AMI • Est. 50% of additional units reserved for households earning at or below 80% AMI 	<p>Estimated 88-102 Affordable Units include:</p> <ul style="list-style-type: none"> • 50 units are Project-Based Section 8 • Est. 50% of additional units reserved for households earning at or below 60% AMI • Est. 50% of additional units reserved for households earning at or below 80% AMI 	<p>Estimated 128-153 Affordable Units include:</p> <ul style="list-style-type: none"> • Est. 50% of units reserved for households earning at or below 60% AMI • Est. 50% of reserved for households earning at or below 80% AMI
Affordability Program Master Covenant, Article II, §2.1.5, but see Article X, §10.3	<p>46 Rental Units should receive Section 8 Project-Based Rental Assistance</p> <p>Section 8 Project-Based Rental Assistance is subject to a HAP Contract being in effect. Developer will take all commercially reasonable steps to ensure the HAP</p>	<p>54 Rental Units should receive Section 8 Project-Based Rental Assistance</p> <p>Section 8 Project-Based Rental Assistance is subject to a HAP Contract being in effect. Developer will take all commercially reasonable steps to ensure the HAP Contract is</p>	<p>50 Rental Units should receive Section 8 Project-Based Rental Assistance</p> <p>Section 8 Project-Based Rental Assistance is subject to a HAP Contract being in effect. Developer will take all commercially reasonable steps to ensure the HAP Contract is</p>	

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
	Contract is renewed throughout the Affordability Period.	renewed throughout the Affordability Period.	renewed throughout the Affordability Period.	
Affordability Period Master Covenant, Article X, but see §10.3	Ninety-Nine (99) years	Ninety-Nine (99) years	Ninety-Nine (99) years	Ninety-Nine (99) years
Exclusive Right to Lease Master Covenant, Article II, §2.1.5, but see Article X, §10.3	Following the expiration of the LIHTC extended use period and outside of any subsequent LIHTC extended use period entered into with respect to the property pursuant to a recapitalization, the Office of the Charlottesville City Manager (the “Agency”) or its designee will have the exclusive right to lease up to twenty percent (20%) of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four (4) persons having an income of eighty percent (80%) AMI.	Following the expiration of the LIHTC extended use period and outside of any subsequent LIHTC extended use period entered into with respect to the property pursuant to a recapitalization, the Agency or its designee will have the exclusive right to lease up to twenty percent (20%) of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four (4) persons having an income of eighty percent (80%) AMI.	Following the expiration of the LIHTC extended use period and outside of any subsequent LIHTC extended use period entered into with respect to the property pursuant to a recapitalization, the Agency or its designee will have the exclusive right to lease up to twenty percent (20%) of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four (4) persons having an income of eighty percent (80%) AMI.	Following the expiration of the LIHTC extended use period and outside of any subsequent LIHTC extended use period entered into with respect to the property pursuant to a recapitalization, the Agency or its designee will have the exclusive right to lease up to twenty percent (20%) of the Rental Affordable Units, for forty (40) years, at a rental rate not to exceed that which would be payable by a household of four (4) persons having an income of eighty percent (80%) AMI.
Amenities	To the extent permitted by	To the extent permitted by	To the extent permitted by	To the extent permitted by

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
and Services Master Covenant, Articles II and III	VIRGINIA HOUSING and the tax credit regulations, households in Affordable Units shall have the same and equal use of all the amenities and services provided in all Phases.	VIRGINIA HOUSING and the tax credit regulations, households in Affordable Units shall have the same and equal use of all the amenities and services provided in all Phases.	VIRGINIA HOUSING and the tax credit regulations, households in Affordable Units shall have the same and equal use of all the amenities and services provided in all Phases.	VIRGINIA HOUSING and the tax credit regulations, households in Affordable Units shall have the same and equal use of all the amenities and services provided in all Phases.
Rental of Affordable Units Master Covenant, Article IV, but see Article X, §10.3	<p>Project Owner may obtain referrals from federal and City of Charlottesville agencies but must select Qualified Tenants for Rental Affordable Units through a first-come, first-served system.</p> <p>Project Owner shall use the lease agreement that is attached to the covenant, incorporate a Rental Affordable Unit Lease Rider (pending approval of HUD) and retain a copy of the lease for a period of no less than 5 years from the expiration or termination of such lease. The lease agreement may be modified at HUD’s direction without the City’s consent.</p> <p>The initial lease term for a Rental Affordable Unit is one</p>	<p>Project Owner may obtain referrals from federal and City of Charlottesville agencies but must select Qualified Tenants for Rental Affordable Units through a first-come, first-served system.</p> <p>Project Owner shall use the lease agreement that is attached to the covenant, incorporate a Rental Affordable Unit Lease Rider (pending approval of HUD) and retain a copy of the lease for a period of no less than 5 years from the expiration or termination of such lease. The lease agreement may be modified at HUD’s direction without the City’s consent.</p> <p>The initial lease term for a Rental Affordable Unit is one</p>	<p>Project Owner may obtain referrals from federal and City of Charlottesville agencies but must select Qualified Tenants for Rental Affordable Units through a first-come, first-served system.</p> <p>Project Owner shall use the lease agreement that is attached to the covenant, incorporate a Rental Affordable Unit Lease Rider (pending approval of HUD) and retain a copy of the lease for a period of no less than 5 years from the expiration or termination of such lease. The lease agreement may be modified at HUD’s direction without the City’s consent.</p> <p>The initial lease term for a Rental Affordable Unit is one</p>	<p>Project Owner may obtain referrals from federal and City of Charlottesville agencies but must select Qualified Tenants for Rental Affordable Units through a first-come, first-served system.</p> <p>Project Owner shall use the lease agreement that is attached to the covenant, incorporate a Rental Affordable Unit Lease Rider (pending approval of HUD) and retain a copy of the lease for a period of no less than 5 years from the expiration or termination of such lease. The lease agreement may be modified at HUD’s direction without the City’s consent.</p> <p>The initial lease term for a Rental Affordable Unit is one</p>

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
	<p>year at the Maximum Allowable Rent. Leases for subsequent years require income recertification.</p> <p>Rental Affordable Units may not be subleased or assigned or subleased.</p>	<p>year at the Maximum Allowable Rent. Leases for subsequent years require income recertification.</p> <p>Rental Affordable Units may not be subleased or assigned or subleased.</p>	<p>year at the Maximum Allowable Rent. Leases for subsequent years require income recertification.</p> <p>Rental Affordable Units may not be subleased or assigned or subleased.</p>	<p>year at the Maximum Allowable Rent. Leases for subsequent years require income recertification.</p> <p>Rental Affordable Units may not be subleased or assigned or subleased.</p>
<p>Sale of Affordable Units</p> <p>Master Covenant, Article V, but see Article X, §10.3</p>	<p>In the event the Project contains For Sale Affordable Units, Owner shall not convey all or any part of its fee interest in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income and who is a Qualified Purchaser. Any subsequent purchaser of a For Sale Affordable Unit shall also be a Qualified Purchaser who has obtained a Certification of Income. Notwithstanding the foregoing, Owner may also convey all or part of its fee interest in For Sale Affordable Unit(s) or all or any part of its</p>	<p>In the event the Project contains For Sale Affordable Units, Owner shall not convey all or any part of its fee interest in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income and who is a Qualified Purchaser. Any subsequent purchaser of a For Sale Affordable Unit shall also be a Qualified Purchaser who has obtained a Certification of Income. Notwithstanding the foregoing, Owner may also convey all or part of its fee interest in For Sale Affordable Unit(s) or all or any part of its interest in the Project itself to a community</p>	<p>In the event the Project contains For Sale Affordable Units, Owner shall not convey all or any part of its fee interest in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income and who is a Qualified Purchaser. Any subsequent purchaser of a For Sale Affordable Unit shall also be a Qualified Purchaser who has obtained a Certification of Income. Notwithstanding the foregoing, Owner may also convey all or part of its fee interest in For Sale Affordable Unit(s) or all or any part of its interest in the Project itself to a community</p>	<p>In the event the Project contains For Sale Affordable Units, Owner shall not convey all or any part of its fee interest in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income and who is a Qualified Purchaser. Any subsequent purchaser of a For Sale Affordable Unit shall also be a Qualified Purchaser who has obtained a Certification of Income. Notwithstanding the foregoing, Owner may also convey all or part of its fee interest in For Sale Affordable Unit(s) or all or any part of its interest in the Project itself to a community</p>

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
	interest in the Project itself to a community land trust.	land trust.	land trust.	land trust.
Security Default on loan is addressed within the Ordinance and Security Agreement for the Loan	Developer shall make a loan to the project in the amount of the city loan. Such developer loan will be secured by a subordinate interest in the Phase 1 project and such subordinate interest shall be assigned to the city as security for its loan in the amount of [\$_____] to the Developer. None of the phases shall be cross defaulted or cross collateralized by the City or any lender or investor.	Developer shall make a loan to the project in the amount of the city loan. Such developer loan will be secured by a subordinate interest in the Phase 2 project and such subordinate interest shall be assigned to the city as security for its loan to the Developer. None of the phases shall be cross defaulted or cross collateralized by the City or any lender or investor.	Developer shall make a loan to the project in the amount of the city loan. Such developer loan will be secured by a subordinate interest in the Phase 3 project and such subordinate interest shall be assigned to the city as security for its loan to the Developer. None of the phases shall be cross defaulted or cross collateralized by the City or any lender or investor.	Developer shall make a loan to the project in the amount of the city loan. Such developer loan will be secured by a subordinate interest in the Phase 4 project and such subordinate interest shall be assigned to the city as security for its loan to the Developer. None of the phases shall be cross defaulted or cross collateralized by the City or any lender or investor.
Foreclosure Terms Foreclosure terms shall be addressed within Security Agreement for the Loan Also: see Master Covenant Article X,	The Developer shall use its best efforts to include language in a subordination agreement to be entered into with the senior lender that provides the City with the right to cure a default and prevent a foreclosure. Upon foreclosure or deed in lieu of foreclosure, Affordability Restrictions will terminate; except 20% of the additional units within the Project must remain at 60% AMI. If such affordability survival	The Developer shall use its best efforts to include language in a subordination agreement to be entered into with the senior lender that provides the City with the right to cure a default and prevent a foreclosure. Upon foreclosure or deed in lieu of foreclosure, Affordability Restrictions will terminate; except 20% of the additional units within the Project must remain at 60% AMI. If such affordability survival materially and	The Developer shall use its best efforts to include language in a subordination agreement to be entered into with the senior lender that provides the City with the right to cure a default and prevent a foreclosure. Upon foreclosure or deed in lieu of foreclosure, Affordability Restrictions will terminate; except 20% of the additional units within the Project must remain at 60% AMI. If such affordability survival materially and	The Developer shall use its best efforts to include language in a subordination agreement to be entered into with the senior lender that provides the City with the right to cure a default and prevent a foreclosure. Upon foreclosure or deed in lieu of foreclosure, Affordability Restrictions will terminate; except 20% of the additional units within the Project must remain at 60% AMI. If such affordability survival materially and

	SITE REQUIREMENTS FOR ALL PHASES			
Requirement	Phase 1	Phase 2	Phase 3	Phase 4
§10.3	materially and adversely affects the debt financing for any such phase, the City shall consider reducing such thresholds, but in all events each Phase will be subject to the tax credit Extended Use Agreement required by the Virginia Housing Development Authority. Any restriction related to the Project-Based Section 8 units and related income restriction under the current federal HAP contract.	adversely affects the debt financing for any such phase, the City shall consider reducing such thresholds, but in all events each Phase will be subject to the tax credit Extended Use Agreement required by the Virginia Housing Development Authority. Any restriction related to the Project-Based Section 8 units and related income restriction under the current federal HAP contract.	adversely affects the debt financing for any such phase, the City shall consider reducing such thresholds, but in all events each Phase will be subject to the tax credit Extended Use Agreement required by the Virginia Housing Development Authority. Any restriction related to the Project-Based Section 8 units and related income restriction under the current federal HAP contract.	adversely affects the debt financing for any such phase, the City shall consider reducing such thresholds, but in all events each Phase will be subject to the tax credit Extended Use Agreement required by the Virginia Housing Development Authority. Any restriction related to the Project-Based Section 8 units and related income restriction under the current federal HAP contract.

EXHIBIT F to MASTER AFFORDABLE HOUSING COVENANT

PHASE 1 AFFORDABLE HOUSING COVENANT

PHASE 1 AFFORDABLE HOUSING COVENANT

THIS PHASE 1 AFFORDABLE HOUSING COVENANT (this “**Covenant**”) is made as of the _____ day of _____, 2020 (“**Effective Date**”), by NHTE PIEDMONT GARRETT SQUARE LIMITED PARTNERSHIP (“**Landowner**”) having an address of 1101 30TH Street, N.W., Suite 400, Washington, District of Columbia, 20007, and FC PHASE 1, LLC, a Virginia limited liability company (“**Phase 1 Project Owner**”), having an address of 682 Berkmar Circle, Charlottesville, Virginia 22901, for the benefit of the City of Charlottesville, a municipal corporation, 605 East Main Street, City Hall, Charlottesville, Virginia, 22902 (the “**City**”).

RECITALS

R-1. Landowner is the fee simple owner of certain real property located in the City of Charlottesville as further described in **Exhibit A** to the Master Covenant (the “**Property**”) and such real property includes an area of land (the “**Parcel**”) that will be used for Phase 1 of a four-phase redevelopment of the development currently known as Friendship Court.

R-2. The Parcel is the subject of an option to lease dated March 12, 2019 (the “**Option**”) granted by Landowner to FC Phase 1 LLC, a Virginia limited liability company, whose managing member is controlled by Piedmont Housing Alliance, a Virginia nonprofit corporation (“**PHA**”), and NHT Communities, a District of Columbia nonprofit corporation (the “**Phase 1 Project Owner**”). On _____, 2020, the Phase 1 Project Owner exercised the Option and has entered into a long-term ground lease, dated _____, 2020, for the Parcel (the “**Ground Lease**”).

R-3. To further the public purpose of increasing the affordable housing stock within the City of Charlottesville, the City is willing to loan certain public funding to PHA upon execution of the Ground Lease by Phase 1 Project Owner and Landowner.

R-4. As contemplated by Article IX of the Master Covenant recorded within the land records of the City of Charlottesville, Virginia as Instrument No. [_____], the City, Landowner, and Phase 1 Project Owner desire to set forth herein the terms, restrictions and conditions upon which Phase 1 Project Owner will construct, maintain and lease the Affordable Units within Phase 1.

R-5. The Covenant shall be binding upon the entire Property except for the early childhood center, community resources building, and commercial space built to provide healthcare, tenant services, and other commercial tenant benefits, as well as any portions of the Property excluded by subsequent amendments.

R-6. As contemplated by Article IX of the Master Covenant, the parties hereto intend that, upon recordation of this Phase 1 Covenant, this Phase 1 Covenant shall become binding upon the land within Phase 1 of the Project, and the Phase 1 Parcel shall hereby be released from the Master Covenant (defined below).

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties hereby declare, covenant and agree as follows:

ARTICLE I

DEFINITIONS

For the purposes of this Covenant, the terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular.

Affordability Period: is ninety-nine (99) years, calculated as set forth within Article IX.

Affordability Requirement: has the meaning given in Section 2.1

Affordable Unit: means a residential dwelling unit for occupancy by a household having household income at or below 80% of Area Median Income who are paying no more than 30% of income for Gross Housing Costs, including utilities.

Affordable Unit Marketing Plan: means Landowner's plan for marketing the rental or sale of the Affordable Units, as approved by the Agency pursuant to Section 2.3.

Affordable Unit Owner: means a Qualified Purchaser who own(s) a For Sale Affordable Unit.

Agency: means the Office of the Charlottesville City Manager, and any successor department whose mission includes administration of the City's Affordable Housing Program.

Area Median Income (AMI): means median family income limits for the City of Charlottesville, Virginia, established and adjusted by the U.S. Department of Housing and Urban Development (HUD) annually by household size.

Annual Household Income: means the aggregate annual income of a Household as determined by using the standards set forth in 24 CFR § 5.609, as may be amended, or as otherwise set forth by the Agency.

Annual Report: has the meaning given in Section 4.10.

Business Day means Monday through Friday, inclusive, with the exception of any holidays recognized by the City of Charlottesville government.

Certificate of Tenant Eligibility means a certification by a Household at its initial occupancy of an Affordable Unit, in a form approved by the Agency, that shall be given to the Agency, Landowner, and the Certifying Authority, representing and warranting the following: (a) the Household is a Qualified Tenant and has disclosed all of its Annual Household Income to the Certifying Authority, (b) the Household's Annual Household Income is at or below the maximum Annual Household Income for the applicable Affordable Unit, (c) the Household has been informed of its rights and obligations under this Covenant, (d) the Household intends to occupy the Affordable Unit as its principal residence, (e) that the Household size is within the occupancy Standard for the Affordable Unit, and (f) any other reasonable and customary representations requested by the Agency.

Certification of Income: means a certification made by a Certifying Authority that verifies the Annual Household Income of a Qualified Tenant, as applicable, meets the Designated Affordability Level for an applicable Affordable Unit and meets the requirements of Section 4.5 or Section 5.2.1, as applicable, in such form as the Agency approves.

Certification of Inspection: means a certification by Phase 1 Project Owner that it has performed or caused to be performed an inspection of a Rental Affordable Unit and that, to the best of Landowner's knowledge, such Rental Affordable Unit complies with all applicable statutory and regulatory requirements, in such form as the Agency approves.

Certification of Residency: means a certification made by a tenant that states that the tenant occupies the Affordable Unit as its principal residence, in such form as the Agency approves.

Certifying Authority: means PHA or any other entity or entities approved by the Agency pursuant to Section 2.4.

Code: means Sections 42 and 142 of the Internal Revenue Code of 1986, as amended.

Designated Affordability Level (DAL): means the percentage of AMI assigned to each Affordable Unit, at or below which a Qualified Purchaser's or Qualified Tenant's as applicable, Annual Household Income must fall.

For Sale Affordable Unit: means an Affordable Unit that is owned, or is to be owned, by a Qualified Purchaser.

Household(s): means all individuals who will occupy the Affordable Unit, including all individuals over eighteen (18) years of age whose names will appear on the lease, the purchaser's or tenant's, as applicable, spouse or domestic partner and children under eighteen (18) years of age. A Household may be a single family, one (1) individual living alone, two (2) or more families living together, or any other group of related or unrelated individuals who share living arrangements as allowable by this Covenant.

Household Size Adjustment Factor (HAF): means the factor related to the number of individuals in a Household for the purpose of establishing the Maximum Annual Household income of an Affordable Unit, as set forth in the following table:

Household Size	Household Adjustment Factor
1	0.7
2	0.8
3	0.9
4	1
5	1.1
6	1.2

Housing Cost: means (a) the total monthly payments for rent and Utilities for Rental Affordable Units and (b) the total monthly mortgage payments, property tax, hazard insurance, if applicable, and condominium or homeowner fees for For Sale Affordable Units.

HUD: means the United States Department of Housing and Urban Development.

Land Records: means the real estate property records for the City of Charlottesville located in the Circuit Court for the City of Charlottesville.

Landowner: means NHTE PIEDMONT GARRETT SQUARE LIMITED PARTNERSHIP .

Levels of Affordability refers to the Tiers of Affordable Housing defined in terms of AMI. Families earning: between 120 and 80% AMI are considered “moderate-income”; between 80 and 50% AMI, “low-income”; between 50 and 30% AMI, “very low-income” and below 30% AMI, “extremely low-income.”

Loan Agreement means that certain loan agreement by and between PHA and the City to be dated and executed as of the closing of the acquisition of the leasehold interest in the Parcel by the Phase 1 Project Owner, approved by Ordinance adopted by Charlottesville City Council on _____, 2020, including the promise to construct the Affordable Units in accordance with this Covenant.

Market-Rate Unit: means each Residential Unit that is not an Affordable Unit.

Master Covenant: means that Master Affordable Housing Covenant recorded within the land records of the City of Charlottesville, Virginia, as Instrument No. _____.

Maximum Allowable Rent: as defined in Section 4.4.2.

MAXI: is the maximum Annual Household Income of a Household occupying an Affordable Unit as calculated pursuant to Section 4 for Rental Affordable Units or Section 5 for For Sale Affordable Units.

Maximum Resale Price: is the maximum resale price of a For-Sale Affordable Unit as determined pursuant to procedures established by the Agency.

Maximum Sales Price: as defined in Section 5.1.1.

MINI is the Minimum Annual Household Income of a Household occupying an Affordable Unit, as calculated pursuant to Section 5.2.1 for any For Sale Affordable Units.

Mortgage: means a mortgage, deed of trust, mortgage deed, or such other classes of instruments as are commonly given to secure a debt under the laws of the City of Charlottesville.

Mortgagee: means the holder of a Mortgage.

Occupancy Standard: means the minimum and maximum number of individuals permitted to occupy any given Affordable Unit, as identified in the following chart:

Affordable Unit Size (Number of Bedrooms)	Minimum Number of Individuals in Affordable Unit	Maximum Number of Individuals in Affordable Unit
Studio/Efficiency	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10
6	10	12

Occupancy Standard Factor: means the factor related to the assumed number of occupants for the purpose of establishing the Maximum Allowable Rent or Maximum Allowable or Maximum Sales Price, as applicable, of an Affordable Unit as set forth in the following table:

Size of Affordable Unit	Occupancy Pricing Standard	Occupancy Standard Factor
Efficiency Studio	1	.7
1 Bedroom	2	.8
2 Bedroom	3	.9
3 Bedroom	5	1.1

Over-Income Tenant: as defined in Section 4.6.5.

Parcel: is a portion of the Property on which Phase 1 will be constructed, as set forth on Exhibit A, attached and incorporated herein by reference.

Person: means any individual, corporation, limited liability company, trust, partnership, limited partnership, or other legal entity.

Phase 1: means the initial phase of construction of the Project to be constructed on the Parcel.

Phase 1 Project Owner means the Project Owner that will develop Phase 1 (FC Phase 1 LLC, a Virginia limited liability company), and all of FC Phase 1 LLC’s assignees, transferees, sublessees, subtenants, and successor(s) in interest to the Parcel.

Project: means the structures, landscaping, hardscape and/or site improvements to be constructed

or placed on the Property developed and owned by a Project Owner, including without limitation the Rental Affordable Units and For Sale Affordable Units referred to within the definition of “**Affordability Requirement**”. The term “Project” includes all phases of the proposed redevelopment—including, without limitation, Phase 1 and all subsequent phases of the redevelopment of the Property.

Project Owner means any person that has an interest in the Property deriving from the Ground Lease described within Recital 2 (“R-2”), including, without limitation: the Phase 1 Project Owner and all of the Phase 1 Project Owner’s assignees, transferees, sublessees, subtenants, and successors in interest.

Property: refers to the land described on **Exhibit A** to the Master Covenant, attached and incorporated herein by reference, which includes the Parcel, as well as other real estate identified, as of the date of this Covenant, by the City real estate parcel identification number 280112000 (currently assigned the street addresses of 400-426 Garret Street, Charlottesville, Virginia).

Qualified Tenant or Qualified Purchaser: each means a Household that (i) has an Annual Household Income, as certified by the Certifying Authority, less than or equal to the Maximum Annual Household Income for the applicable Affordable Unit at the time of leasing and subsequent lease renewals, (ii) shall occupy the Affordable Unit as its principal residence, (iii) shall not permit exclusive occupancy of the Affordable Unit by any other individual(s), (iv) shall use and occupy the Affordable Unit as an Affordable Unit subject to the Affordability Requirement and this Covenant and (v) shall occupy the Affordable Unit within the Occupancy Standard.

Rental Affordable Unit: means an Affordable Unit that shall be leased to a Qualified Tenant.

Rental Affordable Unit Lease Rider: is that certain lease rider, which is attached to this Covenant as **Exhibit B** and incorporated herein, as the same may be amended from time to time with the written approval of the Agency.

Rental Formula: is defined in Section 4.4.2.

Residential Unit: means a dwelling unit constructed within Phase 1 for residential occupancy by one or more individuals who comprise a household.

Sale: is defined in Section 5.1.

Utilities: means water, sewer, electricity, and natural gas.

ARTICLE II

AFFORDABILITY REQUIREMENT

2.1 **Requirement of Affordability.** All of the Residential Units within Phase 1 shall be constructed and reserved as either Rental Affordable Units or For Sale Affordable Units, subject to the Affordability

Requirement. For all purposes of this Phase 1 Covenant, the term “Affordability Requirement” means and refers to all of the following:

2.1.1. All Residential Units within Phase 1 shall be Rental Affordable Units or For Sale Affordable Units.

2.1.2. All Rental Affordable Units and For Sale Affordable Units are subject to the Affordability Period.

2.1.3. All Rental Affordable Units and For Sale Affordable Units are subject to the income limitations under subsection (g)(1) and the rent restrictions under subsection (g)(2) of Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”).

2.1.4. Rental Affordable Units shall be subject to the following:

(a) No fewer than 106 of the Residential Units within Phase 1 shall be Rental Affordable Units (“Required Rental Affordable Units”). The Required Rental Affordable Units are further subject to all of the following:

(i) no fewer than 46 Required Rental Affordable Units shall be rented to Households qualifying under the Program-Based Section 8 Program. These Rental Affordable Units shall participate in the federal Program-Based Section 8 Program throughout the Affordability Period, for so long as the federal Program is offered under federal law. In the event that the federal Program-Based Section 8 Program is discontinued by the federal government during the Affordability Period, then the 46 Rental Affordable Units referred to in this paragraph shall be maintained throughout the Affordability Period as Rental Affordable Units;

(ii) no fewer than 30 Required Rental Affordable Units shall be rented to Households with a MAXI of 60% Area Median Gross Income; and

(iii) no fewer than 30 Required Rental Affordable Units shall be rented to Households with a MAXI of 80% Area Median Gross Income.

(b) Additional Rental Affordable Units may be provided within Phase 1.

(c) The provisions of 2.1.4(a) and (b), above, are, unless otherwise provided, subject to subsection (g)(1)(C) of Section 42 of the Code and the federal Average Income Test.

2.2 **Affordable Unit Standards and Location.**

2.2.1 *[Reserved]*

2.2.2 *[Reserved]*

2.2.3 *[Reserved]*

2.2.4 *Exterior Finishes.* Exterior finishes of Affordable Units will be consistent across tiers of affordability.

2.2.5 *Interior Finishes.* Interior base finishes, appliances and equipment in the Affordable Units shall be similar across tiers of affordability.

2.2.6 *Affordable Unit Location.* As allowed within the parameters of LIHTC compliance guidelines or other federal law, Affordable Units of various tiers shall be dispersed throughout the Project, and shall not be concentrated on any one floor within a building, or within a section of the Project.

2.3 **Marketing Affordable Units.** Phase 1 Project Owner shall create an Affordable Unit Marketing Plan that sets forth its plan for marketing the Affordable Units to Households who may be Qualified Tenants or Qualified Purchasers, as applicable. The Affordable Marketing Plan shall be subject to the Agency's prior written approval and shall be submitted to and approved by the Agency prior to marketing any Affordable Units for sale or rent. Phase 1 Project Owner may contract with the Certifying Authority to implement the Affordable Unit Marketing Plan.

2.4 **Certifying Authority.** Phase 1 Project Owner shall select a Certifying Authority, which shall be subject to the Agency's prior written approval, not to be unreasonably withheld, conditioned or delayed. Phase 1 Project Owner may contact the Agency with questions and information about the selection of a Certifying Authority. The Certifying Authority shall review documentation and verify a Household's Annual Household Income and Household's size in order to determine whether that Household is a Qualified Tenant or Qualified Purchaser, as applicable. If a Household is determined to be a Qualified Tenant or Qualified Purchaser, as applicable, the Certifying Authority shall issue a Certification of Income for the subject Household.

ARTICLE III

USE

3.1 **Use.** Except as provided herein, all occupants of Rental Affordable Units shall have the same and equal use of all the amenities of the Parcel and services provided at the Parcel (except if unique services are required for certain tenants as approved by the Agency). No restrictions, requirements or rules shall be imposed on occupants of Rental Affordable Units at any tier of affordability that are not imposed equally on the occupants of the Rental Affordable Units within other tiers of affordability. If amenities, services, upgrades, or ownership or rental of parking and other facilities are offered as an option to occupants of the Rental Affordable Units at any tier of affordability, such amenities, services, upgrades, or rental of parking and other facilities shall be offered to occupants of the Rental Affordable Units at other tiers of affordability. If there is no cost or fee charged to occupants of the Rental Affordable Units at one tier of affordability for such amenities, services, upgrades, or rental of parking and other facilities, there shall not be a cost or fee charged to occupants of Rental Affordable Units at other tiers of affordability. Except as provided herein, all Affordable Unit Owners shall have the same and equal use of all the amenities within the Project and services provided to residents within the Project (except if unique

services are required for certain residents as approved by the Agency). No restrictions, requirements or rules shall be imposed on Affordable Unit Owners at any tier of affordability that are not imposed equally on the Affordable Unit Owners within other tiers of affordability. If amenities, services, upgrades, or ownership or rental of parking and other facilities are offered as an option to Affordable Unit Owners at any tier of affordability, such amenities, services, upgrades, or rental of parking and other facilities shall be offered to the Affordable Unit Owners at other tiers of affordability. If there is no cost or fee charged to Affordable Unit Owners at one tier of affordability for such amenities, services, upgrades, or rental of parking and other facilities, there shall not be a cost or fee charged to Affordable Unit Owners at other tiers of affordability.

3.2 **Demolition/Alteration.** Subject to normal wear and tear, Phase 1 Project Owner shall maintain, upkeep, repair and replace interior components (including fixtures, appliances flooring and cabinetry) of each Rental Affordable Unit with interior components of equal or better quality than those interior components being replaced. Affordable Unit Owners shall maintain, upkeep, repair and replace interior components (including fixtures, appliances flooring and cabinetry). Neither Project Owner nor any Affordable Unit Owner shall demolish or otherwise structurally alter an Affordable Unit, or remove fixtures or appliances installed in an Affordable Unit, other than for maintenance, repair, and replacement of equal or better quality without the prior written approval of the Agency, which approval shall be in the sole discretion of the Agency or as needed to rebuild after a casualty or condemnation.

ARTICLE IV

RENTAL OF AFFORDABLE UNITS

4.1 **Lease of Rental Affordable Units.** Project Owner shall reserve, maintain and lease the Rental Affordable Units to Qualified Tenants (a) in accordance with this Covenant, and (b) at a rate paid by the Qualified Tenant at or below the Maximum Allowable Rent.

4.2 **Rental Affordable Unit Lease Requirements.**

4.2.1 *Form of Lease.* To lease a Rental Affordable Unit to a Qualified Tenant, Phase 1 Project Owner shall use a lease agreement to which is attached and incorporated a Rental Affordable Unit Lease Rider, as may be amended from time to time. The Rental Affordable Unit Lease Rider shall be executed by Phase 1 Project Owner and each Qualified Tenant prior to the Qualified Tenant's occupancy of the Rental Affordable Unit. Any occupant of the Rental Affordable Unit who is eighteen (18) years or older shall be a party to the lease agreement and shall execute the Rental Affordable Unit Lease Rider.

4.2.2 *Effectiveness of Lease.* The lease of a Rental Affordable Unit shall only be effective if a Rental Affordable Lease Rider, a Certification of Income and a Certificate of Tenant Eligibility are attached as exhibits to the lease agreement. Failure to attach the foregoing shall render the lease null and void *ab initio*.

4.2.3 *Requirement to Maintain Copies of Leases of Rental Affordable Units.* Phase 1 Project Owner shall maintain or cause to be maintained copies of all initial and renewed leases executed

with Qualified Tenants for a period of no less than five (5) years from the expiration or termination of such lease.

4.3 **Rental Affordable Unit Admissions Process.**

4.3.1 *Referrals.* Phase 1 Project Owner may obtain referrals of prospective tenants of Rental Affordable Units from federal and City of Charlottesville agencies, provided such referrals comply with the requirements of this Covenant, Fair Housing laws, and the requirement that units be generally available to the public. In all events, before a prospective tenant leases a Rental Affordable Unit, their Annual Household Income shall be verified by a Certifying Authority.

4.3.2 *Consideration of Applicants.* For the initial occupancy of the Rental Affordable Units, Phase 1 Project Owner shall select Qualified Tenants through a first-come, first-served system, or other system approved by the Agency, as shall be further provided in the Affordable Unit Marketing Plan. Following the initial occupancy of the Affordable Units, Phase 1 Project Owner shall consider each applicant in the order in which received, whether received pursuant to the Affordable Unit Marketing Plan or referred pursuant to Section 4.3.1. Tenants of Rental Affordable Units participating in the Project-Based Section 8 Program shall be selected in accordance with requirements of that federal program. Any and all of the foregoing shall be consistent with federal Fair Housing laws and regulations and any units financed under the Code (tax credit or tax exempt bond financed projects) must be generally available to the public.

4.3.3 *Rejection of Applicants.* In connection with the leasing of a Rental Affordable Unit, Phase 1 Project Owner may reject any applicant if, after diligent review of such applicant's application, Phase 1 Project Owner determines in good faith that such applicant does not meet criteria to lease or occupy a Rental Affordable Unit, provided such criteria do not violate applicable City of Charlottesville and federal laws and is the same criteria used to lease or occupy the Market-Rate Units. In the event any rejected applicant raises an objection or challenges Phase 1 Project Owner's rejection of such applicant, Phase 1 Project Owner shall be solely responsible for ensuring that its rejection of such applicant is not in violation of federal or local law. Phase 1 Project Owner shall provide the Agency with all documents evidencing Phase 1 Project Owner's review and rejection of an applicant, upon the request of the Agency.

4.3.4 *Determination of Eligibility.* Each tenant seeking to occupy a Rental Affordable Unit shall have its Annual Household Income verified by and obtain a Certification of Income from the Certifying Authority prior to leasing such unit. Housing Choice Vouchers (or vouchers from similar programs) shall be an acceptable source of verifiable household income, for the Rental Affordable Units other than those which are part of the Program-Based Section 8 Program.

4.4 **Initial Rental Affordable Unit Lease Terms.**

4.4.1 *Term.* The term of any new Rental Affordable Unit lease agreement shall be for a period of one (1) year.

4.4.2 *Establishment of Maximum Rent—Rental Formula.* Rents on Rental Affordable Units shall

be rent restricted. Maximum Allowable Rent paid by the Tenant shall for the first lease year shall be based on the number of bedrooms and AMI as established annually by HUD. If a household pays for utilities, the maximum rent must be adjusted by the applicable utility allowance.

4.5 Income Determinations. The Annual Household Income for a prospective tenant of a Rental Affordable Unit shall be determined as of the date of the lease renewals for such Rental Affordable Unit annually. A Household's income eligibility to rent a Rental Affordable Unit is determined by calculating the MAXI for a Household occupying the Rental Affordable Unit. The Certifying Authority shall verify that the Household's Annual Household Income is not more than the applicable MAXI.

4.5.1 Maximum Annual Household Income. The MAXI is determined through AMI as established annually by HUD, and as specified in Section 2.1, above.

4.6 Subsequent Lease Years

4.6.1 Use of Rental Formula. For each lease year after the first lease year, Maximum Allowable Rent shall be determined in the same manner specified within Section 4.4.2, above.

4.6.2 Renewal by Tenants of Affordable Units. For each tenant of a Rental Affordable Unit who intends to renew its residential lease, no earlier than ninety (90) days and no later than thirty (30) days before each anniversary of the first day of a residential lease, Phase 1 Project Owner shall obtain the following: (i) a Certification of Residency from each such tenant; and (ii) a Certification of Income completed by the Certifying Authority. Phase 1 Project Owner shall not permit a renewal of a lease for a Rental Affordable Unit unless the tenant has provided the documents as required herein and the tenant is determined to be a Qualified Tenant. If the tenant fails to provide such documents, Phase 1 Project Owner shall treat such tenant as an Over-Income Tenant and charge market-rate rent, and Phase 1 Project Owner shall designate another unit as a Rental Affordable Unit in accordance with Section 4.6.6. The foregoing Certifications and requirements to be a continuing Qualified Tenant shall be as provided in Section 42 of the Code for any period when the requirements of the Low Income Housing Tax Credits and the Extended Use Agreement are binding on the Parcel.

4.6.3 Annual Recertification of Tenants. Upon receipt of renewal documents from the tenant of a Rental Affordable Unit at the time of recertification, Certifying Authority shall determine the tenant's household income eligibility pursuant to Section 4.5 for the subject Rental Affordable Unit and notify the tenant of the same within fifteen (15) days prior to the expiration of the then-current lease term. Any tenant whose Annual Household Income remains at or below the MAXI for the subject Rental Affordable Unit will be eligible to remain in the Rental Affordable Unit and to renew his/her lease at the then-current lease rate for the particular Rental Affordable Unit. The foregoing Certifications and requirements to be a continuing Qualified Tenant shall be as provided in Section 42 of the Code for any period when the requirements of the Low Income Housing Tax Credits and the Extended Use Agreement are binding on the Parcel.

4.6.4 Annual Recertification of Under Income Tenants. Upon annual recertification, any tenant whose Annual Household Income remains at or below the MAXI for the subject Rental

Affordable Unit may elect either to (i) remain in the Rental Affordable Unit up to the then-current Maximum Allowable Rent for the subject Rental Affordable Unit or (ii) vacate the Rental Affordable Unit at the end of the tenant's lease term.

4.6.5 Annual Recertification of Over-Income Tenants. Upon annual recertification, if a tenant's Annual Household Income is determined to exceed the MAXI for the subject Rental Affordable Unit (such tenant, an "**Over-Income Tenant**"), then the Over-Income Tenant may elect to remain in the Rental Affordable Unit and pay the rent applicable to (a) a higher Designated Affordability Level, if a higher Designated Affordability Level exists for the Parcel, for which the Over-Income Tenant's Annual Household Income qualifies, whereupon Phase 1 Project Owner shall change the Designated Affordability Level of the Rental Affordable Unit to the higher Designated Affordability Level pursuant to Section 4.6.6, or (b) a like-sized Market-Rate Unit, if the Over-Income Tenant's Annual Household Income does not qualify for a higher Designated Affordability Level, but qualifies for a like-sized Market-Rate Unit, whereupon Phase 1 Project Owner shall designate a Market-Rate Unit as a Rental Affordable Unit pursuant to Section 4.6.6.

4.6.6 Changes to Unit Location. If applicable, Owner may change the designation of a Rental Affordable Unit to a new Designated Affordability Level or to a Market-Rate Unit as necessary to allow an Over-Income Tenant to remain in the unit (i.e., to accommodate an existing tenant). Following any change in designation of a Rental Affordable Unit to a higher Designated Affordability Level or to a Market-Rate Unit of similar size and location in the property to the lower Designated Affordability Level from which the original Rental Affordable Unit had been changed in order to bring the Parcel in conformity with the Affordability Requirement.

4.6.7 Rent from Subsidies. Nothing herein shall be construed to prevent Phase 1 Project Owner from collecting rental subsidy or rental-related payments from any federal, state, or City of Charlottesville agency paid to Phase 1 Project Owner and/or the tenant of a Rental Affordable Unit, to the extent receipt of such payment is otherwise in compliance with the requirements of this Covenant. Such rental subsidy or rental-related payment shall not be included in determining Maximum Chargeable Rent or the income of an otherwise Qualified Tenant, all as provided in the Code.

4.7 No Subleasing of Rental Affordable Units. The tenant of a Rental Affordable Unit may not sublease any portion of its Rental Affordable Unit or assign its lease to any other Household, and Phase 1 Project Owner shall not knowingly allow such Rental Affordable unit to be subleased, except with the Agency's prior written consent, in the Agency's sole and absolute discretion. No Rental Affordable Unit may be offered or used for any short term rental or other transient occupancy.

4.8 Representations of Affordable Unit Tenant. By execution of a lease the tenant of a Rental Affordable Unit shall be deemed to represent and warrant to the Agency and Phase 1 Project Owner, each of whom may rely thereon, that the tenant's household meets, and will continue to meet, all eligibility requirements contained in this Covenant for a Qualified Tenant of a Rental Affordable Unit.

4.9 Representations of Phase 1 Project Owner. By its execution of a lease for a Rental Affordable Unit, Phase 1 Project Owner shall be deemed to represent and warrant to the Agency, which may rely on

the following, that: (i) the Household is determined to be a Qualified Tenant by the Certifying Authority, and (ii) Phase 1 Project Owner is not collecting more than the Maximum Allowable Rent from the Tenant.

4.10 Annual Reporting Requirements. Beginning in the first year that any Rental Affordable Unit is occupied by a tenant, Phase 1 Project Owner shall provide an annual report (“**Annual Report**”) to the Agency regarding the Rental Affordable Unit, which shall be submitted on each anniversary date of the Effective Date of this Covenant. The Annual Report shall include the following:

(a) the number and identification of Phase 1 Project Owner’s Rental Affordable Units, by bedroom count, that are occupied;

(b) the number and identification of Phase 1 Project Owner’s Rental Affordable Units, by bedroom count, that are vacant;

(c) for each Rental Affordable Unit that is vacant or that was vacant for a portion of the reporting period, the manner in which the Rental Affordable Unit became vacant (e.g. eviction or voluntary departure), the length of vacancy, and the progress in re-leasing that unit;

(d) for each occupied Rental Affordable Unit, the names, ages and ethnicity of all persons in the Qualified Tenant’s Household, the Household size, date of initial occupancy, and total Annual Household Income as of the date of the most recent Certification of Income;

(e) a sworn statement that, to the best of Phase 1 Project Owner’s information and knowledge, the Household occupying each Affordable Rental Unit meets the eligibility criteria of this Covenant for a Qualified Tenant;

(f) a copy of each new or revised Certification of Income for each Household renting a Rental Affordable Unit;

(g) a copy of each new or revised Certification of Residency for each Household renting a Rental Affordable Unit;

(h) a copy of each inspection report and Certification of Inspection for each Rental Affordable Unit; and

(i) a copy of all forms, policies, procedures, and other documents reasonably requested by the Agency related to the Rental Affordable Units.

The Annual reports shall be retained by Phase 1 Project Owner for a minimum of five (5) years after submission and shall be available, upon reasonable notice, for inspection by the Agency or its designee. Notwithstanding anything contained herein to the contrary, in the event that Phase 1 Project Owner provides a report to an agency within the City government with content substantially similar to the content of the Annual Reports described in this section, subject to the Agency’s prior written approval, then the reporting requirements under this section shall be satisfied upon Phase 1 Project Owner’s

delivery of such report to the Agency. The Agency may request Phase 1 Project Owner to provide additional information in support of its Annual Report, as necessary for the Phase 1 Project Owner to verify compliance with the requirements of this Covenant.

4.11 **Confidentiality.** Except as may be required by applicable law, including, without limitation, the Virginia Freedom of Information Act. Phase 1 Project Owner, the Certifying Authority and the Agency shall not disclose to third parties, other than Phase 1 Project Owner's Investor Member, the personal information of the Households, including the identity of the members of the Households, submitted as a part of the Annual Report.

4.12 **Inspection Rights.** The Agency or its designee shall have the right to inspect the Rental Affordable Units, upon reasonable advance notice to the Phase 1 Project Owner and during normal business hours as provided in the Leases and each Owner shall include notice of the Agency's right of inspection within all Leases of the Rental Affordable Units. If Phase 1 Project Owner receives such notice, Phase 1 Project Owner shall, in turn, give reasonable advance notice of the inspection to the tenant(s) occupying the specific Rental Affordable Unit(s). The Agency or its designee shall have the right to inspect a random sampling of the Rental Affordable Units to confirm that the units are in compliance with applicable statutory and regulatory housing requirements and the provisions of this Covenant. The Agency or its designee shall have the right to conduct audits of a random sampling of the Rental Affordable Units and associated files and documentation to confirm compliance with the requirements of this Covenant.

ARTICLE V

SALE OF AFFORDABLE UNITS

5.1. **Sale of For Sale Affordable Units.** In the event Phase 1 contains For Sale Affordable Units, the Phase 1 Project Owner shall comply with the provisions of this Article V for the sale of such Affordable Units. Phase 1 Project Owner shall not transfer or convey all or any part of its fee interest or its interest in the Ground Lease ("Sale"), whether or not for consideration, in a For Sale Affordable Unit to any person other than a Qualified Purchaser or to a community land trust. Each owner of a For Sale Affordable Unit shall only sell to a purchaser who has obtained a Certification of Income and who is a Qualified Purchaser or to a community land trust.

5.1.1. **Maximum Sales Price.** The sale price of each For Sale Affordable Unit upon an initial Sale shall not exceed an amount (the "Maximum Sales Price") that is affordable to a Household with an Annual Household Income at the Designated Affordability Level, adjusted by the Occupancy Standard Factor, spending not more than thirty percent (30%) of its Annual Household Income on Housing Cost. The Agency shall determine the Maximum Sales Price in accordance with **Exhibits C and/or D**, attached and incorporated herein by reference, or by another formula consistent with applicable state or federal laws and acceptable to the Agency in its sole discretion. The Housing Cost includes mortgage payments, property taxes, condominium and homeowner fees, and hazard insurance, if applicable. The Agency shall approve the Maximum Sales Price for each For Sale Affordable Unit prior to the marketing and sale of such For Sale Affordable Unit.

5.1.2. **Maximum Resale Price.** The Maximum Resale Price for each Sale subsequent to the initial Sale shall be calculated in accordance with **Exhibits C and/or D** attached and incorporated herein by reference, or by another formula consistent with applicable state or federal laws and acceptable to the Agency in its sole discretion. The Agency shall have the right to approve the Maximum Resale Price for each For Sale Affordable Unit prior to the marketing and resale of such For Sale Affordable Unit.

5.1.3. **Housing Purchase Assistance Program and other Subsidized Funding.** The Maximum Sales Price and Maximum Resale Price of a For Sale Affordable Unit shall be determined by the Agency without regard to the prospective purchaser's use of Housing Purchase Assistance Program and/or other subsidized funding for the purchase of the For Sale Affordable Unit, unless otherwise provided by this Covenant.

5.2. **Procedure for Sales.** The following procedures shall apply with respect to the initial sale or other transfer of title of a For Sale Affordable Unit, and also to each subsequent sale or other transfer of title of a For Sale Affordable Unit:

5.2.1. **Income Eligibility.** For any Qualified Purchaser, the Annual Household Income shall be determined as of the effective date of the sales contract for such For Sale Affordable Unit. If settlement for a For Sale Affordable Unit will not occur within 90 days after the effective date of the sales contract for that Unit, the Annual Household Income of the prospective Qualified Purchaser shall be determined again within 90 days prior to settlement. A Household's eligibility to purchase a For Sale Affordable Unit is determined by calculating both the MAXI for a Household seeking to occupy the For Sale Affordable Unit and the MINI for a Household seeking to occupy the For Sale Affordable Unit and verifying that the prospective Household's Annual Household Income is between the MAXI and MINI. The Maximum Annual Household Income is determined through the use of the formula: $MAXI = (AMI * DAL * HAF)$. The MINI is determined by multiplying the total Housing Cost by twelve (12) and dividing this number by forty-one percent (41%). The Housing Cost is determined by calculating the monthly mortgage payments using the actual terms of the Household's approved mortgage, and adding all applicable property taxes, homeownership or condominium fees, and hazard insurance. Each Qualified Purchaser shall have its Annual Household Income verified by and obtain a Certification of Income from the Certifying Authority prior to entering into the contract.

5.2.2. **Sale.** A sale or other transfer of title of a For Sale Affordable Unit shall only be effective if **(i)** a Certificate of Purchaser Eligibility submitted by a Household to Owner and dated within ninety (90) days of the closing of such Sale is recorded prior to or contemporaneous with the deed conveying the Affordable Unit and **(ii)** a Certification of Income is completed by a Certifying Authority within ninety (90) days before closing of such Sale. Owner, Mortgagee(s), District and any title insurer shall each be a third party beneficiary of each such Certificate of Purchaser Eligibility.

5.2.3. **Resale.** Prior to selling or otherwise transferring a fee interest in a For Sale Affordable Unit, the Affordable Unit Owner intending to re-sell such unit shall **(i)** contact the Agency to obtain the Maximum Resale Price and **(ii)** shall refer the prospective purchaser to the Agency to determine

their eligibility to purchase the For Sale Affordable Unit. The Maximum Resale Price shall be determined by the Agency in accordance with **Exhibits C and/or D** attached and incorporated herein by reference, or by such other formula acceptable to the Agency, in its sole discretion.

5.3. Notwithstanding the foregoing provisions, the initial or any subsequent sale or transfer of title of a For Sale Affordable Unit may be to a community land trust rather than a Qualified Purchaser. Following a sale or other transfer of title to a community land trust, the community land trust shall, for each subsequent sale or other transfer of title to the For Sale Affordable Unit, be bound by all of the provisions of this Article.

5.4. Closing Procedures and Form of Deed.

5.4.1. **Owner to Provide Copy of Covenant.** Phase 1 Project Owner or Affordable Unit Owner, as applicable, shall provide the Qualified Purchaser or community land trust with a copy of this Covenant prior to or at the closing on the Sale of the For Sale Affordable Unit.

5.4.2. **Form of Deed.** All deeds used to convey or otherwise transfer title to a For Sale Affordable Unit must have a fully executed Certificate of Purchaser Eligibility attached, if the sale or other transfer of title is to a Qualified Purchaser. Every deed shall include the following statement in twelve (12) point or larger type, in all capital letters, on the first page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN AFFORDABLE HOUSING COVENANT, DATED AS OF _____, 20_ RECORDED AMONG THE LAND RECORDS OF THE CITY OF CHARLOTTESVILLE, VIRGINIA AS INSTRUMENT NUMBER _____, ON _____ 20___, WHICH AMONG OTHER THINGS IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

5.4.3. **Deed for For Sale Affordable Unit.** A deed for a For Sale Affordable Unit shall not be combined with any other property, including parking spaces or storage facilities, unless the price of such property is included in the Maximum Sales Price (for initial Sales) or Maximum Resale Price (for subsequent Sales).

5.4.4. **Post Closing Obligations.** The purchaser of a For Sale Affordable Unit shall submit to the Agency within thirty (30) days after the closing a copy of the final executed HUD settlement statement, a copy of the deed recorded in the Land Records (including the Instrument Number assigned to the deed at recordation, when available), the Certificate of Purchaser Eligibility, and the Certification of Income.

5.5. **Rejection of Applicants.** Phase 1 Project Owner or Affordable Unit Owner may reject a prospective purchaser (“applicant”) who has obtained a Certification of Income or other evidence of eligibility adopted by the Agency, if, based on such applicant’s application, background and/or creditworthiness (including, without limitation, the applicant’s inability to provide credible evidence that such applicant will qualify for sufficient financing to purchase the For Sale Affordable Unit), such owner determines in

good faith that such applicant does not meet the criteria to purchase a For Sale Affordable Unit, provided that such criteria does not violate applicable Virginia or federal laws and is the same criteria as Market-Rate Units, except as required by this Covenant. In the event any rejected applicant raises an objection or challenges the owner's rejection of such applicant, Phase 1 Project Owner or Affordable Unit Owner, as applicable, shall be solely responsible for ensuring that its rejection of any applicant is not in violation of state or federal law. Phase 1 Project Owner or Affordable Unit Owner shall provide the Agency with all documents evidencing owner's review and rejection of an applicant, upon the request of the Agency.

5.6. Representations of Owner. By its execution of a deed conveying or otherwise transferring legal title to a For Sale Affordable Unit to a Qualified Purchaser, the Phase 1 Project Owner or Affordable Unit Owner shall be deemed to represent and warrant to, and agree with, the Agency and, if applicable, the title company, each of whom may rely on the following: that (i) the Household is determined to be a Qualified Purchaser by the Certifying Authority at the applicable Designated Affordability Level, and (ii) the sale price satisfies the terms of this Covenant.

5.7. Annual Certification of Residency. During the Affordability Period, the Affordable Unit Owner shall submit to the Agency annually, on the anniversary of the closing date for the owner's For Sale Affordable Unit, a Certification of Residency by a Qualified Purchaser. The Certification of Residency shall be submitted on or with such form as may be prescribed by Agency.

5.8. Leasing For Sale Affordable Units. The Affordable Unit Owner shall not lease, or permit a sublease of, a For Sale Affordable Unit without the Agency's prior written approval, in the Agency's sole and absolute discretion. If the Agency approves the lease of a For Sale Affordable Unit, then that Unit shall be leased in compliance with the Rental Affordable Unit provisions of this Covenant.

5.9. Transfers and Conveyances. This Phase 1 Affordable Housing Covenant shall run with the land identified on **Exhibit A** as the Parcel and shall be binding upon the Landowner and Phase 1 Project Owner and all of their heirs, successors and assigns. Except as otherwise expressly provided in this Covenant, in the event that the right, title and interest of an Affordable Unit Owner is, in whole or in part, transferred to a third party by operation of law (such as, without limitation: by court order, administration of an estate, intestate succession, etc.) (each third party receiving such interest, a "Transferee"), then such Transferee, shall be automatically be bound by all of the terms, obligations and provisions of this Covenant and shall either: (i) occupy the For Sale Affordable Unit if he or she is a Qualified Purchaser, or (ii) if the Transferee does not wish to or is unable to occupy the For Sale Affordable Unit, he or she shall promptly sell it in accordance with this Covenant.

5.10. Prohibition on Occupancy by Persons who are not Qualified Purchasers. In no event shall an individual who is not a Qualified Purchaser, or a member of the Household of a Qualified Purchaser, reside in a For Sale Affordable Unit for longer than ninety (90) days.

5.11. Progress Reports. Until all initial Sales of For Sale Affordable Units are completed, the Phase 1 Project Owner shall provide Agency with annual progress reports, or more frequently upon request, on the status of its initial sale of the For Sale Affordable Units. Upon the conversion of a Rental Affordable Unit to a For Sale Affordable Unit, then the first sale of that Unit to a Qualified Purchaser, and each subsequent sale of such Unit, and the occupancy of such Unit, shall be governed by this Article V.

ARTICLE VI

DEFAULT; ENFORCEMENT AND REMEDIES

6.1 **Default; Remedies.** In the event Phase 1 Project Owner defaults under any term of this Covenant, and Phase 1 Project Owner does not cure such default within sixty (60) days following written notice of such default from the Agency, the City shall have the right to seek specific performance, injunctive relief or other equitable remedies, including compelling the re-sale or leasing of an Affordable Unit and the disgorgement of rents and sale proceeds in excess of the rental rates and sale prices permitted hereunder, for any default(s). In the event such cure cannot reasonably be affected within the 60-day period, the Phase 1 Project Owner may request such additional time as may reasonably be necessary to cure such default provided the Project Owner has promptly initiated and diligently pursued such cure. Phase 1 Project Owner shall give notice of any such default to Phase 1 Project Owner's investment member, and any cure provided by such investor member shall be acceptable to the City as if rendered by Phase 1 Project Owner directly.

If Phase 1 Project Owner is in default under the terms of this Covenant, prior to exercising any remedies thereunder, the City shall provide simultaneous written notice of such default to Phase 1 Project Owner's investor member (the "Investor Member") if Phase 1 Project Owner or Investor Member has kept the City informed of the name and contact information for the Investor Member. Investor Member shall have the independent right to cure any defaults within the time periods set forth above. City hereby agrees that any cure of any default made or tendered by the Investor Member shall be (i) deemed to be a cure by Phase 1 Project Owner and (ii) accepted or rejected on the same basis as if made or tendered by Phase 1 Project Owner.

6.2 **No Waiver.** Any delay by the Agency in instituting or prosecuting any actions or proceedings with respect to a default hereunder, or in asserting its rights or pursuing its remedies hereunder, shall not operate as a waiver of such rights.

6.3 **Right to Attorney's Fees.** In any legal action to enforce this Covenant, the non-prevailing party shall pay the prevailing party's reasonable attorney fees and litigation costs incurred in connection with the prevailing party's efforts to enforce this Covenant. If the Charlottesville City Attorney's Office (CAO) serves as counsel for the City in such legal action, the reasonable attorney fees for the City shall be calculated based on the then applicable hourly rates prevailing within private practice within the City of Charlottesville, Virginia, and the number of hours that employees of the CAO prepared for or participated in any such action.

ARTICLE VII

COVENANT BINDING ON SUCCESSORS AND ASSIGNS

This Covenant is and shall be binding upon the Property and shall run with the land and any interest therein as of the Effective Date through the Affordability Period. The rights and obligations of City, Phase 1 Project Owner, and any Affordable Unit Owner, shall be binding upon and inure to the benefit of the

said parties and their respective heirs, successors, and assigns; provided however that all rights of City pertaining to the monitoring and/or enforcement of the obligations of Phase 1 Project Owner or any Affordable Unit Owner shall be retained by City, or such designee of the City as the City may so determine. No sale, transfer or foreclosure shall affect the validity of this Covenant, except as otherwise expressly provided within this Covenant.

ARTICLE VIII

MORTGAGES

8.1 Subordination of Mortgages. The provisions of this Article VIII shall only apply to For Sale Affordable Units, if applicable. All Mortgages placed against the Parcel, or any portion thereof, shall be subject and subordinate to this Covenant, except as provided in Section 8.3.3.

8.2 Amount of Mortgage. In no event shall the aggregate amount of all Mortgages placed with respect to an Affordable Unit exceed an amount equal to one hundred five percent (105%) of the Maximum Resale Price for such For Sale Affordable Unit. Prior to obtaining any Mortgage or refinancing thereof, the Affordable Unit Owner shall request from the Agency the then-current Maximum Resale Price for the For Sale Affordable Unit.

8.3 Default of Mortgage and Foreclosure.

8.3.1 Notice of Default. The Mortgagee shall provide the Agency written notice of any default and notice of intent to foreclose under the Mortgage on any For Sale Affordable Unit. Notwithstanding the foregoing, in no event shall failure to provide such notices preclude the Mortgagee's right to proceed with its remedies for default under the Mortgage.

8.3.2 Right of Purchase by the City. The Agency shall have the right to purchase a For Sale Affordable Unit in the event a notice of default or notice of intent to foreclose for a Mortgage in first position was recorded in the Land Records. The purchase price shall be an amount that is the greater of (i) the amount of the debt secured by all Mortgages recorded against the subject Affordable Unit, including commercially reasonable costs and expenses, if any, incurred by Mortgagee as a result of a default and due and payable under the terms of the Mortgage or (ii) the Maximum Resale Price. The Agency shall have thirty (30) days from the date a notice of default or a notice of foreclosure sale was recorded in the Land Records to exercise its option and to purchase the Affordable Unit. The Agency's right to purchase shall automatically expire upon the transfer of the Affordable Unit by foreclosure or deed in lieu thereof. The Agency may designate another agency or other third party to take title to the For Sale Affordable Unit.

8.3.3 Termination Upon Foreclosure and Assignment. In the event title to a For Sale Affordable Unit is transferred following foreclosure by, or deed in lieu of foreclosure to, a Mortgagee in first position, or a Mortgage in first position is assigned to the Secretary of HUD, the terms of this Covenant applicable to such unit shall automatically terminate subject to Sections 8.3.4 and 8.4.

8.3.4 **Apportionment of Proceeds.** In the event title to a For Sale Affordable Unit is transferred according to the provisions of Section 8.3.3, the proceeds from such foreclosure or transfer shall be apportioned and paid as follows: first, to the Mortgagee, in the amount of debt secured under the Mortgage, including commercially reasonable costs and expenses, if any, incurred by Mortgagee and due and payable under the terms of the Mortgage; second, to any junior Mortgagees, in the amount of the debt secured under such Mortgages; third, to the For Sale Unit Owner, up to the amount of the Maximum Resale Price as of the date of such sale or transfer; and fourth, to the City.

8.3.5 [*Reserved*]

8.4 **Assignment of Mortgage to the Secretary of HUD.** In the event a Mortgage recorded in the first position against a For Sale Affordable Unit is assigned to the Secretary of HUD, the following shall occur upon the date of assignment: (i) the Agency's right to purchase, whether or not such right has been triggered, shall automatically expire and (b) the terms of this Covenant applicable to such unit shall automatically terminate pursuant to Section 8.3.3, except that upon sale of such unit or foreclosure or deed in lieu thereof, the proceeds of such sale shall be apportioned as provided in Section 8.3.4.

ARTICLE IX

AMENDMENT OF COVENANT

Except as otherwise provided herein, neither this Covenant, nor any part hereof, can be amended, modified or released, unless such amendment, modification or release is set forth within a written instrument executed by a duly authorized official of the Agency on behalf of the City, and by a duly authorized representative of a Project Owner and recorded in the Land Records. Any amendment to this Covenant that alters the terms and conditions set forth herein shall be recorded among the Land Records before it shall be deemed effective.

ARTICLE X

AFFORDABILITY PERIOD

10.1. All Affordable Units in Phase 1 shall be and remain Affordable in accordance with the terms of this Covenant for a **period of ninety-nine (99) years (the "Affordability Period")**. The Affordability Period for each Rental Affordable Unit shall commence upon the issuance of a certificate of occupancy by the City's Building Code Official for that unit, and shall continue for a period of ninety-nine (99) years thereafter. The Affordability Period for each For-Sale Affordable Unit shall commence on the date of recordation of the deed transferring the initial ownership of the For-Sale Affordable Unit to a Qualified Purchaser and shall continue for a period of 99 years thereafter. Notwithstanding the foregoing, this Covenant may be released and extinguished upon the approval of the Agency, in its sole and absolute discretion.

10.2. Notwithstanding the foregoing, in the event the Phase 1 Project, or the Phase 1 Project Owner's interest in the Parcel, is foreclosed upon by an institutional or governmental lender following foreclosure

by, or deed in lieu of foreclosure to a Mortgagee in first position, or a Mortgage in first position is assigned to the Secretary of HUD, the terms of this Covenant applicable to such unit shall automatically terminate subject to Section 10.3.

10.3. Notwithstanding the foregoing Section 10.2, if Virginia Housing (formerly known as Virginia Housing Development Authority/VHDA) is first lienholder and senior lender, and Virginia Housing is the successful bidder at foreclosure and becomes the successor in interest, then the income, rent or use restrictions required by this Covenant shall terminate, 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) Virginia Housing may permit additional units at 60% AMI to survive such a foreclosure, provided that Virginia Housing 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, with the approval of the City Attorney's Office, shall have authority to renegotiate income, rent and use restrictions required by this Covenant, and to enter into a binding amendment of this Covenant, without the requirement for City Council approval, if necessary to facilitate PHA's receipt of financing from Virginia Housing, provided that the renegotiated terms are no less than those Virginia Housing itself requires in its own Lending Policy.

ARTICLE XI

NOTICES

11.1 Any notices given under this Covenant shall be in writing and delivered by United States mail (return receipt requested, postage pre-paid), delivered by hand, or delivered by private overnight commercial courier service to the applicable Person at the addresses specified in this Article, or to such other persons or locations as may be designated in writing by the City or the Project Owner from time to time. All notices to be given to the City shall be given to the following address:

CITY: Charlottesville City Manager

By mail to: P.O. Box 911, Charlottesville, Virginia 22902, or

By delivery to: 605 East Main Street, 2nd Floor, Charlottesville, Virginia 22902

With a copy to: Charlottesville City Attorney, sent by U.S. mail to:

P.O. Box 911, Charlottesville, Virginia 22902

11.2 All notices to be given to **Phase 1 Project Owner** shall be given by mail or delivery to:

Piedmont Housing Alliance

682 Berkmar Circle

Charlottesville, Virginia, 22901

Attention: Executive Director

With a copy to:

Klein Hornig, LLP

1325 G Street, N.W., Suite 770

Washington, DC, 20005

Attention: Erik T. Hoffman

And to the **Phase 1 Project Owner's Investor Member**, given by mail or delivery to:

Housing Equity Fund of Virginia XXIII, L.L.C.
Housing Equity Fund of Virginia XXIV, L.L.C.
c/o Virginia Community Development Corporation
1840 West Broad Street, Suite 200
Richmond, VA 23220
Attention: Executive Director

With a copy to:
Applegate & Thorne-Thomsen, P.C.
425 S. Financial Place, Suite 1900
Chicago, Illinois 60605
Attn: Diane K. Corbett, Esq.

All notices to be given to the tenant of a Rental Affordable Unit shall be sent to the unit number referenced in its lease. All notices to be given to an Affordable Unit Owner shall be given by mail or delivery to the physical address of the For Sale Affordable Unit. It shall be the responsibility of the applicable person and any successor to give written notice to the City of its mailing and delivery addresses. The failure of the applicable person to keep the City apprised in writing of its mailing and delivery addresses shall constitute a default under this Covenant.

11.3 Notices shall be deemed delivered as follows: (i) if hand-delivered, then on the date of delivery or refusal thereof; (ii) if by overnight courier service, then on the next business day after deposit with the overnight courier service; and (ii) if by certified mail (return receipt requested, postage pre-paid), then on the date of actual delivery or refusal thereof.

ARTICLE XII

MISCELLANEOUS

12.1 **Applicable Law; Venue.** This Covenant shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the Commonwealth of Virginia, without reference to the conflicts of laws provisions thereof. Each of the parties whose signatures are affixed to this Covenant irrevocably agrees, on behalf of itself and each of its heirs, successors in interest and assigns, to submit to the jurisdiction of the Circuit Court for the City of Charlottesville, Virginia for the purposes of any suit, action or other proceeding arising out of this Covenant or any transaction contemplated hereby. Each of the parties whose signatures are affixed to this Covenant, on behalf of itself and each of its heirs, successors in interest and assigns, irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Covenant or the transactions contemplated hereby in the Circuit Court of the City of Charlottesville and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

12.2 **Counterparts.** This Covenant may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

12.3 **Time of performance.** All dates for performance (including cure of any default) shall expire at 5:00 p.m. (Eastern Time) on the performance or cure date. A performance date which falls on a Saturday, Sunday or City holiday is automatically extended to the next Business Day.

12.4 **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS COVENANT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.5 **Further Assurances.** Each party agrees to execute and deliver to the other party such additional documents and instruments as the other party reasonably may request in order to fully carry out the purposes and intent of this Covenant; provided that such additional documents and instruments do not materially increase the obligations or burdens upon the second party.

12.6 **Severability.** If any provision of this Covenant is held to be unenforceable or illegal for any reason, said provision shall be severed from all other provisions; all other provisions shall be and remain in effect, and shall be enforceable without reference to the unenforceable or illegal provision.

12.7 **Limitation on Liability.** Provided that Phase 1 Project Owner or Affordable Unit Owner has exercised due diligence in the performance of its obligations and duties herein, Phase 1 Project Owner or Affordable Unit Owner shall not be liable in the event a Household submits falsified documentation, commits fraud, or breaches any representation or warranty contained in this Covenant. Notwithstanding the foregoing, Phase 1 Project Owner or Affordable Unit Owner shall be liable if Phase 1 Project Owner or Affordable Unit Owner has knowledge, or should have knowledge, that a Household submitted falsified documentation, committed fraud, or breached any representation or warranty contained in this Covenant.

12.8 **Agency Limitation on Liability.** Any review or approval by the City or the Agency shall not be deemed to be an approval, warranty, or other certification by the City or the Agency as to compliance of such submissions, the Phase 1 Project, any Affordable Unit or the Parcel with any building codes, regulations, standards, laws, or any requirements contained in this Covenant, or any other covenant granted in favor of the City that is filed among the Land Records or otherwise contractually required. The City shall incur no liability in connection with the Agency's review of any submissions required under this Covenant as its review is solely for the purpose of protecting the City's interest under this Covenant.

12.9 **No Third Party Beneficiary.** Except as expressly set forth in this Covenant, there are no intended third party beneficiaries of this Covenant, and no person other than City shall have standing to bring an action for breach of or to enforce the provisions of this Covenant.

12.10 **Representations of Phase 1 Project Owner.** As of the date hereof, Phase 1 Project Owner hereby further represents and warrants to City as follows:

(a) This Covenant has been duly executed and delivered by Phase 1 Project Owner, and constitutes the legal, valid and binding obligation of said persons, enforceable against said persons, and their heirs, successors and assigns;

(b) Neither the entering into of this Covenant nor performance hereunder will constitute or result in a violation or breach by Phase 1 Project Owner of any agreement or order which is binding on Phase 1 Project Owner; and

(c) The Phase 1 Project Owner (i) is duly organized, validly existing and in good standing under the laws of its state of jurisdiction and is qualified to do business and is in good standing under the laws of the Commonwealth of Virginia and the City of Charlottesville; (ii) is authorized to perform under this Covenant; and (iii) has all necessary power and authority to execute and deliver this Covenant.

12.11 Federal Affordability Restrictions. In the event the Parcel is encumbered by other affordability restrictions (“Federal Affordability Restrictions”) as a result of federal funding or the issuance of Low-Income Housing Tax Credits for the Project, it is expressly understood that, to the extent, if any, that such Federal Affordability restrictions, requirements, and provisions conflict with any provision(s) of this Covenant, then in the event the conflicting provision(s) in this Covenant would cause a default of or finding of non-compliance with the Federal Affordability Restrictions during the compliance period for the Federal Affordability Restrictions, then the requirements of the Federal Affordability Restrictions shall control to the extent of the conflict. In all other instances, the requirements of this Covenant shall control.

[Signatures on Following Pages]

[Insert Signature Blocks]

EXHIBIT A
TO THE FRIENDSHIP COURT REDEVELOPMENT
PHASE 1 HOUSING COVENANT

Legal Description of Parcel

Phase 1 of Friendship Court Redevelopment is on a parcel of land comprising approximately 3.87 acres, being the easternmost portion (the "Phase 1 Parcel") of a larger tract of real property lying within the City of Charlottesville, Virginia, owned by NHTE Piedmont Garrett Square Limited Partnership ("NHTE Piedmont Garrett Square LP, and described in the tax records of the City of Charlottesville as Tax Parcel 280112000, NHTE Piedmont Garrett Square LP having taken title to the real property by deed recorded in the office of the Clerk of Circuit Court of Charlottesville, Virginia in Deed Book 876 at Page 72, the real property being more particularly described by the following metes and bounds: beginning at a pk nail found along the west line of 6th Street, S.E. north of its intersection with Monticello Avenue, said point being the point of beginning, thence departing 6th Street, S.E. and with the northwest radial arc of its intersection with Monticello Avenue along a curve to the right, with a chord bearing north 85° 35' 39" east 49.68', having a radius of 30.00' and a length of 58.53' to a pk nail found; thence with the north line of Monticello Avenue the following courses: north 38° 30' 49" west 120.51' to an iron rod found; along a curve to the right, with a chord bearing north 30° 09' 56" west 127.22, having a radius of 438.12' and a length of 127.67' to a point; along a curve to the left, with a chord bearing north 30° 09' 56" west 176.00', having a radius of 606.12' and a length of 176.62' to a point; north 38° 30' 49" west 287.33' to an iron rod found; thence departing Monticello Avenue, and with the northeast radial arc of its intersection with 2nd Street, S.E. along a curve to the right, with a chord bearing north 09° 45' 15" west 28.87', having a radius of 30.00' and a length of 30.12' to an iron rod found; thence with the east line of 2nd Street, S.E. the following courses: north 19° 00' 20" east 361.37' to an iron rod found; north 19° 00' 20" east 100.00' to an iron rod found; thence departing 2nd Street, S.E., and with the southeast radial arc of its intersection with Garrett Street, along a curve to the right, with a chord bearing north 64° 55' 52" east 28.74', having a radius of 20.00' and a length of 32.06' to an iron rod found; thence with the south line of Garrett Street the following courses: south 69° 08' 27" east 164.46' to a pk nail found; along a curve to the right, with a chord bearing north 64° 29' 53" east 260.59', having a radius of 1608.89' and a length of 260.87' to a point; south 59° 51' 10" east 356.35' to a pk nail found; thence departing Garrett Street and with the southwest radial arc of its intersection with 6th Street, S.E., along a curve to the right, with a chord bearing south 13° 42' 28" east 28.84', having a radius of 20.00' and a length of 32.22' to an iron rod found; thence with the west line of 6th Street, S.E., the following courses: south 32° 26' 15" west 100.00' to a pk nail found; south 32° 26' 15" west 509.21' to an iron rod found; south 29° 42' 07" west 186.95' to the point of beginning, and containing 11.771 acres, more or less, as shown on a boundary survey exhibit by Timmons Group dated February 27, 2019

EXHIBIT B

TO THE FRIENDSHIP COURT REDEVELOPMENT

PHASE 1 HOUSING COVENANT

Rental Affordable Unit Lease Rider

This Affordable Unit Lease Rider (“Rider”) is attached to and incorporated into the lease dated (“Lease”) between _____ (“Resident” or “You”) and _____, as Management Agent (“Manager”) for _____ (“Owner”) for Apartment _____ (“Premises”). All capitalized terms not defined in this Rider shall have the meaning provided in the Affordable Housing Covenant (as defined below).

In consideration of the mutual covenants set forth in the Lease and below, you agree that your use and possession of the Premises is subject to the terms and conditions set forth in the Lease and the following terms and conditions, which are in addition to and supplement the Lease:

AFFORDABLE UNIT: Resident acknowledges that the Premises is subject to that certain Affordable Housing Covenant between Owner and the City of Charlottesville dated _____, 20_____, as may be subsequently amended, (the “Affordable Housing Covenant”). The Premises is currently designated as an Affordable Unit, which requires the Resident’s household income to be less than or equal to [_____] of the area median income (AMI).

DEFINED TERMS: Those terms not specifically defined herein shall be assigned the definition provided in the Affordable Housing Covenant.

ELIGIBILITY: In order for you, as resident, to be eligible to rent an Affordable Unit, you must be and remain an “Affordable Unit Tenant” as defined in the Affordable Housing Covenant.

INCOME CERTIFICATION/INCOME RECERTIFICATION: No more than ninety (90) days and no less than forty-five (45) days before each anniversary of the first day of the lease (or at the City’s option, every two years after the first day of the Lease) the Manager shall request that the Resident provide the Certifying Authority with the following:

- (i) an executed Certification of residency that states that Resident occupies the Premises as his/her/their principal residence,
- (ii) all information pertaining to the Resident’s household composition and income for all household members,
- (iii) a release authorizing third party sources to provide relevant information regarding the Resident’s eligibility for the Affordable Unit, as well as how to contact such sources, and

- (iv) any other reasonable and customary representations, information or documents requested by the Certifying Authority.

Resident shall submit the foregoing listed documentation to the Certifying Authority within fifteen (15) days of Manager's request. Within ten (10) days of Certifying Authority's receipt of the foregoing documentation and based on the results of the annual income recertification review, Certifying Authority will determine whether the Resident remains income eligible for the Premises and notify the Resident of his or her household's AMI percentage, and (a) if the Resident is no longer income eligible for the Premise, the income category for which the Resident is income eligible to lease a unit in the apartment community, or (b) if the Resident is income eligible for the Premises, provide a Certification of Income completed by the Certifying Authority, verifying that the income of the Resident meets income eligibility for the Premises.

Upon annual recertification, if the Resident remains income eligible for the Premises, the Resident will be eligible to remain in the Premises and to renew his/her lease at the then-current lease rate for the Premises. If the Resident's Annual Household Income is determined to exceed the Maximum Annual Household Income applicable to the Premises, then the Resident may remain in the Premises and pay the rent applicable to an Affordable Unit at a higher affordability level for which the Resident's Annual Household Income qualifies. If the Resident's Annual Household is determined to exceed the Maximum Annual Income for the Affordable Unit with the highest AMI level in the Parcel, then the Owner may allow the Resident to remain in the Premises and to pay the applicable market-rate rent for the Premises.

Manager will notify Resident of all options (i.e., an Affordable Unit at a different AMI category or a market rate unit) for which Resident is income eligible prior to the expiration of the Resident's lease term. Prior to the expiration of the Resident's lease term, the Resident shall notify Manager in writing of the Resident's election to either (i) remain in the Premises and pay the rental rate applicable to the Resident's then current AMI category if the Resident's Annual Household Income is at or below the established AMI categories of [] AMI or [] AMI, (ii) remain in the Premises paying the market rate rent for that unit if the Resident's then current income is above the highest AMI level, or (iii) vacate the Premises at the end of the Resident's Lease term. Resident's failure to notify Manager of Resident's election prior to the expiration of the lease term will be deemed by Manager as Resident's election to vacate the Premises.

In the event that Resident fails to pay the applicable rental rate or vacate the Premises upon expiration of the lease term, Manager shall pursue an action for eviction of Resident. Resident's agreement to pay the applicable rental rate or vacate was a condition precedent to Manager's initial acceptance of Resident's eligibility and Manager has relied on Resident's agreement. Resident acknowledges and agrees that the criteria to be income eligible to occupy the Premises is and serves as a City policy and objective, and that failure to vacate the Premises or pay the applicable rental rate is both a default under the Lease and in violation of the Affordable Housing Covenant.

PROHIBITION ON SUBLETS AND ASSIGNMENTS: Resident may not sublease any portion of the Premises or assign its lease to any other person, except with the prior written consent of the Agency, in its sole and absolute discretion.

LEASE EFFECTIVE: The Lease of the Premises shall only be effective if this executed Rider, a Certification of Income, a Certificate of Tenant Eligibility (for initial lease term), and a Certificate of Residency (for lease renewals) are attached as exhibits to the lease agreement.

Resident Signature

Date

Resident Signature

Date

Resident Signature

Date

EXHIBIT C
TO THE FRIENDSHIP COURT REDEVELOPMENT
PHASE 1 HOUSING COVENANT

(Maximum Sales Prices of For Sale Affordable Units)

The following assumptions shall be used in calculating the Maximum Sales Price of a For Sale Affordable Unit.

- i. Condominium Fees, if applicable: Use the actual monthly condominium fees, or if unknown, estimate monthly condominium fees at \$0.60 per square foot. If the actual size of the Affordable Unit is unknown, use the square footage estimated below based on unit type:
 - Multi-Family Development
 - Studio—500 SF
 - 1-Bedroom—625 SF
 - 2-Bedroom—900 SF
 - 3-Bedroom—1,050 SF

- ii. Homeowner Fees, if applicable: Use the actual monthly homeowner fees, or if unknown, estimate monthly homeowner fees at \$0.10 per square foot. If the actual size of the Affordable Unit is unknown, use the square footage estimated below based on home type.
 - Single-Family Development
 - 2-Bedroom 1,100 SF
 - 3-Bedroom 1,300 SF
 - 4-Bedroom 1,500 SF

- iii. Monthly Hazard Insurance, if single family home: Estimated to be \$125.00 per month. If a more recent survey or source is available, the Agency shall instruct Developer to use a different estimate.

- iv. Monthly Real Property Taxes: Base monthly real property taxes on the estimated price of the Affordable Unit assuming the current homestead deduction at current local real estate tax rates.

- v. Mortgage Rate: Mortgage rates are determined by the most recent monthly average of a 30 year fixed rate mortgage at www.freddiemac.com plus a one percent (1%) cushion.

- vi. Down payment: Assume a down payment of 5% on the purchase of the Affordable Unit.

EXHIBIT D
TO THE FRIENDSHIP COURT REDEVELOPMENT
PHASE 1 HOUSING COVENANT

(Provisions Governing Calculation of Maximum Resale Prices)

1. The **Maximum Resale Price** (“MRP”) for a subsequent sale of a For Sale Affordable Unit shall be determined through use of the formula $MRP = P \times (F) + V$ (“Formula”), where:

(a) P = the price Owner paid for the Affordable Unit;

(b) V = the sum of the value of the Eligible Capital Improvements and Eligible Replacement and Repair Costs, as determined by the Agency pursuant to this section; and

(c) F = the average of the Ten Year Compound Annual Growth Rates of the Area Median Income (“AMI”) from the first year of ownership of the For Sale Affordable Unit to the year of the sale of the For Sale Affordable Unit by the Affordable Unit Owner. This average may be expressed: (1) As the result of the formula $F = (1 + [((AMI \text{ Year } m / AMI \text{ Year } m-10) ^ (1/10) -1) + \dots ((AMI \text{ Year } k / AMI \text{ year } k-10) ^ (1/10) -1) / n]) ^ n$, where m = the year after the Affordable Unit was purchased by Owner, k = the year in which the Affordable Unit is sold by Owner, and n = the number of years the Affordable Unit is owned by Owner; or (2) as otherwise published by the Agency.

2. For the purposes of determining the value of “V” in the Formula, the following improvements made to a For Sale Affordable Unit after the date of purchase may be included at the percentage of cost indicated, to the extent they are permanent in nature and add to the market value of the property: (a) Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by the Agency; and (b) Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by the Agency.

3. Ineligible costs shall not be included in the determining the value of “V” in the Formula.

4. The value of improvements may be determined by the Agency based upon documentation provided by the Affordable Unit Owner or, if not provided, upon a standard value established by the Agency.

5. The Agency may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if the Agency finds that the improvement diminished or did not increase the fair market value of the For Sale Affordable Unit or if the improvements make the Affordable Unit unaffordable to all Qualified Purchasers at the Designated Affordability Level.

6. The Agency may reduce the value of a capital improvement if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, the capital improvement.

7. Owner shall permit a representative of the Agency to inspect the For Sale Affordable Unit upon request

to verify the existence and value of any capital improvements that are claimed by Owner.

8. No allowance shall be made in the Maximum Resale Price for the payment of real estate brokerage fees associated with the sale of the For Sale Affordable Unit.

9. The value of personal property transferred to a purchaser in connection with the resale of a For Sale Affordable Unit shall not be considered part of the sales price of the For Sale Affordable Unit for the purposes of determining whether the sales price of the For Sale Affordable Unit exceeds the MRP.

10. Any capitalized terms used in this Schedule that are not defined herein shall have the meanings set forth in the Covenant. As used in this Schedule, the following capitalized terms shall have the meanings indicated below:

Eligible Capital Improvement: major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of an Affordable Unit. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; (vi) smoke detectors; (vii) removal of toxic substances, such as asbestos, lead, mold, or mildew; (viii) insulation or upgrades to double-paned windows or glass fireplace screens; and (ix) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods. Improvements that meet these criteria will be given 100% credit by the Agency.

Eligible Replacement and Repair Cost: in-kind replacement of existing amenities and repairs and general maintenance that keep an Affordable Unit in good working condition. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (viii) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (ix) replacement of window sashes; (x) fireplace maintenance or in-kind replacement; (xi) heating system maintenance and repairs; and (xii) lighting system. Costs that meet these criteria will be given 50% credit for repairs as determined by the Agency.

Ineligible Costs: means costs of cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures not eligible for capital improvement credit as determined by the Agency. These improvements generally include: (i) cosmetic enhancements such as fireplace tile and mantel, decorative wall coverings or hangings, window treatments (blinds, shutters, 33 curtains, etc.), installed mirrors, shelving, refinishing of existing surfaces; (ii) non-permanent fixtures, such as track lighting, door knobs, handles and locks, portable appliances (refrigerator, microwave, stove/ oven, etc.); and (iii) installations with limited useful life spans, such as carpet, painting of existing surfaces, window glass and light bulbs.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Approve Resolution
Presenter:	Chris Engel, Director of Economic Development
Staff Contacts:	Chris Engel, Director of Economic Development Lisa Robertson, Deputy City Attorney
Title:	Authorizing resolution approving Performance Agreement to support Friendship Court Redevelopment efforts

Background:

The Piedmont Housing Alliance (PHA) intends to redevelop the 11.75-acre Friendship Court property in four phases over the next 8-9 years. This \$100 million + project includes the creation of approximately 450 affordable units with tiers of affordability. Additionally, the redevelopment will include commercial and community space as well as associated infrastructure and parking. To help facilitate the financing of the project, Piedmont Housing has requested that the city consider an agreement that will share the incremental increase in real estate tax revenue generated by the investment. With a commitment from the city to contribute the future revenue stream (as a grant), Piedmont Housing will borrow on this with a private lender to create the cash needed to begin the project.

This request does not ask for additional current revenue, it only requests future revenue that comes with an increased tax base. (As a point of clarification, the city has allocated a \$5.5 million contribution to this project in FY21 as part of its annual Capital Improvement Plan. The proposed performance agreement discussed herein is separate and distinct from that contribution).

The city in conjunction with the Charlottesville Economic Development Authority (CEDA) has used the performance agreement concept in the past to incentivize significant capital investment and job creation. In this case, the same concept is proposed but with the creation and retention of affordable housing units as the performance criteria. There is no risk to the city as the grant occurs only after the investment has been made and once the additional tax increment materializes. The City does forego the real estate tax generated by the project until the agreement terminates.

Discussion:

The property is valued at \$8,180,500 in tax year 2020. This equates to \$77,714 in annual real estate taxes paid. This amount known as the “base” amount is not subject to the agreement and continues

to be paid annually and accrues to the general fund. Only the additional real estate taxes generated above the base will be subject to the agreement.

Upon completion, phase 1 is expected to be valued at approximately \$20M yielding approximately \$190,000 in new incremental real estate tax. In this proposed scenario, once the taxes are paid and performance criteria are verified, the funds would be transferred via the Economic Development Authority to an entity controlled by Piedmont Housing. This cycle would repeat annually until a maximum not to exceed amount of \$6,000,000 is reached. A chart demonstrating the 30-year fiscal impact is included.

Phase 1 includes 106 units spanning the spectrum of affordability from below 30% AMI to 80% AMI. Should the units cease to be affordable for any reason the city's obligation to provide the grant ends. These affordability terms will also be enforced by the state through VHDA due to the LIHTC (Low Income Housing Tax Credit) award and by the City's forgivable loan.

PHA has received a commitment of Low Income Housing Tax Credits from VHDA and they are in the process of finalizing the remaining necessary financing with plans to begin construction on phase 1 in the spring of 2021. The performance agreement is a final critical piece to the remaining financing.

From a procedural standpoint, City Council would need to approve a resolution agreeing to commit the amount of the real estate tax increment to CEDA each year following verification of grant requirements. As Council is prohibited from obligating future funds this resolution is one of "intent" and thereby non-binding. CEDA would create a Performance Agreement with the developer to manage the process and would also approve a similar resolution to grant the amount of the tax increment to the developer annually.

From a policy standpoint, the proposed Performance Agreement does not impact the general fund budget as the grant is generated solely from the increase in real estate revenue received from the project. If the project is stalled or never completed for any reason the increase in taxes is not realized and therefore the City is not obligated to fund the agreement.

This agreement applies only to phase 1 of the project.

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the Council's Vision for quality housing opportunities that offers affordable housing for people of all income levels, racial backgrounds, life stages and abilities. This action aligns with the City Council's Strategic Plan Goal Four: A Strong Diversified Economy and Goal One: An Inclusive Community of Self-Sufficient Residents.

Budgetary Impact:

Funds will need to be allocated for transfer to CEDA but only after the project has been completed and increased real estate taxes have been realized.

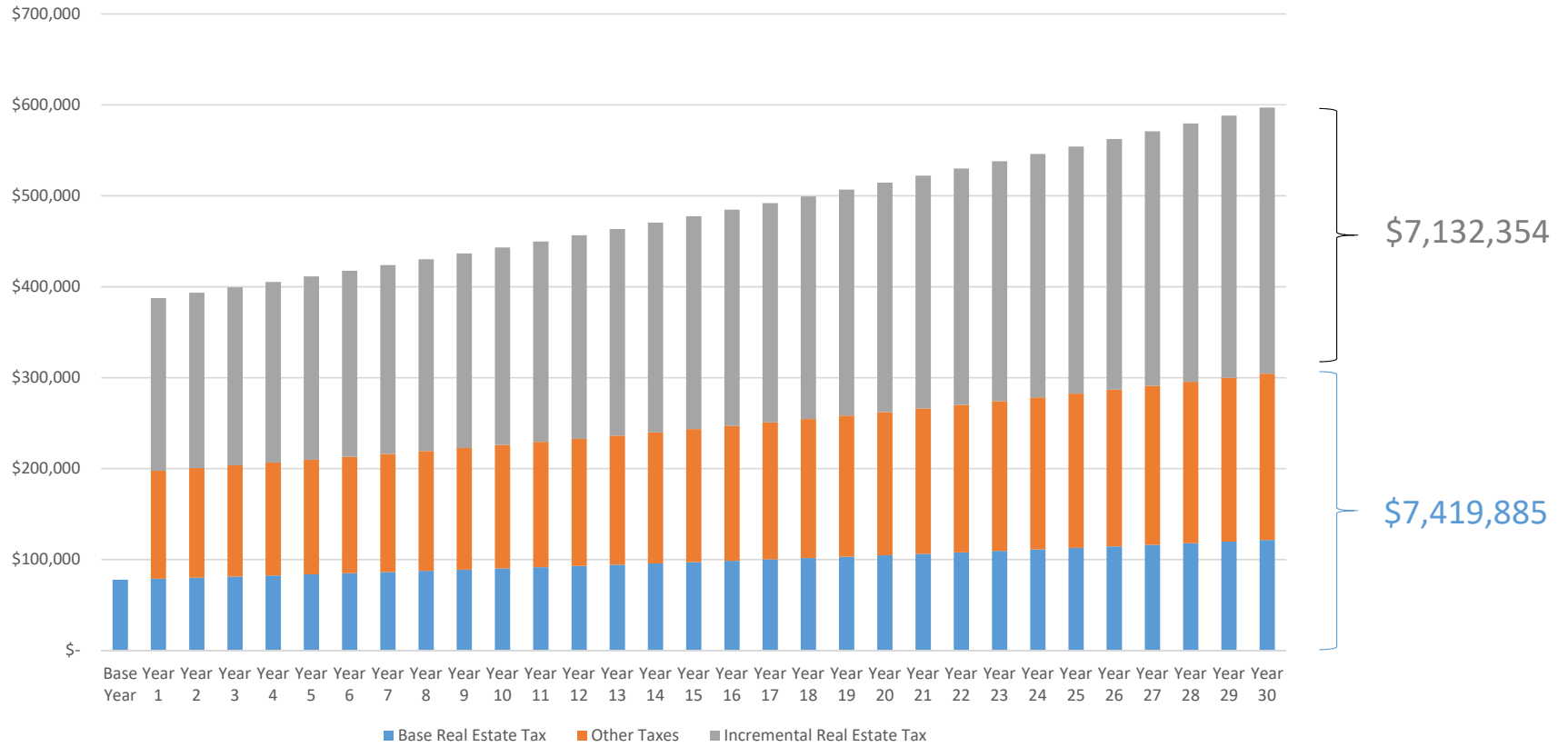
Alternatives:

City Council can decline to adopt the attached Resolution supporting the Performance Agreement.

Attachments:

- Proposed Council Resolution supporting Performance Agreement
- Copy of the draft Performance agreement

Friendship Court Phase 1 - 30 Yr Fiscal Impact



Base Year – 2020 Assessed Value of parcel #28012000
 Other Taxes includes Personal Property, Sales, BPOL, Utility and miscellaneous revenues.
 All values calculated at \$0.95 per \$100 of assessed value.

**APPROVING RESOLUTION OF THE
CITY COUNCIL
OF THE CITY OF CHARLOTTESVILLE, VIRGINIA**

WHEREAS, the Economic Development Authority of the City of Charlottesville, Virginia **(the “Authority”)**, a political subdivision of the Commonwealth of Virginia **(the “Commonwealth”)**, was established to promote the safety, health, welfare, convenience or prosperity of the inhabitants of the City of Charlottesville, Virginia **(the “City”)** by improving and rehabilitating a distressed area of the City which will enhance the tax base in the City and create opportunities for commercial and other economic development in the City; and

WHEREAS, the City Council of the City is empowered pursuant to Section 15.2-953 of the *Code of Virginia*, 1950, as amended **(the “Code”)**, to make appropriations of public funds to the Authority for the purpose of promoting economic development in the City; and

WHEREAS, the Authority is empowered pursuant to Section 15.2-4901, *et seq.*, of the Code to, among other things, accept contributions, grants and other financial assistance from the City and make grants to any person, partnership, association, corporation, business, or governmental entity for the purposes of promoting economic development in the City; and

WHEREAS, the Authority, pursuant to that certain proposed Economic Development Performance Agreement **(the “Agreement”)** by and among the Authority and Piedmont Housing Alliance, a non-profit 501(c)(3) organization under the Internal Revenue code of 1986 as amended **(“PHA”)** on its own behalf and on behalf of a limited liability company of which PHA serves as manager **(the “Developer”)**, attached hereto as **Exhibit I**, is proposing to provide a certain financial incentive grant **(the “Grant”)** to the Developer in order to encourage and induce the Developer to invest a significant amount of money into real estate improvements, described as phase I of the planned development consisting of 106 units **(the “Investment”)** located in the City currently known as Friendship Court; and such phase I and 106 units are described and depicted on Exhibit A of the Agreement **(the “Property”)** along with the other requirements included in such Investment as set forth in Exhibit B to the Agreement; and

WHEREAS, the Authority, while recognizing that the City Council of the City **(the “City Council”)** is not empowered under Virginia law to make any binding commitment beyond the current fiscal year of the City, has requested that the City Council annually appropriate monies to the Authority for the purpose of promoting economic development in the City by funding certain financial obligations of the Authority pursuant to and during the term of the Agreement; and

WHEREAS, there has been presented to this meeting a draft of the Agreement which sets forth the understanding and agreement between the Authority and the Developer.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA:

1. The City Council finds and determines that the terms and conditions of the Agreement, including the provisions for the Grant, is consistent with the mission, goals and purposes of the Authority.

2. It is the current intention of the City Council to make sufficient annual appropriation of monies to the Authority for the purpose of promoting economic development in the City by funding certain financial obligations of the Authority pursuant to and during the term of the Agreement.

3. The City Manager or any other officer charged with the responsibility of preparing the City budget is hereby authorized and directed to include in the City budget for each fiscal year of the City during the term of the Agreement a request that the City Council appropriate sufficient monies to the Authority for the purpose of promoting economic development in the City and funding certain financial obligations of the Authority pursuant to the terms of the Agreement during such fiscal year.

4. The City Manager is hereby authorized to acknowledge the City's understanding of the Agreement and to execute such documents as he deems appropriate in relation to such Agreement.

5. All other acts of the City Manager, the Director of Economic Development or any other officer of the City relating to the purposes and intent of this resolution are hereby approved and ratified.

6. This resolution shall take effect immediately.

ADOPTED: _____, 2020

CERTIFICATION OF ADOPTION OF RESOLUTION

I, the undersigned Clerk of the City Council of the City of Charlottesville, Virginia, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the members of the City Council at an open meeting duly called and held on _____, 2020 and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof. The following represent the votes taken at such meeting:

Member	Ayes	Nays	Abstentions
--------	------	------	-------------

WITNESS my hand and the seal of the Authority, this _____ day of _____, 2020.

Clerk of the City Council of the
City of Charlottesville, Virginia

[SEAL]

Exhibit I

Economic Development Performance Agreement

**ECONOMIC DEVELOPMENT
PERFORMANCE AGREEMENT**

THIS AGREEMENT is made this ___ day of _____, 2020, by and among the **Economic Development Authority of the City of Charlottesville, Virginia (the “Authority”)**, a political subdivision of the Commonwealth of Virginia and **Piedmont Housing Alliance, a non-profit 501(c)(3) organization under the Internal Revenue Code of 1986, as amended(, "PHA") on its own behalf and on behalf of _____ LLC of which PHA serves as manager (the “Developer”)**, and it recites and provides as follows.

WHEREAS, the Developer is an organization formed for the use of PHA to enable it to better accomplish its purposes and intends to invest a significant amount of money into real estate improvements, described as phase 1 of the planned development consisting of 106 units (**the “Investment”**) located in the City of Charlottesville, Virginia (**the “City”**) known currently as Friendship Court and such phase 1 and 106 units are described and depicted on **Exhibit A** hereto (**the “Property”**), which will promote the safety, health, welfare, convenience or prosperity of the inhabitants of the City by improving and rehabilitating a distressed area of the City which will enhance the tax base in the City and create opportunities for commercial and other economic development in the City; and

WHEREAS, the Developer’s Investment and the amounts and other requirements included in such Investment are set forth on **Exhibit B**; and

WHEREAS, the City Council of the City (**the “Council”**) is empowered under Sections 15.2-953 and 15.2-1205 of the *Code of Virginia*, 1950, as amended (**the “Code”**) to make appropriations of money to the Authority for promotion of economic development and to give, lend or advance to the Authority, in any manner that it deems proper, funds or other City property, not otherwise specifically allocated or obligated; and

WHEREAS, the Authority is empowered under Sections 15.2-4901, *et seq.*, of the Code to promote economic development and assist facilities for the use by non-profit organizations to enable them to accomplish such purposes for the benefit of inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience or prosperity. non-profit organizations and specifically under Sections 15.2-4905(12) and (13) of the Code to accept monies from the City and to make grants to any entity in furtherance of the purposes for which the Authority was created; and

WHEREAS, the Authority has agreed to provide certain incentives to the Developer from monies to be appropriated by the City to induce it to make the Investment on the Property, subject to annual appropriation by the City Council of the City, all as set forth herein; and

WHEREAS, the Authority and the Developer desire to set forth their understanding and agreement as to these matters in writing;

NOW, THEREFORE, for and in consideration of the premises, 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 hereto hereby covenant and agree as follows.

1. The Developer shall:

a. Make and maintain the Investment required on Exhibit B in real estate improvements described as phase 1 of the planned development of 106 units on the Property (**the “Improvements”**);

b. Make its commercially reasonable efforts to complete construction and equipping of the Improvements with the Investment no later than the **June 1, 2022**, which may be extended due to force majeure or other reasons approved by the Authority.

c. 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 Improvements and the occupancy thereof.

d. Encourage contractors and sub-contractors during the construction phase of the phase 1 project to provide employment opportunities for City residents, and to that end, work closely with the City of Charlottesville Office of Economic Development and the Central Virginia Partnership for Economic Development and the Virginia Workforce Center if recruitment, screening, and training of residents is required.

2. The Authority, subject to annual appropriation by the Council and the Developer’s fulfillment of the requirements of paragraph 3 below, shall provide a grant (**the “Grant”**) to the Developer each year, as further described in this Agreement, beginning 15 months following the annual valuation of the Property by the City Assessor after a certificate of occupancy has been issued by the City for at least 50% of the units in Phase 1 of the planned development (i.e. **(53)** units) (**the “Completion Date”**) and annually thereafter, within ninety (90) days following receipt by the City of the annual assessed real property taxes paid by the Developer (or subsequent owners of the Property) related to the Property. The Grant shall be equal to (and shall not exceed) 100% of the total of the annual real property taxes received by the City attributable to the portion of the assessed value of the Property which is the incremental increase in assessed value of the Property (**the “Incremental Increased Value”**) from the value of the Property on the tax rolls (i.e. City assessment records) of the City effective January 1, 2020, (i.e. \$8,180,500) (**the “Base Value”**) in connection with the phase 1 development as determined by the City Assessor as of January 1 of the year on which the Grant payment is due.

3. An example of the calculation of the Grant, based on the Incremental Increased Value is attached as **Exhibit C** to this Agreement. The Grant shall be paid, annually during the term of this Agreement which is 40 years from the Completion Date, subject to funding by the Council, in a cumulative grant amount not to exceed \$6,000,000. The determination of assessed value of the Property shall be solely determined by the City Assessor.

The payment of any Grant is dependent upon

a. the Developer making the Investment in the Property no later than the Completion Date and providing the City and the Authority with reasonable evidence of the amount of such Investment, and evidence of continued compliance with the other requirements of the Investment in the Property, including, if requested by the Authority, copies of invoices that were paid.

b. The Developer and any subsequent owner or owners of all or any portion of the Property agreeing not to contest any increase in assessed value for the Property for any year on which a Grant is based.

c. To the extent that the assessed value of the Property is decreased for any reason during the term of this Agreement, the amount of Grant shall be reduced by the tax decrease based on the decrease in Incremental Increased Value.

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

4. While recognizing that it is not empowered under Virginia law to make any binding commitment beyond the current fiscal year of the City, it is the current intention of the Council to make sufficient annual appropriations during the term of this Agreement to fund all financial obligations of the Authority hereunder. To that end, the Council has directed the City Manager or other officer charged with the responsibility of preparing the City's budget to include in the proposed budget for each fiscal year of the City during the term of this Agreement a request that the Council appropriate the amounts due under this Agreement during such fiscal year. If at any time during any fiscal year of the City, the Authority or the Developer determines that the amount appropriated in the budget is insufficient to pay such funds when due that fiscal year, then the City Manager (or other officer charged with the responsibility of preparing the City's budget) shall submit to the Council at the next scheduled meeting of the Council or as promptly as practicable, a request for a supplemental appropriation sufficient to cover the deficit.

5. This Agreement shall not create a joint venture, or any relationship of agency, employer-employee, or contractor between any of the parties of this Agreement.

6. The Authority reserves the right to approve any assignment of this Agreement by the Developer to any individual or entity and, the ownership interests of any such entity must be disclosed to the Authority. Any change in PHA no longer acting as Manager of the Developer shall also be subject to approval by the Authority. 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.

7. The covenants of the Authority as stated in this Agreement shall not be interpreted to establish any pledge, security interest, lien, or other encumbrance on property of the City and/or

the Authority. All obligations of the Authority hereunder are contingent upon the satisfaction and continued performance by the Developer of its obligations set forth in paragraph numbered 1 above and the appropriation and receipt of funding from the City.

8. 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.

9. 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.

10. This Agreement is subject to modification only by written agreement signed by all parties hereto.

11. 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:

if to the Authority, to:

Economic Development Authority of the City of Charlottesville, Virginia
c/o Office of Economic Development
Attention: Executive Director
P.O. Box 911
Charlottesville, Virginia 22902

with a copy to:

Daniel M. Siegel, Esquire
Sands Anderson PC
P.O. Box 1998
1111 E. Main Street
Richmond, VA 23218-1998, and

John Blair, City Attorney
City of Charlottesville
P.O. Box 911
Charlottesville, Virginia 22902

if to the Developer, to:

c/o Piedmont Housing Alliance
682 Berkmar Circle
Charlottesville, VA 22901
ATTN: Sunshine Mathon, Executive Director
with a copy to:

Erik T. Hoffman
Klein Hornig LLP
1325 G Street NW
Suite 770
Washington D.C. 20005

12. This Agreement may be executed, via facsimile or email and, in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. If any provision of this Agreement is determined to be unenforceable, then the remaining provisions of this Agreement shall be interpreted as in effect as if such unenforceable provisions were not included therein. Each of the parties to this Agreement represents that it is fully authorized to enter into, and that it will be bound by, this Agreement.

13. The provisions of this Agreement are intended to and shall survive closing, the delivery of any deed or other instrument, and any other event.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first written above.

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____

Title: _____

Date of Execution: _____

**DEVELOPER
PIEDMONT HOUSING ALLIANCE on its behalf and as Manager of _____ LLC**

By: _____

Title: _____

Date of Execution: _____

ACKNOWLEDGED BY THE CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____

Title: City Manager

Date of Execution: _____

EXHIBIT A

(Description of Property)

Parcel # 280112000 consisting of 11.77 acres in the City of Charlottesville, Virginia



Property Description for Phase 1 of Friendship Court Redevelopment

February 27, 2019

Friendship Court Redevelopment Phase 1 is a parcel of land comprising approximately 3.87 acres, being the easternmost portion (the "Phase 1 Parcel") of a larger tract of real property lying within the City of Charlottesville, Virginia, owned by NHTE Piedmont Garrett Square Limited Partnership ("NHTE Piedmont Garrett Square LP, and described in the tax records of the City of Charlottesville as Tax Parcel 280112000, NHTE Piedmont Garrett Square LP having taken title to the real property by deed recorded in the office of the Clerk of Circuit Court of Charlottesville, Virginia in Deed Book 876 at Page 72, the real property being more particularly described by the following metes and bounds: beginning at a pk nail found along the west line of 6th Street, S.E. north of its intersection with Monticello Avenue, said point being the point of beginning, thence departing 6th Street, S.E. and with the northwest radial arc of its intersection with Monticello Avenue along a curve to the right, with a chord bearing north $85^{\circ} 35' 39''$ east 49.68', having a radius of 30.00' and a length of 58.53' to a pk nail found; thence with the north line of Monticello Avenue the following courses: north $38^{\circ} 30' 49''$ west 120.51' to an iron rod found; along a curve to the right, with a chord bearing north $30^{\circ} 09' 56''$ west 127.22, having a radius of 438.12' and a length of 127.67' to a point; along a curve to the left, with a chord bearing north $30^{\circ} 09' 56''$ west 176.00', having a radius of 606.12' and a length of 176.62' to a point; north $38^{\circ} 30' 49''$ west 287.33' to an iron rod found; thence departing Monticello Avenue, and with the northeast radial arc of its intersection with 2nd Street, S.E. along a curve to the right, with a chord bearing north $09^{\circ} 45' 15''$ west 28.87', having a radius of 30.00' and a length of 30.12' to an iron rod found; thence with the east line of 2nd Street, S.E. the following courses: north $19^{\circ} 00' 20''$ east 361.37' to an iron rod found; north $19^{\circ} 00' 20''$ east 100.00' to an iron rod found; thence departing 2nd Street, S.E., and with the southeast radial arc of its intersection with Garrett Street, along a curve to the right, with a chord bearing north $64^{\circ} 55' 52''$ east 28.74', having a radius of 20.00' and a length of 32.06' to an iron rod found; thence with the south line of Garrett Street the following courses: south $69^{\circ} 08' 27''$ east 164.46' to a pk nail found; along a curve to the right, with a chord bearing north $64^{\circ} 29' 53''$ east 260.59', having a radius of 1608.89' and a length of 260.87' to a point; south $59^{\circ} 51' 10''$ east 356.35' to a pk nail found; thence departing Garrett Street and with the southwest radial arc of its intersection with 6th Street, S.E., along a curve to the right, with a chord bearing south $13^{\circ} 42' 28''$ east 28.84', having a radius of 20.00' and a length of 32.22' to an iron rod found; thence with the west line of 6th Street, S.E., the following courses: south $32^{\circ} 26' 15''$ west 100.00' to a pk nail found; south $32^{\circ} 26' 15''$ west 509.21' to an iron rod found; south $29^{\circ} 42' 07''$ west 186.95' to the point of beginning, and containing 11.771 acres, more or less, as shown on a boundary survey exhibit by Timmons Group dated February 27, 2019.

EXHIBIT B

Investment

This Agreement only relates to investment for phase 1 development in an amount anticipated to result in a total Real Property Value (including land, land improvements, parking, and buildings) of no less than \$25,000,000 which contains: (i) 46 rental dwelling units with Project-Based Section 8 operating subsidy will be provided as a one-for-one replacement of the 46 to-be-demolished rental units in the existing Friendship Court site, (ii) an additional 30 rental dwelling units will be provided for households with incomes at or below 60% of the Charlottesville Area Median Income (“AMI”), (iii) an additional 30 rental dwelling units will be provided for households with incomes at or below 80% AMI. The affordability levels will be required to be met for 40 years as of the completion date of the agreement.

Completion Date

The earlier of the date on which a certificate of occupancy for the Property and Improvements is issued by the City for at least 50% of the 106 units in phase I (i.e. 53 units) or June 1, 2022, which may be extended due to force majeure or other reasons approved by the Authority.

EXHIBIT C

**Grant Calculation of Incremental Increased Value
(Example)**

	Prior to Project (Base)	Estimated After Project Completion	Estimated Annual Tax Increment
Value of Property	\$7,165,700	\$27,238,620	
Real Estate Tax	\$68,074	\$258,766	\$190,693

Based on real estate tax rate \$0.95 per \$100.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action:	Approval of Resolution (1 of 1 reading)
Presenter:	John Blair, Acting City Manager
Staff Contacts:	Kaki Dimock, Director of Human Services Chris Cullinan, Director of Finance
Title:	Coronavirus Aid, Relief, and Economic Act (CARES) Funds – Second Allocation - Contingency Reserve Allocation - \$410,000

Background:

During its regularly scheduled meeting on October 5, 2020, City Council considered the 2nd reading of the CARES Round 2 appropriation and conducted a public hearing. A Contingency Reserve of \$625,000 was included in the staff recommended appropriation. Council received several requests from outside organizations for funds from the Contingency Reserve and discussed these requests during this agenda item. Council adopted the staff recommendations for the CARES Round 2 appropriation and directed staff to prepare a briefing document with additional information on these requests.

Discussion:

Council received four requests totaling \$410,000 and asked staff to review for funding using CARES Contingency Reserve funds which were set aside as part of the original CARES Round 2 appropriation.

In summary, the requests were as follows:

Public Housing Association of Residents (PHAR) - continuation of COVID-19 Emergency Food Program; \$110,000.

Conscious Capitalist Foundation - mentoring program for students that provides daily interactions with their mentor to assist and aid with the virtual learning process amidst

COVID-19; \$20,000.

Charlottesville Redevelopment and Housing Authority (CRHA) - pay all past due rent balances which will put every resident at a \$0 balance and assist the CRHA with improving its tenant account receivables scoring; \$80,000.

Black Community Wellness Center (Sentara Martha Jefferson as the likely lead/coordinator) – The Center would support members of Charlottesville’s black community who suffer under the compounded stress of historic trauma and COVID-19 which impacts their capacity to protect themselves from disease, build individual resilience, and manage their mental health needs; \$200,000.

Detailed information and discussion for each request can be found in the City Council Briefing Document attached to this agenda item.

Staff have reviewed these requests and finds that all are eligible to receive funds under the CARES Act. Staff also finds that all requests are appropriate and needed as our community continues to deal with the impacts of COVID-19.

Alignment with Council Vision Areas and Strategic Plan:

This action aligns with the Council’s Vision as a Great Place to Live for All of Our Citizens. It also aligns with the City Council’s Strategic Plan Goals.

Budgetary Impact:

There is no direct impact on the City’s budget. A second rounds of CARES funds in the amount of \$4,123,776 has been received from the Commonwealth, of which City Council appropriated \$625,000 for a Contingency Reserve (approximately 15%). If all four requests are approved, the Contingency Reserve would be reduced to \$215,000, 5% of the second allocation.

All funds are subject to conditions established by the U.S. Treasury and the Commonwealth and must be expended for eligible expenditures incurred between March 1, 2020 and December 30, 2020. Any unused funds must be returned.

Recommendation:

Staff recommends approval of the requests.

Attachments:

1. Resolution
2. City Council Briefing Document

RESOLUTION
Coronavirus Aid, Relief, and Economic Act (CARES) Funds – Second Allocation
Contingency Reserve Allocation
\$410,000

WHEREAS, the Charlottesville City Council appropriated \$625,000 of Coronavirus Aid, Relief, and Economic Act (CARES) funds to a Contingency Reserve Fund on October 5, 2020; and

WHEREAS, the Charlottesville City Council has requested those funds be used to fund requests from the Public Housing Association of Residents (\$110,000), Charlottesville Redevelopment and Housing Authority (\$80,000), the Conscious Capitalist Foundation (\$20,000) and the Black Community Wellness Center (\$200,000);

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that \$410,000.00 of the Contingency Reserve Fund shall be allocated in the following manner:

Transfer From:

Contingency Reserve			
\$410,000	Fund: 208	Internal Order: 1900388	G/L Code: 599999

Transfer To:

Community Support			
\$410,000	Fund: 208	Internal Order: 1900384	GL Code: 599999

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL BRIEFING DOCUMENT**



To: City Council

From: John Blair, Acting City Manager
Chris Cullinan, Director of Finance
Kaki Dimock, Director of Human Services

Date: October 12, 2020

Re: Information/Discussion of Requests for Funding from CARES Round 2 Contingency Reserve

During its regularly scheduled meeting on October 5, 2020, City Council considered the 2nd reading of the CARES Round 2 appropriation and conducted a public hearing. A Contingency Reserve of \$625,000 was included in the staff recommended appropriation.

Council received several requests from outside organizations for funds from the Contingency Reserve and discussed these requests during this agenda item. Council adopted the staff recommendations for the CARES Round 2 appropriation and directed staff to prepare a briefing document with additional information on these requests.

This document includes the following requests and amounts:

Public Housing Association of Residents (PHAR)	\$110,000
Conscious Capitalist Foundation	\$20,000
Charlottesville Redevelopment and Housing Authority (CRHA)	\$80,000
Black Community Wellness Center (Sentara Martha Jefferson as the likely lead/coordinator)	\$200,000
TOTAL	\$410,000

Detailed information and discussion for each request follows.

Organization: Public Housing Association of Residents (PHAR)

Requested Amount: \$110,000

Description of Request: Funds will be used to continue COVID-19 Emergency Food Program. The grant funds for PHAR's COVID-19 Emergency Food Program will only last through the end of October. With a grant of CARES Act funding, PHAR will continue this program, as well as continuing community education and organizing to improve the lives of public housing residents.

Eligible for CARES funds? Yes, under the provision "*expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:*

- *Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions."*

Staff Discussion/Analysis: This request is directly responsive to a real need in the community.

Organization: Conscious Capitalist Foundation

Requested Amount: \$20,000

Description of Request: The Conscious Capital Foundation (CCF) offers students a check and connect credible messenger mentoring program that provides daily interactions with their mentor to assist and aid with the virtual learning process amidst covid-19. Each mentor will be assigned at least 5 students to work with. One hour a day will be dedicated to each student. Mentors will contact their mentees Monday-Friday during school hours. In person coaching (following CDC and covid-19 guidelines) will be a means of communication as well as phone and virtual calls. As a part of the check and connect service, data will be taken to see what's the most beneficial path moving forward for the individual's learning needs.

Eligible for CARES funds? Yes, under the provision "*expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:*

- *Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions."*

Staff Discussion/Analysis: Conscious Capitalist Foundation has revised its request to \$20,000 from \$50,000. The previous request was made based on programming through the end of school year. New calculations reflect a rate of \$2,000 per participant. Each participant receives 5 hours of direct attention per week (or 50 hours for the funded ten week period), advocacy, referrals to additional supports, crisis intervention support, and practical support. Program staff are actively

planning to build in nutrition support to their programming as well.

Organization: Charlottesville Redevelopment and Housing Authority (CRHA)

Requested Amount: \$80,000

Description of Request: Funds would be used to pay all past due balances which will put every resident at a \$0 balance and assist the CRHA with improving its tenant account receivables scoring. As of today, CRHA has approximately \$126,000 in unpaid past due rent. Of that amount approximately \$73,000 is from the month of October. We anticipate a majority of the \$73,000 will be paid by the end of the week. But based upon the prior month averages approximately \$27,000 will not be paid. Funding of \$80,000 will zero out all past due balances as of October 5, 2020.

Eligible for CARES funds? Yes, under the provision “*expenses associated with the provision of economic support in connection with the COVID-19 public health emergency*”.

Additionally, the City can make a transfer to another unit of government per the below guidance from the US Treasury:

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Finally, CRHA must be cognizant of the following:

- Prohibition of seeking other Federal funds for reimbursement of the same expenses which are being funded with CARES funds, i.e. no “double dipping”, and;
- Any limitations or requirements associated with other funding sources when utilizing or combining CARES funds.

Staff Discussion/Analysis: This request is responsive to a pressing emergency need in our community. Arrears for the specifically covered months of March, June, July, August, September and October are \$74,381.60. (April and May rents were covered by a contribution of the Charlottesville Area Community Foundation.) This amount would benefit 163 households.

Organization: TBD (Likely to be Sentara Martha Jefferson as the lead/coordinator)

Requested Amount: \$200,000

Description of Request: Members of Charlottesville’s Black community suffer under the compounded stress of historic trauma and COVID-19 which impacts their capacity to protect themselves from disease, build individual resilience, and manage their mental health needs. Black community members are more likely to suffer from chronic, persistent mental health conditions than mild or episodic ones. In addition, due to structural racism, mistreatment and pathologizing systems of care, many Black people distrust formal mental health institutions and systems. Finally, this community, like many others, does not have sufficient mental health providers of color to provide excellent culturally responsive services. We propose that CARES Act funding be used to support a Black Community Wellness Center. This center would provide:

- Formal and informal supports for Black community members including:
 - Crisis intervention
 - Support groups
 - Wellness classes like meditation and yoga
 - Community health education & info
 - Maternal health support
 - Access to referrals for culturally responsive mental health support
- A health & wellness campaign
- Virtual and in person options
- Formal & drop-in options
- Community & cultural events like food, crafts, etc.

There are many people in the community who have been planning and considering such a center – they are ready to execute this vision. The city is in a position to support this idea as a pop-up for several months to provide practical access and support to the community AND to test out this model as a potentially permanent service delivery model.

Eligible for CARES funds? Yes, under the provision for “*medical expenses such as:*

- *COVID-19-related expenses of public hospitals, clinics, and similar facilities.”*

Discussion/Analysis: This project needs a physical location and hopes for access to Carver Rec for this pilot.



REPORT PLACEHOLDER

City Monthly Financial Update

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	Presentation Only - No Action Required
Presenter:	Susan Elliott, Climate Protection Program Manager
Staff Contacts:	Susan Elliott, Climate Protection Program Manager Kristel Riddervold, Environmental Sustainability and Facilities Development Division Manager
Title:	Upcoming Climate Action Plan Development Process

Background:

This agenda item follows from the June 2017 commitment by City Council to the [Global Covenant of Mayors for Climate and Energy](#) (the Covenant of Mayors) as part of a *Response to the U.S. Withdrawal from the Paris Climate Agreement*. This resolution built on previous commitments and existing efforts of the City through its [Climate Protection Program](#).

By joining the Covenant of Mayors, the City committed to completing specific efforts that result in the development of:

- An adopted and maintained community Greenhouse Gas (GHG) inventory
- An adopted emissions reductions target commensurate with the scale of the climate challenge
- A Climate Action Plan (CAP) for mitigation aligned to achieve the adopted emissions reduction goal
- A Climate Adaptation Plan that addresses the community's climate hazards and vulnerabilities.

Past updates on the City's activities pursuant to this commitment were presented to City Council on [November 19, 2018](#), [May 6, 2019](#), and [July 1, 2019 \(adopted resolution\)](#). The July 2019 resolution established a new GHG reduction goals (45% reduction by 2030 and carbon neutral by 2050) and several expectations for the mitigation-focused climate action plan process to address.

Per Council direction, the upcoming climate action plan process is to demonstrate leadership and tackle the following:

- Front load emission reductions
- Identify sub-goals by sector and by strategy
- Address equity specifically in the goals and climate action plan
- Identify measurement frequency and accountability mechanisms
- Address funding and financing options to support private sector action
- Address the feasibility of integrating zero emission vehicles in the community and municipal fleet

- Work in conjunction with regional partners to implement seamless programs and

Efforts to initiate a community engagement process in the spring of 2020 to develop the mitigation-focused climate action plan were paused due to COVID-19. Planning efforts for an adjusted community engagement process resumed in August/September 2020 and are being announced during October 2020. A separate process will be pursued to develop the climate adaptation plan. Both processes will aim to identify points where mitigation and adaptation cross-relate.

This Council agenda item is one effort to help inform the community of the process and upcoming opportunities for public input. Developing a Climate Action Plan is one of the items submitted by the Department of Public Works as part of the Acting City Manager's 6-month plan.

Additional information will be posted on the City's website (charlottesville.gov/climate), and community members can sign up to receive alerts when Climate Action updates are available via [Notify Me](#) (*Climate Action* in the list under "News Flash").

Discussion:

The following actions will occur during the next 6 months in continued pursuit of the City's commitment:

- Climate action planning for mitigation to include the development and involvement of the following:
 - Climate Action Committee (comprised of executive liaisons and program leads)
 - Topic Core Teams (topics to include buildings, the built environment, transportation systems, and waste)
 - Discussions Groups and Task Forces (topics to include financing, equity, energy sourcing and fuel switching, and draw down/sequestration)
 - Community engagement opportunities with stakeholders, organizations, and the general public

The above are intended to leverage technical expertise and support within the community. A layered approach of virtual workshop listening sessions, online surveys, and facilitated small group discussions will be offered for community engagement and input to try and reach a broad audience and provide different opportunities for community members to engage.

The structure for the Climate Action Plan (CAP) will borrow from a strategic plan framework in order to prioritize actions to meet the near term 2030 goal, allow flexibility to incorporate longer term needs aimed at the 2050 goal, and to focus consideration on specific barriers and actions to be achieved within the next several years.

To inform community discussions, staff will be providing data from the City's GHG inventories, relevant resources the Climate Protection Program has developed over the past year, and information on best practices and examples from other communities' climate action plans (including drawing from UVA and Albemarle County).

The CAP process will kick off during October 2020 with multiple community engagement opportunities to be scheduled beginning in November. Reflecting that ~90% of the City's GHG emissions are generated by energy use from the Residential and Commercial sectors and city-wide Transportation, the process will begin with topics focused on increasing energy

performance (energy efficiency and conservation), switching to lower or zero-carbon fuel and energy sources, and incorporating emission reduction strategies into planning and zoning strategies. Later stages of the CAP process will address emissions strategies related to waste, emissions draw down (sequestration, landscape), and upstream topics that are important to our community and global emissions but are not represented in the GHG inventory (such as food and building materials). The themes of equity and financing strategies will be integrated throughout the process to ensure their incorporation in the plan and connection to identified emissions reduction strategies.

This CAP phase aims to produce a draft mitigation-focused report in Spring 2021 to be presented to the City Council for consideration and input, and which will be utilized in bridging climate action planning mitigation and adaptation. Through this process phase, a schedule for adoption of a full CAP by City Council will be further established and refined.

(Note: The completion of this phase is subject to the need to take into consideration COVID-19 measures and accommodations.)

Alignment with City Council's Vision and Strategic Plan:

These efforts are in alignment with City Council's Green City Vision, the Strategic Plan: Goal 3 – A Beautiful and Sustainable Natural and Built Environment; and the Comprehensive Plan: Chapter 4 (and as proposed in the 2018 update).

Community Engagement:

Consistent community engagement and input has informed the steps leading up to this process, as evidenced in the previous updates to City Council referenced in this memo's *Background* section. In particular, the July 1, 2019 agenda item includes detailed input received from the community that informed both the City's new GHG reduction goal and the underpinning of key topics the City's climate action plan is expected to address.

This agenda item is one effort to help inform the community of the upcoming process and opportunities for public input to develop a Climate Action Plan. Community engagement opportunities are structured to incorporate public input in the initial development and review of a draft plan.

Additional information will be posted on the City's website (charlottesville.gov/climate), and community members can sign up to receive alerts when Climate Action updates are available via [Notify Me](#) (*Climate Action* in the list under "News Flash").

Budgetary Impact:

Funds have already been appropriated as part of the Fiscal Year 2021 budget within the Environmental Sustainability Division cost center to be used for this purpose. No additional budgetary impact is expected for this process.

Recommendation:

N/A – No action is required.

Alternatives:

N/A – No action is required.

Attachments:

None.

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	October 19, 2020
Action Required:	No action required
Presenter:	Caetano de Campos Lopes, Director of Climate Policy, Community Climate Collaborative Susan Kruse, Executive Director, Community Climate Collaborative
Staff Contacts:	Susan Kruse, Executive Director, Community Climate Collaborative Susan Elliott, Climate Protection Program Manager
Title:	Energy Equity: Tackling Climate Change by Increasing Home Affordability

Background:

In the last few years, tackling both the climate and the housing crises became a priority for the City of Charlottesville. City staff have oriented the City Council to establish ambitious climate goals and the inclusion of affordable housing as a priority for Charlottesville’s Comprehensive Plan. Still, although solutions for these two important crises could be achieved together, much still needs to be done so that intersectional solutions are co-created across different departments, committees, authorities, agencies, and organizations.

The Community Climate Collaborative (C3) used US Census data, US Department of Energy Low-Income Energy Data Access Tool (LEAD Tool) data, and local housing stock information to look beyond City-wide averages for energy burden at the census tract level. C3 mapped hot spots for energy burden and sought to understand common drivers among those households (e.g. income level, home ownership status, building age, race, education level).

Discussion:

C3’s report, *Uncovering Energy Inequity: An Analysis of how Energy Burden is Distributed in Charlottesville, Virginia* (hyperlink to the report is included under the Attachments section of this memo), found that 1 in 4 Charlottesville City households experience an unsustainable energy burden — spending more than 6% of annual income on energy costs, and 1 in 5 households pay more than 10% of their incomes on energy. C3’s report also revealed a high direct correlation between energy-burdened neighborhoods and populations of color in Charlottesville. Other findings include:

- While Charlottesville’s average energy burden is 2.3%, extremely-Low Income households face the highest average energy burden, of approximately 16% of their income.
- 4,852 households in Charlottesville face high to extremely high energy burden levels. Census tracts 2.02, 4.01, 5.01, 6, and 7 are, each of them, home to 500+ highly energy burden households.
- Given a same built year, homes occupied by renters seem to bear energy burden levels up to twice as much as the homeowners’ average.
- When controlled by income levels, the average energy burden faced by households appear to be uncorrelated with their homeownership status.

While working through the COVID-19 pandemic and widespread economic recession, well-designed equitable clean energy solutions that help increase energy affordability will certainly help place Charlottesville in the right direction.

Alignment with City Council’s Vision and Strategic Plan:

Energy equity supports the City Council’s “Quality Housing Opportunities for All”, “Economic Sustainability”, “A Green City” and “America’s Healthiest City” visions. It also contributes to Goal 1 “Inclusive, Self-sufficient Community”, objectives 1.3 “Increase affordable housing options”, 1.4 "Enhance Financial Health of Residents", and 1.5 "Intentionally Address Issues of Race and Equity"; Goal 3 “ Beautiful and Sustainable Natural and Built Environment”, objectives 3.1 "Engage in Robust and Context Sensitive Urban Planning and Implementation", and 3.4 Be responsible stewards of natural resources. This also aligns with recently established ambitious climate goals and the inclusion of affordable housing as a priority for Charlottesville’s Comprehensive Plan.

Community Engagement:

The Community Climate Collaborative (C3) has provided multiple opportunities for the public to learn from C3’s Uncovering Energy Inequity report and provide feedback to our findings, including two webinar sessions with more than 100 attendees that included a general overview of the report and the participation of representatives of local social justice leaders from Charlottesville Low-Income Housing Coalition (CLIHC) and Sin Barreras. Additionally, a C3’s social media and official website provided multiple avenues of communication for community input and comments. Since then, C3 has been meeting with affordable housing organizations and community leaders to receive further feedback on our report and co-create and sponsor an advocacy campaign around the topic of energy equity.

Budgetary Impact:

No budgetary impact is anticipated at this point.

Recommendation:

The City of Charlottesville should ensure that the City’s Comprehensive Plan, Strategic Plans, and Climate Action Plan are developed with an important focus on energy equity. Possible pathways for this to be achieved include:

- Adopting a resolution emphasizing the importance of energy equity
- Requesting that steering committees and staff leading these planning efforts incorporate energy equity considerations into their processes
- Including energy equity as part of the review criteria when considering adoption of these plans

Alternatives:

Council may elect to not follow the above recommendation. C3 submits that omitting energy equity in these plans would hinder the City's ability to invest in intersectional equitable housing policies that could

- (i) considerably alleviate household energy burden by reducing energy expenditures and, thereby, increasing housing affordability; and
- (ii) make homes more climate-friendly, with less energy waste, and help improve health levels for members of the household.

Attachments:

C3's Uncovering Energy Inequity report, executive summary, and public webinar can be found on a dedicated webpage [on the Community Climate Collaborative's website](#).