

LOAN AGREEMENT FOR PREMIER CIRCLE/VISTA 29 PROJECT

RECITALS

WHEREAS, the production of new housing units for homeless persons and very low-income households 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 homeless persons and households of very-low income, for the purpose of producing such property; and

WHEREAS, SupportWorks Housing (“SupportWorks”), formerly known as Virginia Supportive Housing, is a private, nonprofit 501(c)(3) organization (corporation) organized and operating under the laws of the Commonwealth of Virginia, having as its mission to end homelessness by providing permanent housing and supportive services; and

WHEREAS, SupportWorks is developing the Premier Circle/Vista 29 project at 405 Premier Circle (the “Project”), in Albemarle County, Virginia, that will have 77 studio apartments and 3 one-bedroom apartments with supportive services, such development to be funded by Low Income Housing Tax Credits, private donations, grants, and local government funding from the County of Albemarle and the City of Charlottesville; and

WHEREAS, the Project will be a mixed-income community with a blend of units for homeless and very low-income households from Albemarle County, the City of Charlottesville, and the surrounding region; and

WHEREAS, SupportWorks 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 very low-income affordable units, the City desires to make a Forgivable Loan to SupportWorks pursuant to and in consideration for SupportWorks’s activities in compliance with this agreement, to be approved by the City; and

NOW, THEREFORE, BE IT ORDAINED by the Charlottesville City Council that local public funding in the amount of seven-hundred-fifty-thousand-dollars (\$750,000) is hereby approved for SupportWorks Housing to support the Project, subject to the following terms and conditions, which shall be set forth within this written agreement that shall be executed by duly authorized agents of the City and SupportWorks Housing (“Loan Agreement” or “Agreement”):

Section 1. Public purpose of the Loan

This Forgivable Loan is provided to SupportWorks Housing (“Recipient” or “SupportWorks”) for the public purposes of providing for construction of eighty (80) affordable housing units: 77 studio apartments and 3 one-bedroom apartments with supportive services, at the Project.

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 occupancy or rental by homeless persons and very low-income households, for a period not less than thirty (30) years.** Of the eighty (80) units, twelve (12) units will be rented to households at or less than forty (40) percent area median income (AMI), and twenty-eight (28) will be rented to households at or less than fifty (50) percent AMI, and forty (40) will be rented to households at or below sixty (60) percent AMI.

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.
- (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 for homeless persons and very low-income households, for households earning 60% or less of the Area Median Income (AMI).
- (E) To the best of its knowledge, the Premier Circle PSH, LLC (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 may only transfer or convey title to any such land subject to the terms of this Agreement.
- (F) Recipient will execute any and all documents reasonably requested by the City to finalize the Forgivable Loan authorized by this Ordinance, including, without limitation, any note, deed of trust, security agreement or guaranty.

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

Section 3. Authorized Expenditures; Budget

(A) The Project is a mixed-income development that will provide eighty (80) permanent affordable units for very low-income households for residents of Charlottesville and the surrounding counties. Of the eighty (80) units, seventy-seven (77) will be studio apartments and three (3) one-bedroom apartments, all with supportive services. Of the eighty (80) units, twelve (12) will be completely accessible for persons with disabilities, and two (2) units will feature equipment for individuals with sensory impairments. The entire building will be designed to meet Virginia's Housing's Universal Design Standards.

(B) The City will provide \$750,000 in Forgivable Loan proceeds. Loan proceeds may be expended as follows:

- i. Up to \$750,000.00 shall be expended for site work (demolition of existing buildings, grading, erosion, and sediment control measures, etc.), the installation, construction or reconstruction of public streets (inclusive of sidewalk, curb and stormwater, landscaping), utilities, and park(s) essential to the Project ("Public Infrastructure" or "Public Infrastructure Construction), and for construction of eighty (80) new affordable housing units for rental to low-income households residing in the Thomas Jefferson Planning District Commission region.
- ii. Up to \$75,000 (ten (10) percent) may be used for soft costs.

(C) Construction will commence on an estimated timeline of February 2025 and be diligently prosecuted by Recipient to completion.

(D) [Reserved.]

(E) The Budget shall establish a summary of projected costs for public infrastructure construction and construction of the affordable housing units. 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 above, the Recipient shall furnish all of the following documents to the City, in a form acceptable to the City in all respects, for the City's approval:

- i. Documentation of an approved site plan.
- ii. Declaration of Affordable Housing Covenants (Rental), in the form approved by the City Manager and City Attorney and executed by Recipient and recorded within the respective land records for Albemarle County.
- iii. A Construction Schedule that implements construction of the Rental Affordable Units to be completed by November 2026.
- iv. The Budget required by Section 3, above.

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

(B) Execution of Loan Instruments

This Loan is in the amount of the total disbursements made by the City to the Recipient, pursuant to Section 3(B)(i) and (ii) preceding above. Disbursement shall be made up to the Loan maximum specified in Section 3(B)(i) and (ii), 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) **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.
- (ii) 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 Declaration of Affordable Housing Covenants (Rental), and any amendments thereto, throughout the entire Deferral Period (i.e., continuously from the Commencement Date through the expiration of the Deferral Period) then the Loan shall be forgiven. Recipient will grant to the City, as security for the Loan, an assignment of its subordinate interest in the project, which secures its Sponsor Loan. The assignment shall be subordinate to loans from Virginia Housing, VCDC, Virginia Department of Housing and Community Development, and the construction loan during the construction period, and any federal agency.

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

(iv) 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; or
- d. upon the sale or transfer of the property, or any portion(s) thereof, to any person other than a related entity, or other assignee, who has been approved by the City in advance. For purposes of this Agreement, the term “related entity” means any transferee that is controlled by the Recipient, the Landowner, or both.

(v) **Default.** If any Event of Default shall occur pursuant to this Project Loan Agreement and is not cured within sixty (60) days from the date that written notice of such Event of Default is given by the City to the Recipient or such longer period as was reasonably necessary for cure, provided the Recipient requested an extension prior the expiration of the 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 Project;
- c. Failure to comply with the requirements of the Declaration of Affordable Housing Covenants (Rental), and any amendments thereto, 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 Project;
- e. Failure to perform any of Recipient’s obligations under the Declaration of Affordable Housing Covenants (Rental), and any amendments thereto, as it may be amended or any phase-specific replacement covenant thereto;
- f. A successful legal challenge initiated by the Landowner, SupportWorks, or any Project Owner, asserting that the Declaration of Affordable Housing Covenants (Rental), and any amendments 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;
- 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;

(vi) **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.

(vii) **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 2025 (June 30, 2025) 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 the Landowner, the 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, disease, work shortages, acts beyond the control of the parties, declared state of emergency or public emergency, government mandated quarantine or travel ban, government shutdown or governmental regulation. All federal extensions permitted due to any pandemic, declared state of emergency or public emergency, government mandated quarantine or travel ban, or any other similar event, shall also apply to the dates in this 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 Agreements to effectuate the requirements herein 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, or (ii) the dollar amount(s) of the Loan, as set forth within Section 3(B) of this Agreement. Any amendments of the terms referenced in

clauses (i) – (ii) 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 SupprtWorks Housing, Attention: Executive Director, 1900 Cool Lane, Suite B, Henrico, VA 23223, with a copy to Lauren Nowlin, Williams Mullen, 200 South 10th Street, Suite 1600, Richmond, VA 23219, and a copy to the Project Lender at an address provided by the Recipient.

[Signatures on next page]

CITY OF CHARLOTTESVILLE, VIRGINIA

By: _____
City Manager

Date: _____

SUPPORTWORKS HOUSING

By: _____

Print Name: _____

Title: _____

Date: _____

Funds are Available:

By: _____
Director of Finance

Date: _____

Approved as to Form:

By: _____

Title: _____

EXHIBIT A

Legal Description of Property (Premier Circle/Vista 29 Project)

Albemarle County Parcel ID 061M0-00-00-006A0

Parcel 1:

ALL that certain lot, piece or parcel of land, with the improvements thereon and appurtenances thereunto belonging, lying and being in the Rio Magisterial District, Albemarle County, Virginia, containing 0.738 acre, more or less, and described as "New Lot 6A" on a plat by Timmons Group, dated November 18, 2022, last revised December 26, 2023, entitled "PLAT OF SUBDIVISION PREMIER CIRCLE BEING TAX MAP PARCEL 61M-6 IN THE RIO MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VIRGINIA", recorded April 1, 2024 with a Deed of Dedication and Easement in the Clerk's Office, Circuit Court, Albemarle County, Virginia as Instrument No. 202400002459.

TOGETHER WITH the right to use the fifty (50) foot Access Easement shown on a plat made by William S. Roudabush, Inc., dated January 1, 1980, last revised March 11, 1980, recorded in said Clerk's Office in Deed Book 797, Page 242 and again in Deed Book 823, page 95 (the "Plat"), subject to the terms and conditions of the Declaration dated November 1, 1983, recorded in said Clerk's Office in Deed Book 797, Page 242; and granted by Deed recorded in said Clerk's Office in Deed Book 899, Page 333.

Parcel 2:

A one-seventh (1/7) interest in and to the fifty-foot (50') access easement shown as Parcel X on the Plat.

BEING a portion of the same real estate conveyed to PHA Premier Circle, LLC, a Virginia limited liability company, by deed from Triota, LTD, a Virginia corporation, dated March 9, 2021, recorded March 15, 2021 in the Clerk's Office, Circuit Court, Albemarle County in Deed Book 5498, Page 22, and by quitclaim deed of correction from Equity Residential, a Maryland real estate investment trust, as successor to The Charlottesville Motel Limited Partnership, an Ohio limited partnership, dated March 17, 2021, recorded March 19, 2021, in said Clerk's Office in Deed Book 5502, Page 389.

Parcel 3:

Reciprocal Access and Parking Easement between PHA Premier Circle, LLC, a Virginia limited liability company, and Premier Circle PSH, LLC, a Virginia limited liability company, dated February 10, 2025, and recorded in said Clerk's Office prior hereto.

Being a portion of the property conveyed to Grantor by deed from PHA Premier Circle, LLC, a Virginia limited liability company, recorded in said Clerk's Office prior hereto.

EXHIBIT B

Premier Circle/Vista 29 Location Map

Premier Circle PSH Location Map

