

LAND USE RESTRICTION AGREEMENT
State Housing Initiatives Partnership Programs (SHIP)
Pinellas County Affordable Housing Development

THIS LAND USE RESTRICTION AGREEMENT (hereinafter known as "AGREEMENT") is entered into as of the _____ day of _____, 2018 (Effective Date), between **Pinellas County (COUNTY)**, whose mailing address is 315 Court Street, Clearwater, Florida 33762 and **Habitat for Humanity of Pinellas County, Inc.**, having its principal office at 13355 49th Street North, Clearwater, Florida 33762, a not-for-profit corporation organized under the laws of the State of Florida, including its successors, assigns, and transferees (**AGENCY**).

WITNESSETH:

WHEREAS, on the _____ day of _____, 2018, the COUNTY donated real property (Property) to the AGENCY to construct affordable homeownership housing in the community known as the **Greater Ridgecrest Area** located in the County of Pinellas, State of Florida; and

WHEREAS, AGENCY acknowledges it is necessary to comply with the requirements of the **State Housing Initiatives Partnership Programs (SHIP)** from which said Property was surplus and donated to the AGENCY; and

WHEREAS, in consideration of the Property donated to AGENCY, AGENCY covenants and agrees that in connection with the acquisition and/or construction, rehabilitation and ownership of the Property, AGENCY will comply, and will require any subsequent purchasers of the Property to comply with the following covenants and restrictions on the use of the Property; and

WHEREAS, as a condition of receipt of the Property, AGENCY agrees to enter into a land use restriction agreement; and

NOW THEREFORE, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein.
2. **Property:** The Property subject to this AGREEMENT is known as:

LEGAL DESCRIPTION

BASKIN HEIGHTS SUBDIVISION, 1st Addition, Lot 23

3. **Affordability of Assisted Units.** During the Affordability Period, as defined in Section 6 (Affordability Period), the single family home to be developed on the Property shall be a SHIP assisted unit.

This unit shall be sold to buyers whose annual household income does not exceed 80% of the Area Median Income at the time of purchase. Future re-sale of assisted units shall also be limited to buyers whose annual household income does not exceed 80% of the Area Median Income. Annual household income for the purpose of this Agreement shall be as defined by the Florida Housing Finance Corporation, adjusted for family size. For the duration of the Affordability Period, the Property shall be operated as affordable residential ownership single family housing, and may not be used as, or converted to rental housing or other residential or business use.

4. **Purchase Prices.** The purchase price of the SHIP-assisted unit may not exceed the actual, total cost of developing the unit or the certified appraised value of the improved property, to be determined no earlier than six months prior to the time of the sale of the unit, whichever is less.
5. **Homebuyer Rules.** For the duration of the Affordability Period, the SHIP-assisted unit shall be sold to buyer's whose annual household income does not exceed those required in Section 3 (Affordability of Assisted Units) herein. Buyers must occupy the SHIP-assisted unit as their primary residence. Buyers shall not be permitted to rent or lease the units at any time during the Affordability Period; exceptions can be made for active duty military families. These requirements apply to the initial unit sale as well as future resales for the duration of the Affordability Period; therefore, the AGENCY shall assure that all initial buyers sign a Land Use Restriction Agreement (LURA), Affidavit, Mortgage with right to repurchase or other County-approved restriction stipulating the homebuyer rules as a part of any written agreement for unit purchase. Such agreement shall be submitted to the COUNTY or it's designee for approval; prior to the sale of the subject unit.
6. **Affordability Period.** For the purpose of this Agreement, the Affordability Period shall be **Five (5)** years. The Affordability Period shall commence on the day that the Property is conveyed by AGENCY to an eligible homebuyer and end on the last day of the year, **Five (5)** years thereafter, or at such time as the value of the land donation has been repaid, whichever is longer. COUNTY and AGENCY agree that the value of the donated land (Land Only Value) is determined to be \$2.00 per square foot.

Upon the initial sale of each assisted unit, the AGENCY, at AGENCY'S sole expense, shall have properly filed and recorded in the official public records of Pinellas County, a Land Use Restriction Agreement (LURA), Affidavit, Mortgage with right to repurchase or other COUNTY-approved restriction for that unit which shall include restrictions upon the use, sale and resale of the unit for the duration of the Affordability Period, subject to and in accordance with the covenants and terms contained herein. The AGENCY shall submit the form of this document for approval by the COUNTY prior to finalizing any sale.

7. **Buyer Incomes.** The AGENCY shall determine and verify the Income Eligibility of homebuyer in accordance with SHIP Programs, or by an alternative method pre-approved by the COUNTY for the Project. The AGENCY shall calculate gross annual income by annualizing verified sources of income to be received by the household during the twelve (12) months following the effective date of the determination. The AGENCY shall obtain COUNTY verification and approval of potential buyer income eligibility a minimum of twenty-one (21) days prior to finalizing any sale.

8. **Nondiscrimination.** Neither the AGENCY nor its appointees or assigns shall discriminate, as defined by state or federal statute, or by local ordinance, on the basis of race, color, age, sexual orientation, familial status, disability, religion, or national origin in the selection of prospective homeowners or in connection with the employment or application for employment of persons for the construction of the Property.
9. **Liens, Charges, Taxes, and Assessments.** During the Period of Affordability, AGENCY or its successors or assigns will promptly pay, and will require any subsequent purchasers of the Property to promptly pay all taxes, assessments, charges, fines, and impositions attributable to the Property, including all improvements thereto, including mechanics liens, homeowner association or community association dues, fees and assessments, if any. Non-payment of charges described in this paragraph will constitute a default of this AGREEMENT.
10. **Monitoring and Inspection.** The AGENCY shall permit the COUNTY or its designee to inspect all records pertaining to determination of income eligibility and qualification of the selected buyer of the subject property prior to scheduling a closing on the sale of the subject property to that buyer, and shall submit to the COUNTY, no later than thirty (30) days following closing, such records and documentation as required by the COUNTY to document compliance with this Agreement and SHIP Program rules.
11. **Development Conditions.** AGENCY must construct a residential single-family detached house, which must be built in accordance with all applicable building, land use and zoning regulations. Houses must meet the following minimum size and design requirements; 1,200 square feet, 3 bedrooms, 2 bathrooms, and enclosed garage.
12. **Assurance of Public Purpose.** AGENCY must obtain building permits and commence construction, including on-site construction activities within two (2) years of the date of the deed (closing date) conveying Property from COUNTY to AGENCY. AGENCY may be granted an extension of time for good cause at the sole discretion and with the written consent of COUNTY. Buyer must complete construction including obtaining a certificate of occupancy (CO) within three (3) years of the closing date.

Should AGENCY materially default on the terms and conditions incorporated herein before the Property is conveyed to an income-eligible buyer, or if AGENCY is unable or unwilling to develop the Property in accordance with the terms and conditions incorporated herein, AGENCY agrees that the Property shall revert to the COUNTY in fee simple real estate. Upon such reversion, AGENCY shall be responsible to satisfy any and all liens placed on the Property or improvements thereto as a result of AGENCY'S actions or direction at AGENCY'S sole cost and expense. The AGENCY further agrees that in the event of a default and reversion to COUNTY, AGENCY will provide a deed to COUNTY to codify the same. AGENCY shall be liable for all costs and expenses incurred by COUNTY enforcing its reversionary rights, including the satisfaction of any and all liens.

13. **Defaults; Remedies.** If the AGENCY shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed, then and in such event, the COUNTY shall be entitled, in addition to all other remedies provided by law or in equity:

- A. To compel specific performance by the AGENCY of its obligations under this Agreement, it being recognized that the beneficiaries of AGENCY'S obligations hereunder cannot be adequately compensated by monetary damages in the event of AGENCY'S default; and
 - B. To rescind, or discontinue any and all incentives, either regulatory and/or financial, provided to AGENCY.
- 14. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to the AGENCY provided for in this Agreement shall be given by mailing such notice by certified mail to the AGENCY address stated herein, or at such other address as the AGENCY may designate by notice to the COUNTY as provided herein, and (b) any notice to the COUNTY shall be given by certified mail, return receipt requested, to the COUNTY'S address stated herein, with a copy to the Preparer of this instrument, or to such other address as the COUNTY may designate by notice to the AGENCY as provided herein. Any notice provided for in this Agreement shall be deemed to have been given to the AGENCY or COUNTY when given in the manner designated herein.
- 15. Condemnation.** If, during the Period of Affordability, the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to COUNTY to cover the sums COUNTY paid to acquire the Property, in such proportion as is equal to the portion of the Property taken.
- In the event of a total taking of the Property, the proceeds shall be assigned to the COUNTY to cover the sums COUNTY paid to acquire the Property, with excess, if any, paid to the Property owner at the time of the taking.
- 16. Successors and Assigns.** This AGREEMENT shall be properly filed and recorded by the COUNTY in the official public records of Pinellas County, Florida and shall constitute a restriction upon the use of the Property subject to and in accordance with the terms contained herein. The covenants and conditions contained herein shall run with the land and shall bind, and the benefits shall inure, to the AGENCY, its successors, assigns, and all subsequent owners of the Property or any interest therein, commencing on the Effective Date and continuing through the end of the Affordability Period. The AGENCY shall expressly reference the conditions and covenants of this AGREEMENT on any deed or other instrument conveying ownership interest in the Property.
- 17. No Conflict with Other Documents.** The AGENCY warrants that it has not, and will not, execute any other Contract or Agreement with provisions contradictory to, or in opposition to the provisions hereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- 18. Severability.** Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable by any court of law, for any reason, such determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Agreement.
- 19. Enforcement of Terms.** The benefits of this Agreement shall inure to, and may be enforced by the COUNTY for the full duration of the Affordability Period, whether or not the COUNTY shall continue to be the holder of the Mortgage, whether or not the Project loan may be paid in full, and whether or

not any bonds issued for the purpose of providing funds for the project are outstanding. Breach of these terms during the Affordability Period shall result in recapture of all SHIP funds expended on the Project.

(SIGNATURE PAGE/S TO FOLLOW)

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written. *Note: Two witnesses are required*

ATTEST:
KEN BURKE, CLERK OF CIRCUIT COURT

PINELLAS COUNTY, FLORIDA
a political subdivision, by and through its
Board of County Commissioners

Deputy Clerk Signature

By: _____
Kenneth T. Welch, Chair

Date: _____, 2018

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By: Chelsea Hardy
Chelsea D. Hardy, Assistant County Attorney

ATTEST:

Habitat for Humanity of Pinellas County, Inc.

Witness #1 Signature

By: _____
Signature

Print or Type Name

Michael Sutton, President and CEO
Name/Title

Witness #2 Signature

Date: _____, 2018

Print or Type Name

STATE OF FLORIDA)
COUNTY OF PINELLAS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by **Michael Sutton, President and Chief Executive Officer of Habitat for Humanity of Pinellas County, Inc., a Florida Not for Profit Corporation.** He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

Signature

(NOTARY STAMP/SEAL ABOVE)

Name of Notary, typed, printed or stamped

**This instrument was prepared by:
Attn: Affordable Housing Program Administrator
Community Development Division
Pinellas County Planning Department
440 Court Street, 2nd Floor
Clearwater, FL 33756**