

This instrument was prepared by and return to:
Stephanie Rayman, Pinellas County
Housing & Community Development Department
310 Court Street, 1st Floor, Clearwater, FL 33756

**LAND USE RESTRICTION AGREEMENT
PENNY FOR PINELLAS WORKFORCE HOUSING PROGRAM
Pinellas County Affordable Housing Development**

THIS AGREEMENT is entered into as of the ____ day of **December, 2025**, among **Fairfield Avenue Apartments LLC**, (herein Agency), a **Florida Limited Liability Company**, whose mailing address is **9800 - 4th Street N, Suite 200, St. Petersburg, FL 33702** its successors, assigns and transferees of the Property described below, and **Pinellas County** (herein County), a political subdivision of the State of Florida, whose mailing address is 310 Court Street, 1st Floor, Clearwater, Florida 33756;

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 as further described herein, subject to and in accordance with the terms contained herein, provided that, for the avoidance of doubt, this Agreement shall not encumber the fee simple estate, but shall only encumber the Agency's, and the Agency's successors', assigns', and transferees', interest in the Project (defined below).

IN CONSIDERATION of funds the County has provided the Agency to finance the **Fairfield Avenue Apartments** improvements and leasehold interest in the underlying real estate (herein Project) on the following described Property located in the County of Pinellas, State of Florida, Agency's leasehold interest in **3300 Fairfield Avenue South, St. Petersburg, FL 33712**, (herein Property) and more properly described as:

LEGAL DESCRIPTION

Lots 1, 2, and 3, COX LUMBER CO. REPLAT, according to the map or plat thereof, as recorded
in Plat Book 132, Page(s) 57, of the Public Records of Pinellas County, Florida.

The Agency acknowledges that this Agreement is necessary in order to comply with the requirements of the **Penny for Pinellas Workforce Housing Funding** Program, from which funds were obtained to finance such loan, or a portion thereof, and hereby covenants and agrees that in connection with the acquisition and/or construction, rehabilitation, ownership and operation of the Property, it will comply, and will require any subsequent purchaser of the Property to comply, with the following covenants and restrictions on the use of the Property in addition to the Agency Agreement and Mortgage and Note associated and contemporaneously executed herewith:

1. Affordability of Assisted Units. During the Affordability Period, as defined below, of the **264** total units in the project, **264** of the units shall be Workforce Assisted units. Assisted units shall be **rented** or held available for **rental** on a continuous basis to persons or families who, at the commencement of occupancy by each tenant of such unit, shall have annual incomes which do not exceed unit set-aside requirements as follows:

A. Fifty-Three (53) units shall be set-aside for very-low income households that have a total annual gross household income that does not exceed **50 percent** of the Area Median Income (AMI) for the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area (MSA) adjusted for family size, **Sixty-Seven (67)** units shall be set-aside for low-income households that have a total annual gross household income that does not exceed **80 percent** of the Area Median Income (AMI) for the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area (MSA) adjusted for family size, and **One Hundred Forty-Four (144)** units shall be set-aside for moderate income households that have a total annual gross household income that does not exceed **120 percent** of the Area Median Income (AMI) for the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area (MSA) adjusted for family size.

For purposes of clarity, these income limits are calculated annually by the United States Department of Housing and Urban Development and the maximum rental amounts for each income threshold shall be as promulgated annually by the Florida Housing Finance Corporation for the State Housing Initiatives Partnership (SHIP).

While occupying an Assisted rental unit, a household's annual income may increase to an amount not to exceed 140 percent of the applicable set-aside income limit.

B. Rents for all Workforce Assisted units shall be restricted to the **income-based rent** limits. Maximum eligible income and rent limits are revised annually and are available from the County.

2. Affordability Period. For the purpose of this Agreement, the Affordability Period shall commence upon issuance of the certificate of occupancy for the Project and end on the last day of the **Thirtieth (30th)** year thereafter, regardless of if the sums secured by the Mortgage and Note have been repaid.

3. Income Determination. The Agency shall determine and verify the Income Eligibility of tenants in accordance with HUD Section 8 housing assistance programs in 24 CFR Part 5. Income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received by a household during the 12 months following the effective date of the determination. The Annual Gross Income, as defined in Section 420.9071(4), F.S, must be used and the Program income limits set forth herein cannot be exceeded. The Agency shall maintain complete and accurate income records pertaining to each tenant occupying a Penny IV-assisted unit. At a minimum, records for each occupied assisted unit shall contain the following documentation:

- A. The tenant's complete application and related information including the name of each household member, proof of identity, and employment, income and asset information for each household member;
- B. A copy of the lease agreement listing the term of tenancy and each tenant residing in the unit;
- C. Verification of income of each tenant as is acceptable to under Section 8 of the U.S. Housing Act of 1937, as amended;
- D. Information as to the assets owned by each tenant; and
- E. Tenant Income Certification Form, TIC-1, Rev.06/24, which is hereby incorporated by reference, for each tenant. For Section 8 clients, the HUD Forms 50058 or 50059 may be used in lieu of TIC-1.

4. Tenant Leases and Protections. The Agency shall comply with the provisions of the Florida Landlord Tenant Act defined in Chapter 83 Part II of the Florida Statutes, and Lender requirements, which prohibit certain lease terms. All tenant leases for assisted units shall be expressly subordinate to the Mortgage and shall contain clauses, among others, wherein each individual lessee:

- A. Agrees that the household income, household composition and other eligibility requirements shall be deemed substantial and material obligations of the tenancy; that the tenant will comply promptly with all requests for information with respect thereto from the Agency or the County, and that tenant's failure to provide accurate information about household income or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his/her tenancy;
- B. Agrees not to sublease to any person or family who does not meet income qualifications as determined, verified, and certified by Agency;
- C. States that the rental unit is the primary residence of the tenant;
- D. Agrees that the lease shall be for a one-year period, unless other terms are mutually agreed upon by Agency and tenant.

5. Nondiscrimination. Neither the Agency nor Manager shall discriminate, as defined by state or federal statute, or by local ordinance, on the basis of race, creed, color, age, sex, familial status, disability, religion, or national origin in the lease, use or occupancy of the units or in connection with the employment or application for employment of persons for the operation and management of the Property.

Neither Agency nor Managers shall discriminate against tenants or prospective tenants during or after the solicitation process and shall use their best effort to ensure that tenants are provided with a living environment free from harassment or discrimination by other tenants, vendors, or providers of any services associated with the assisted housing units.

6. Monitoring and Inspection. The Agency shall permit the County or its designee to inspect all records, including but not limited to financial statements, pertaining to assisted units upon reasonable notice and within normal working hours, and shall submit to the County such documentation as required by the County to document compliance with this Agreement and Penny IV Program rules. The Agency acknowledges that the County or its designee must, from time to time, inspect each assisted unit for compliance with Housing Quality Standards (as defined by HUD for the Section 8 Program) and local code requirements, and agrees to facilitate such inspections with tenants as necessary. The Agency also acknowledges that the property must meet property standards upon completion of the project and for the duration of the affordability period.

The County shall, from time to time, make or cause to be made inspections of the assisted units and Property rental records to determine compliance with the conditions specified herein. The County shall notify the Agency prior to scheduled inspections, and the Agency shall make any and all necessary arrangements to facilitate the County's inspection. The County may make, or cause to be made, other reasonable entries upon and inspections of the Property, provided that the County shall give the Agency notice prior to any such inspection, specifying reasonable cause therefore, related to the County's interest in the Property.

7. Annual Compliance Monitoring of Project. Compliance monitoring of the project shall be a responsibility of the Agency, to be performed by a compliance monitor as approved by the County. The compliance monitor shall be responsible for monitoring the Agency's compliance with restrictions regarding the use or occupancy of the project and ensure that all requirements are being satisfied on a continuing basis in accordance with this LURA. In the event that the compliance monitor shall ever resign, be removed, or otherwise, in the opinion of the County, fail to perform the duties of the compliance monitor, the Agency shall, at the direction of the County, hire a successor compliance monitor. The compliance monitor shall:

- A. Conduct an initial briefing with the property manager and upon any change in the entity responsible for management of the project, with such new entity, regarding procedures for filing tenant income certification forms, and compliance certificates, and for verifying income of tenants.
- B. Provide annual summary report to the County detailing the ratios of Assisted Units occupied by income eligible tenants as required by this LURA.
- C. Conduct on-site audits of the project's tenant records and document all findings to ensure compliance with applicable regulations, terms and conditions.
- D. Review rent rolls of the Assisted Units to ensure monthly rents are in compliance with income-based rent limits.
- E. Examine leases of the Assisted Units to ensure that all occupants of the Assisted Unit are listed, and that the lease is current and fully executed.
- F. Verify annual re-certifications are performed in a timely manner.
- G. Review the certification procedures to verify that record retention requirements are being met with respect to the Assisted Units and Assisted Units are not occupied until properly certified.
- H. Inspect units for compliance with local codes and housing quality standards.

- I. Examine the current marketing materials for compliance with the Affirmative Fair Housing Marketing Plan, if applicable.
- J. Prepare Management Review Summary documenting conclusions of monitoring visit, incorporate findings of non-compliance discovered during compliance review and recommend corrective actions, as required.
- K. Provide copies of Management Review to Agency and County

The compliance monitoring duties of the Agency or the compliance monitor, as the case may be, shall continue until all restrictions under this LURA expire. Notwithstanding anything provided herein to the contrary, if the Project is compliant with the set-asides required under the RFA, the Agency shall be deemed compliant hereunder.

8. Corrective Actions. If the Property is not in compliance with the requirements of this Agreement; the County shall give the Agency written notice of the deficiency, after which time the Agency shall have 30 days in which to bring the Property into compliance. The County may extend the cure period in its sole discretion if the default is of a nature that it cannot be completely cured within such cure period. Should the Agency fail to bring the Property into compliance within the specified time or thereafter fail to diligently continue to pursue compliance, the County shall immediately declare the Agency in default of this Agreement, Mortgage, and Affordable Housing Development Program Agency Agreement, the terms and conditions of which are incorporated herein by reference.

9. Assurance of Public Purpose. Agency covenants that no lease, sale, or title transfer to any third party shall occur prior to satisfying the conditions set forth in the Mortgage, Note, and Agency Agreement.

10. Defaults; Remedies. If, following the procedures set forth in Section 8 hereof, 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 or in any other agreement entered into by the parties associated herewith:

- 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 any and all incentives, either regulatory and/or financial, provided to Agency; and
- C. Subject to 18 of the Mortgage, cause the Agency to pay to the County an amount equal to all funds loaned to the Agency, less any principal balance previously repaid by the Agency, if any assisted unit is knowingly or negligently rented to persons who do not comply with the requirements for such unit.; and
- D. In addition to these remedies, a default by the Agency hereunder shall also constitute a default under the Mortgage and Affordable Housing Development Program Agency Agreement, which will enable the County there-under, after notice and an opportunity to cure as therein provided, to accelerate the Agency's grant(s) and take such other actions as may be permitted under the terms of the Mortgage, Affordable Housing Development Program Agency Agreement, and Land Use Restriction Agreement.

11. Notice. Except for any notice required under applicable law to be given in another manner, 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 any notice to the County shall be given by certified mail, return receipt requested, to the County's address stated herein 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.

12. Successors Bound – Burden to Run with Property. This Agreement and the covenants and conditions contained herein shall run with the land and shall bind, **the Agency and its successors and assigns and all subsequent owners of the Property or any interest therein, for the Affordability Period set forth in this Agreement.**

13. 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.

14. 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.

15. 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 outstanding sums expended on the Project. Breach of these terms during the Affordability Period shall result in recapture of all outstanding sums expended on the Project. Breach of these terms during the Affordability Period shall result in recapture of all outstanding Penny Program funds sums expended on the Project. Upon the expiration of the Affordability Period, the covenants herein shall be deemed satisfactorily complied with unless documents properly and timely recorded with the Pinellas County Clerk of Court indicate otherwise. Notwithstanding the foregoing, this Agreement shall automatically terminate and be of no force and effect in the event of involuntary noncompliance with this Agreement caused by fire or other casualty, seizure, requisition, change in a federal law or an action by a federal agency that prevents the County from enforcing the provisions hereof, or foreclosure or a deed in lieu of foreclosure by the County or its assignee or other third-party mortgage lender. Upon a termination of this Agreement pursuant to the preceding sentence, the County and the Owner will execute a recordable document further evidencing such termination. In the case of foreclosure or deed in lieu of foreclosure, such termination will cease to be effective if at any time during the balance of the term hereof, the Owner or any affiliated entity obtains an ownership interest in the Property for federal tax purposes.

16. HUD Rider. The rider attached hereto as the “HUD Rider” is incorporated herein by this reference.

(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed and delivered on their behalf as of the date first set forth above.

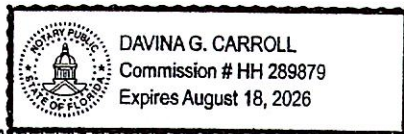
Signed, sealed, and delivered in the presence of:
Note: two witnesses are required


Witness #1 Signature
Print Name: ROBERT KAPUSTA, JR.
Address: 5858 Central Ave
St. Pete, FL 33707


Witness #2 Signature
Print Name: DAVINA G. CARROLL
Address: 5858 Central Ave
St. Pete, FL 33707

STATE OF Florida
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me by means of ☒ physical presence or () online notarization, this 24 day of November, 2025 by Fred Hemmer, Manager of Fairfield Avenue Apartments LLC, a Florida Limited Liability Company, who is ☒ personally known to me or () who has produced _____ as identification.



(NOTARY STAMP/SEAL ABOVE)

For: **Fairfield Avenue Apartments LLC**
a Florida Limited Liability Company
Federal Employee ID Number: **85-2636929**

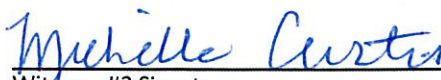
By: 
Name: Fred Hemmer
Title: Manager
Address: 9800 - 4th Street N, Suite 200
St Petersburg, FL 33702

Date: November 24, 2025


(Signature)
DAVINA G. CARROLL
(Name of Notary, typed, printed, or stamped)

Signed, sealed, and delivered in the presence of:
*Note: two witnesses are required.


Witness #1 Signature
Print Name: So Alejandra Lugo
Address: 315 Court Street
Clearwater, FL 33756


Witness #2 Signature
Print Name: Michelle Curtis
Address: 315 Court Street
Clearwater, FL 33756

For: **PINELLAS COUNTY**, a political subdivision,
of the State of Florida

By: 
Name: Barry A. Burton
Title: County Administrator
Address: 310 Court Street
Clearwater, FL 33756

Date: 12/9/2025

APPROVED AS TO FORM
By: Derrill McAteer
Office of the County Attorney

HUD RIDER

This RIDER TO HOUSING FINANCE AUTHORITY OF PINELLAS COUNTY AFFORDABLE HOUSING DEVELOPMENT PROGRAM LAND USE RESTRICTION AGREEMENT ("Rider") is made as of _____, 2025, by FAIRFIELD AVENUE APARTMENTS, LLC, a Florida limited liability company ("Borrower") and PINELLAS COUNTY ("Agency").

WHEREAS, Borrower has obtained financing from Highland Commercial Mortgage, LLC, an Alabama limited liability company ("Lender") for the benefit of the project known as Fairfield Avenue Apartments ("Project"), which loan is secured by a Leasehold Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement ("Security Instrument") dated as of _____, 2025, and recorded in the Office of the Clerk of Court, Pinellas County, Florida ("Records"), and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower has received a loan from the Agency, which Agency is requiring those certain restrictions contained in the Land Use Restriction Agreement ("Restrictive Covenants") be recorded against the Project; and

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In (the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

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

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

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means Highland Commercial Mortgage, LLC, an Alabama limited liability company, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act, 12 USC § 1701 *et seq.*, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the "HUD Requirements"). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency's ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower's knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Borrower and the Agency acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and will not serve as a basis for default under the HUD Requirements, unless a separate default also arises under the HUD Requirements.

(f) In enforcing the Restrictive Covenants, the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available Surplus Cash, if the Borrower is a for-profit entity;
- ii. Available distributions of Surplus Cash and Residual Receipts authorized for release by HUD, if the Borrower is a limited distribution entity;
- iii. Available Residual Receipts authorized for release by HUD, if the Borrower is a non-profit entity.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available Surplus Cash and/or Residual Receipts of the Borrower.

(i) Intentionally Omitted.

The statements and representations contained in this Rider and all supporting documentation thereto are true, accurate, and complete. This certification has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring a multifamily loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.