

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

AGENCY AGREEMENT
PENNY FOR PINELLAS WORKFORCE HOUSING PROGRAM
Pinellas County Affordable Housing Development

THIS AGREEMENT is entered into as of the ____ day of **December, 2025**, by **Fairfield Avenue Apartments LLC** (herein AGENCY), a **Florida Limited Liability Company**, whose principal address is 9800 4th Street North Suite 200 St Petersburg, FL 33702 and Pinellas County (herein COUNTY), a political subdivision of the State of Florida, whose address is 310 Court Street, Clearwater, Florida 33756.

WHEREAS, the **COUNTY** provides funding for affordable workforce housing for eligible persons as defined by the **Penny for Pinellas Workforce Housing Program** (herein Penny Program), in accordance with Section 212.055(2)(d)3, Local Government Infrastructure Surtax of the Florida Statutes, as further defined by the Land Use Restriction Agreement of even date herewith; and

WHEREAS, the AGENCY has applied for affordable workforce housing funds as part of the financing needed for the **construction of 264 new multi-family rental units**; and

WHEREAS, the Parties desire to enter into a written agreement assuring that the housing is developed in compliance with the terms and conditions imposed by the Program; and

WHEREAS, the COUNTY and the AGENCY have entered into a Promissory Note (herein Note), Mortgage (herein Mortgage) and Land Use Restriction Agreement (herein LURA) of even date.

NOW THEREFORE, in consideration of the **Six Million Two Hundred Thousand and 00/100 Dollars (\$6,200,000.00)** the County will provide to the AGENCY for the purposes outlined herein pursuant to the mortgage and note associated herewith, and the promises and covenants contained herein, the AGENCY agrees as follows:

1. Use of **PENNY FOR PINELLAS WORKFORCE HOUSING PROGRAM** Funds: The AGENCY shall use the Penny Workforce Housing Program funds provided to partially finance the **construction of 264 new multi-family rental units** on the following described property located in the County of Pinellas, State of Florida at **3300 Fairfield Avenue South, St. Petersburg, FL 33712**, to be known as **Fairfield Avenue Apartments** (herein Project) more properly described as:

LEGAL DESCRIPTION (herein Property)

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 covenants that **(264)** of the units will be rented to income-eligible tenants as defined below, for the term of the Affordability Period, as defined in the LURA of even date. This Agreement incorporates by reference terms and conditions described in the Mortgage and Note of even date and any other agreements enforcing the **Penny IV** requirements associated with said Mortgage and Note. The budget for the Project is estimated to be **Ninety-Three Million One Hundred Ninety-Three Thousand Four Hundred Thirty-Three and 00/100 Dollars (\$93,193,433.00)** of which up to, **Six Million Two Hundred Thousand and 00/100 Dollars (\$6,200,000.00)** is provided by the **COUNTY** through the **Penny IV Program**. Project construction will commence and be completed as defined and set forth in the affordable housing development schedule attached hereto as Schedule A. Construction will progress in accordance with the construction schedule submitted by AGENCY to obtain financing and as incorporated in Schedule A.

2. Affordability of **Penny Program** -Assisted Units: For the duration of the Affordability Period, as

defined in the Land Use Restriction Agreement (LURA) of even date, **(264)** units in the Project shall be Penny Program-Assisted units.

During the Affordability Period, Assisted Units in the Project 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 Assisted Unit, shall have annual incomes which do not exceed Assisted Unit set-aside requirements as follows:

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.

Rents on these units shall be restricted to the **income-based Rent** limits calculated pursuant to the LURA. Maximum eligible income and rent limits are revised annually and are available from the COUNTY.

3. Compliance: 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 for the Project. 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 within cannot be exceeded. The AGENCY shall maintain complete and accurate income records pertaining to each tenant occupying an assisted unit.

4. Assurance of Public Purpose: AGENCY covenants that no lease, sale, or title transfer to any third party shall occur prior to notifying the County pursuant to the terms of the Mortgage and Note. For clarification purposes, AGENCY shall not be required to notify the COUNTY for (i) residential leases, (ii) transfers or liens created by construction and permanent financing, and any refinancing thereof; (iii) any assignments, liens, or pledges made in connection with such financing; (iv) utility, cable, or other similar liens, encumbrances, claims or easements that are customarily granted for the operation of similar projects or in the ordinary course of business of operating an apartment complex; (v) residential leases, and for any (vi) transfers, liens, or pledges permitted under the AGENCY'S operating agreement.

5. Affirmative Marketing: The AGENCY shall adopt appropriate procedures for affirmatively marketing the Penny IV-assisted units. Affirmative marketing consists of good faith efforts to provide information and otherwise to attract to the available housing, eligible persons from all racial, ethnic and gender groups in the housing market area. The AGENCY shall be required to use affirmative fair housing marketing practices in soliciting renters, determining eligibility, concluding transactions, and affirmatively further fair housing efforts. The AGENCY must maintain a file containing all marketing efforts (i.e. copies of newspaper ads, memos of phone calls, copies of letters, etc.) to be available for inspection on request by the COUNTY. The AGENCY must provide a description of intended actions that will inform and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market of the available housing. The AGENCY must provide the COUNTY with an assessment of the affirmative marketing program. Said assessment must include: a) methods used to inform the public and potential renters about federal fair housing laws and affirmative marketing policy, b) methods used to inform and solicit applications from persons in the housing market who are not likely to apply without special outreach; and c) records describing actions taken by the participating entity and/or owner to affirmatively market units; and records to assess the results of these actions.

6. Tenant Leases and Protections: Tenants applying for rental housing units shall be qualified on a first-come, first-served basis. Tenants must be income-eligible and must occupy the rental unit as a primary residence. The AGENCY shall comply with the provisions of the Florida Landlord Tenant Act defined in Chapter 83 Part II of the Florida Statutes, Penny Program, this Agreement and COUNTY 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; and
- B. Agrees not to sublease to any person or family who does not meet income qualifications as determined, verified, and certified by AGENCY; and
- C. States that the rental unit is the primary residence of the tenant; and
- D. Agrees that the lease shall be for a one-year period, unless other terms are mutually agreed upon by AGENCY and tenant.

7. Project Requirements: The AGENCY agrees to not undertake any activity that may adversely affect historic or environmentally sensitivity of the site and to mitigate any findings identified in an environmental assessment. Notwithstanding, if the AGENCY adversely affects such historic or environmental aspects of the site, it shall promptly cure and mitigate the same. The AGENCY agrees that in the event that the Project is located in a Designated Flood Zone, all government requirements for construction in a flood zone shall be satisfied.

8. Debarment and Suspension: The AGENCY attests that it has not been debarred, suspended, proposed for debarment, or is ineligible from participating in federally funded projects, and acknowledges that it shall not employ, award, or fund any contractors or subcontractors that have been debarred, suspended, proposed for debarment, or are ineligible from participating in the federally funded projects.

9. Property Standards: The AGENCY attests that the Project will meet the standards of the Florida Building Code and all applicable local codes, standards, ordinances, and zoning ordinances at the time of project completion and throughout the duration of the affordability period. The Project will also meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, and the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619)

10. Property Management. The AGENCY may contract with a third-party property management firm for professional management services for the Property providing for leasing, collection of rents, maintenance and repair of Property, and other property management tasks to manage the site pursuant to the terms herein. Notwithstanding any such contract, the AGENCY shall remain liable for all property management pursuant to the terms herein.

11. 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 records and documentation as required by the COUNTY to document compliance with this Agreement and SHIP Program rules. The AGENCY acknowledges that the COUNTY or its designee must, from time to time, inspect each assisted unit for compliance with local code requirements and Housing Quality Standards and agrees to facilitate such inspections with tenants as necessary.

12. Acquisition, Relocation, and Displacement: The AGENCY acknowledges that the AGENCY will bear sole responsibility for any costs or reimbursements, legal or otherwise, from person or persons claiming that they have been involuntarily displaced by the acquisition of real property associated with development of the Project.

13. Nondiscrimination: The AGENCY shall not discriminate, as defined by local, State, or Federal Statutes, on the basis of race, creed, color, sex, age, disability, family status, national origin or any other protected class in the rental of the units within the Project or in connection with the employment or application for employment of persons for the construction, or management of the Project. The AGENCY shall not illegally discriminate against prospective tenants during or after the solicitation process.

14. Records and Reports: For the duration of the Affordability Period, the AGENCY shall maintain accurate information regarding the occupancy and contract rents for each tenant of each assisted unit and shall submit this information annually to the COUNTY.

The AGENCY shall also maintain documentation demonstrating compliance with Affirmative Marketing requirements relating to the assisted units. All such records shall be made available to Pinellas COUNTY, U.S. Department of Housing and Urban Development, representatives of the State of Florida and/or Comptroller General of the United States for audit, inspection or copying purposes during normal business hours.

The AGENCY shall retain all records pertaining to the Project for a minimum of five (5) years following completion of the Penny PROGRAM-funded activity or as required pursuant to Florida's General Records Schedule, whichever is longer, in which this activity reported on for the final time, or in case of litigation, claim, or audit, all records shall be retained until completion of action or resolution.

15. Requests for Disbursement of Funds: The AGENCY may not request disbursement of funds under this Agreement or the Note until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed and justified by supporting documentation, which means applicable affidavits and lien releases from contractors, paid invoices for the amount due, and a written certification from the project engineer describing the applicable portion of the work for which reimbursement is sought. The COUNTY reserves the right to deny payment of incomplete or altered invoices, or expenses not documented in accordance with the terms herein. The amount of funds disbursed to the AGENCY shall not exceed **Six Million Two Hundred Thousand and 00/100 Dollars (\$6,200,000.00)** as further outlined in the mortgage and note.

The COUNTY shall pay for the work performed based on the AGENCY'S delivery to the COUNTY of (i) an invoice, (ii) AIA G703, (iii) check request, (iv) the delivery of an executed Partial Release of Lien or Final Release of Lien for the work associated with the application for payment, and (v) such other documentation and information as further outlined herein or reasonably requested by the COUNTY. Requests for the payment of construction related costs shall be limited to one request per month and a total not to exceed Twenty-Four (24) requests for the entire Project. The AGENCY shall attest to the completion and quality of all work for which payment is being requested. All disbursements by the COUNTY will be made to the AGENCY who shall be responsible for paying all third parties the AGENCY contracts within furtherance of its obligations hereunder. Retainage in the amount specified in the construction contract with the Contractor, if any, will be disbursed to the AGENCY after all required work has been satisfactorily completed and the certificate of occupancy for the Project has been issued. Notwithstanding anything herein to the contrary, the COUNTY shall have no obligation to fund the work if (i) the AGENCY is in default under the terms of this Agreement or any other agreement between the AGENCY and the COUNTY. The COUNTY has the right, to be exercised in its sole and absolute discretion, to delay funding of the final draw until such time that it receives a title endorsement from a nationally recognized title insurance company providing that the Property and the improvements thereon, are free from construction liens. The AGENCY shall provide the County contact information for the AGENCY's representative with authority to sign all draw requests on behalf of the AGENCY. The County's Director of Housing and Community Development hereby has authority to approve such eligible requests on behalf of the COUNTY.

16. Conflict of Interest: The AGENCY shall ensure that no consultant, officer, employee, or agent of the AGENCY will occupy any of the assisted affordable housing units in the project.

17. Lobbying Prohibited: The AGENCY certifies, to the best of its knowledge or belief, that no state or

federally appropriated funds have been paid or will be paid, by or on behalf of the AGENCY, to any person for influencing or attempting to influence any, member of Congress, the State legislature, or County government, or any officer or employee of Congress, the State legislature, or County government, or an employee of a member of Congress, the State legislature, or County government in connection with the awarding of any county, state or federal contract, the making of any county, state, or federal grant, the making of any loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any county, state, or federal contract, grant, loan, or cooperative agreement.

18. Regulatory Requirements: Unearned payments under this Agreement may be suspended or terminated upon refusal to accept conditions that may be imposed by regulations and policies adopted by the County, the State of Florida, or the U.S. Department of Housing and Urban Development from time to time. The AGENCY acknowledges that this Agreement is necessary to comply with the requirements of the Penny IV Program and other regulations incorporated herein by reference; and agrees that it will comply with; and will require all contractors, subcontractors, and assigns to comply with all terms and conditions of all such regulations.

19. Hold Harmless: The AGENCY shall defend, indemnify and hold the COUNTY and all of its officers and employees, harmless from and against all costs, expenses, liabilities, suits, claims, losses, damages, and demands of every kind or nature, by or on behalf of any person or persons whomsoever or whatsoever arising out of or in any matter resulting from or connected with any accident, injury, death or damage that relate to Agency's obligations regarding the Assisted units which may happen during the time period covered by this Agreement. The AGENCY will defend any actions or suits brought against the COUNTY by reason of the AGENCY'S failure or neglect in complying with any of the conditions and obligations of this Agreement, or any tort liability arising out of actions of the AGENCY or any of its agents or subcontractors. The County shall be responsible for its own acts and omissions of negligence, subject to and limited by Section 768.28 of the Florida Statutes. Nothing contained herein shall be construed as a waiver of the County's sovereign immunity beyond the limits set forth in Section 768.28 of the Florida Statutes, nor consent to be sued by third parties in any manner arising from this Agreement. This provision shall survive termination of this Agreement.

20. Insurance: The AGENCY shall maintain insurance coverage in form and amount deemed adequate by the COUNTY for all risks inherent in the functions and aspects of its operation including but not limited to risks of fire, casualty, automobile liability coverage, workmen's compensation insurance as required by law, and public liability insurance for personal injury and property damage. The AGENCY shall maintain coverage: Worker's Compensation insurance in the amount of \$500,000 per employee, per employee disease, maximum statutory limits; Commercial General Liability insurance general aggregate \$2,000,000, products/completed operations aggregate \$2,000,000, personal injury and advertising injury \$1,000,000, each occurrence \$1,000,000; Property and Flood insurance must be maintained in an amount equal to the replacement value of the Property. Builders Risk insurance is required in an amount equal to Guaranteed Maximum Price of construction. Policies will name COUNTY as additional insured and loss payee.

21. Copyrights and Patents: If this Agreement results in a book or other copyright materials or patent materials, The AGENCY may copyright or patent such, but Pinellas COUNTY and the State of Florida reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use such materials and to authorize others to do so.

22. 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 as determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Agreement.

23. Term: This Agreement shall commence upon full and proper execution (herein Effective Date) and must remain in effect throughout the development process of the Project and is terminated upon completion of construction, as evidenced by issuance of the certificate of occupancy and initial lease-up of all units, or the date imputed thereto as set forth on Exhibit A, whichever is earlier (herein Term).

24. Enforcement of Agreement: The benefits of this Agreement shall inure to, and may be enforced by the COUNTY for the duration of the Agreement, 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. The AGENCY warrants that it has not, and will not, execute any other 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. However, this shall not preclude the COUNTY from subordinating its loan to construction financing, and the County shall coordinate with Agency in connection therewith as set forth in Section 4 of the Mortgage.

25. Assignment: The AGENCY shall not assign or otherwise transfer any interest in this Agreement nor enter into any subcontract pursuant to this Agreement without the prior written approval of the COUNTY of the proposed subcontract. All requirements of this Agreement shall be applicable to any subcontracts entered into under this Agreement.

26. Default; Remedies. Any noncompliance with the requirements of this Agreement shall be considered a default and, unless otherwise specified in the Mortgage and Note, shall be corrected within 30 days after such error is first discovered or after receiving notice of any noncompliance from the non-defaulting party. The cure period shall be extended if the default is of a nature that it cannot be completely cured within such cure period upon mutual written agreement. In the event of an uncured default or lack of compliance on the part of the AGENCY with the terms and conditions of this Agreement, and/or any schedules attached thereto (subject to force majeure delays), the Mortgage or the Note, also known as the loan documents, incorporated herein by reference, the land use restriction agreement, or any other security or other instrument associated with this Agreement, the COUNTY reserves the right, to exercise any necessary corrective or remedial actions provided by law, to include, but not necessarily be limited to: (a) requesting additional information from the AGENCY to determine reasons for or extent of noncompliance or lack of performance; (b) issuing a written warning advising the AGENCY of deficiency and advising the AGENCY that more serious sanctions may be taken if situation is not remedied; (c) withholding payment for services provided; (d) requiring the AGENCY to reimburse the COUNTY for the costs incurred for any items determined ineligible pursuant to the approved budget; (e) foreclosing upon the full amount of the lien incurred by the Mortgage as provided by law and the Mortgage terms and conditions; (f) terminating the Agreement.

27. Force Majeure: The AGENCY covenants and agrees that subject to matters of force majeure the work shall be completed in accordance with Schedule A of this Agreement. Matters of force majeure shall include, but not necessarily be limited to bonafide natural disasters or weather disturbances, strikes, or shortages of material. Force majeure shall not be construed to reduce the obligation of the AGENCY to timely complete the project because the failure of contractors and subcontractors to timely complete their work unless such delay is within the definition of the term force majeure.

28. Waiver: A waiver by the COUNTY of the AGENCY'S performance shall not constitute a waiver of any subsequent performance required by the AGENCY. No waiver shall be valid unless it is in writing and signed by an authorized representative of the COUNTY.

29. Notification: All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been served as of the postmark appearing upon the envelope if sent by the United States mail, at the address listed below, or upon the actual date of delivery if hand delivered to the address listed below. The AGENCY or the COUNTY may change the below listed address for receipt of written notices by so notifying the other in writing.

ADDRESS OF PINELLAS COUNTY

Pinellas County
310 Court Street
Clearwater, FL 33756
Attn: Affordable Housing Administrator

ADDRESS OF AGENCY

Fairfield Avenue Apartments LLC
a Florida Limited Liability Company
9800 - 4th Street N, Suite 200
St Petersburg, FL 33702
Attn: Fred Hemmer

30. Governing Law; Observance of Laws: This Agreement is governed by the laws of the State of Florida. Venue shall be in Pinellas County, Florida, or nearest location having proper jurisdiction. The AGENCY shall comply with all federal, state, and local laws, rules, and regulations pertaining to this Agreement. Failure to comply with this section shall constitute a material breach of this Agreement.

31. Non-Appropriation: In the event funds are not budgeted and appropriated by the COUNTY in any fiscal year for purposes described herein, pursuant to Florida Statutes Sections 129.06 and 129.07 and Art. VII, §12 of the Florida Constitution, the County shall notify the AGENCY of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without penalty or expense to the COUNTY.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF:

Signed, sealed, and delivered in the presence of:

*Note: two witnesses are required.

Witness

ROBERT KAPUSTA, JR.

Print Name

DAVINA G. CARROLL

Witness

DAVINA G. CARROLL

Print Name

For: Fairfield Avenue Apartments LLC

a Florida Limited Liability Company

Federal Employee ID Number: 85-2636929

By:

Name: Fred Hemmer

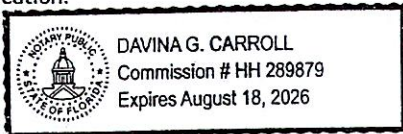
Title: Manager

Date: November 24, 2025

STATE OF Florida

COUNTY OF Pinellas November

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this 24 day of December, 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)

DAVINA G. CARROLL
(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

To Alejandra Lugo

Print Name

Michelle Curtis

Witness

Michelle Curtis

Print Name

For: Pinellas County, a political subdivision, of the State of Florida

By:

Barry A. Burton
County Administrator

Date:

12/9/2025

APPROVED AS TO FORM

By: Derrill McAteer
Office of the County Attorney

Schedule A: Affordable Housing Development Schedule

Project Construction will commence and be completed in accordance with the schedule below and in no event will construction commence later than 90 days from the date of this AGENCY Agreement nor will project be completed later than 24 months from the date of this agreement.

For purposes of this AGENCY Agreement, “project construction commenced” will mean final site plan approval including land alteration pursuant to a habitat management permit and vertical construction pursuant to an issued building permit.

Further, “project completion date” will mean issuance of all certificates of occupancy and completion of initial lease-up.

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|--|----------------------|
| • Construction Permits issued | December 2025 |
| • Commencement of construction | December 2025 |
| • Project completion/ Issuance of C.O.’s | December 2027 |
| • 100% lease-up/Stabilization | April 2028 |