

This instrument was prepared by:
Pinellas County Community Development
Attn: Brook Gajan
310 Court Street
Clearwater, FL 33756

LAND USE RESTRICTION AGREEMENT
HOME Investment Partnerships Program - American Rescue Plan (HOME-ARP)
Pinellas County Affordable Housing Development

THIS LAND USE RESTRICTION AGREEMENT (herein "Agreement") is entered into as of the 29 day of March, 2024, among Pinellas **Affordable Living, Inc., a Florida not-for-profit corporation** (herein Agency), whose mailing address is **445 31st Street N., St. Petersburg, Florida 33713**, its successors, assigns and transferees of the Property described below, and **Pinellas County, a political subdivision of the State of Florida** (herein "County"), whose mailing address is in care of the Affordable Housing Program Administrator at 310 Court Street, Clearwater, Florida 33756;

THIS AGREEMENT shall be properly filed and recorded by 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;

IN CONSIDERATION of funds County has provided Agency, as evidenced by the Mortgage and Promissory Note of even date, for the purpose of providing part of the construction and permanent financing for a development known as **Founders Point** on the following described Property located in County of Pinellas, State of Florida, **2901 31st Street South, St. Petersburg, Florida** and more properly described as:

LEGAL DESCRIPTION:

UNDIVIDED BLOCK A, BEAUCLAIRE VILLAS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE(S) 61, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

Agency acknowledges that this AGREEMENT is necessary in order to comply with the requirements of the **HOME-ARP** funding, 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:

1. Affordability of Assisted Units. During the Affordability Period, as defined below, of the **fifteen (15)** total units in the project **five (5)** units, individually referred to as an "Assisted Unit", collectively referred to as "Assisted Units", shall be Assisted Units.

Assisted Units in the Project shall be **HOME-ARP** assisted floating units **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 **50 percent** of the Area Median Income (AMI), as determined and made available by the U.S. Department of Housing and Urban Development (HUD), with adjustments for family size **AND** meets one of the following conditions:

- A. Homeless (McKinney Act definition at 24 CFR 91.5)
- B. At-risk of homelessness (McKinney Act definition at 24 CFR 91.5)
- C. Fleeing/Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or

Human Trafficking:

- Definitions from VAWA regulation at 24 CFR 5.2003, except
- Human trafficking definition from Trafficking Victims Protection Act of 2000

D. Other Populations where assistance would:

- Prevent the family's homelessness; or
- Serve those with the Greatest Risk of Housing Instability.

HOME-ARP rent limits shall be calculated according to HOME Investment Partnership Program requirements as stated in 24 CFR 92 and **five (5)** units will be restricted to LOW HOME rents. The calculation of Fair Market Rents, and High and Low "HOME Rents" includes utilities; therefore, maximum HOME Rents must be reduced if the tenant pays for some or all utilities. Maximum rent limits and allowances for utilities are revised annually and are available from County.

2. Affordability Period. For the purpose of this Agreement, the Affordability Period shall commence upon the date of execution of this agreement and end on April 30, 2044, or at such time as the **HOME-ARP** debt under the Mortgage(s) has been repaid, whichever is longer (herein "Affordability Period").

3. Tenant Incomes. Agency shall determine and verify the Income Eligibility of tenants in accordance with HUD Section 8 housing assistance programs in 24 CFR Part 5, or by an alternative method pre-approved by County for the Project. 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.

4. Tenant Leases and Protections. Agency shall comply with the provisions of 24 CFR Part 570, the **Florida** Administrative Code, 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 Agency or 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 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 insure 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. Agency shall permit 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 County such documentation as required by County to document compliance with this Agreement and HOME-ARP Program rules. Agency acknowledges that 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), include **HOME** Program Property Standards at 92.251, and local code requirements, and agrees to facilitate such inspections with tenants as necessary. Agency also acknowledges that the property must meet property standards in 24 CFR 92.251 upon completion of the project and for the duration of the affordability period.

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. County shall notify Agency prior to scheduled inspections, and Agency shall make any and all necessary arrangements to facilitate County's inspection. County may make, or cause to be made, other reasonable entries upon and inspections of the Property, provided that County shall give Agency notice prior to any such inspection, specifying reasonable cause therefore, related to County's interest in the Property.

7. 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 to ensure monthly rents are in compliance with HOME income-based rent limits.
- E. Examine leases 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 and Assisted Units are not occupied until properly certified.
- H. Inspect Assisted Units for compliance with local codes and housing quality standards.

- I. Prepare Management Review Summary documenting conclusions of monitoring visit, incorporate findings of non-compliance discovered during compliance review and recommend corrective actions, as required.
- J. 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.

8. Corrective Actions. Should County determine that the Property is not in compliance with the requirements of this Agreement; County shall give Agency written notice of the deficiency, after which time Agency shall have 30 days in which to bring the Property into compliance. Should Agency fail to bring the Property into compliance within the specified time, County shall immediately declare Agency in default of this Agreement, Mortgage, and Pinellas County Affordable Housing Development Program Agency Agreement, the terms and conditions of which are incorporated herein by reference.

9. Assurance of Public Purpose. Should Agency materially default on the terms and conditions incorporated herein, or if Agency is unable or unwilling to develop and/or operate the property in accordance with the terms and conditions incorporated herein, Agency covenants that no lease, sale, or title transfer to any third party shall occur prior to giving County a Ninety (90) day written notice, during which time County shall have the right, solely at County's discretion, to purchase or find another borrower to purchase the Property, in order to carry out the eligible activities of the HOME-ARP funding and other regulations incorporated herein by reference, for an amount not to exceed the amount of funds provided by County through the Program, plus any outstanding debt senior to County's investment.

10. Defaults; Remedies. If 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, County shall be entitled, in addition to all other remedies provided by law or in equity:

- A. To compel specific performance by 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. C. To cause Agency to pay to County an amount equal to all funds loaned to Agency, less any principal balance previously repaid by Agency, if any assisted unit is knowingly or negligently rented to persons who do not comply with the requirements for such unit. No monetary penalty shall be assessed if Agency promptly and in good faith acts to correct and preclude the recurrence of errors; and
- D. In addition to these remedies, a default by Agency hereunder shall also constitute a default under the Mortgage and Affordable Housing Development Program Agency Agreement, which will enable County there-under, after notice and an opportunity to cure as therein provided, to accelerate Agency's loan(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, (a) any notice to Agency provided for in this Agreement shall be given by mailing such notice by certified mail to Agency address stated herein, or at such other address as Agency may designate by notice to County as provided herein, and (b) any notice to County shall be given by certified mail, return receipt requested, to County's address stated herein or to such other address as County may designate by notice to Agency as

provided herein. Any notice provided for in this Agreement shall be deemed to have been given to 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, and the benefits shall inure to, respectively, Agency and its successors and assigns and all subsequent owners of the Property or any interest therein, and to County for the Affordability Period set forth in this Agreement. Agency shall expressly make the conditions and covenants of this Agreement a part of any deed or other instrument conveying any interest in the Property, and each assisted unit.

13. No Conflict with Other Documents. 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 County for the full duration of the Affordability Period, whether or not 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 HOME-ARP funds expended on the Project.

(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

For: **Pinellas Affordable Living, Inc.**

a Florida Not for Profit Corporation

Federal Employee ID Number: **59-3171557**

Witness

Jari Flanagan

Print Name

Witness

Sharon Pook

Print Name

By:

Name: Jack Humburg

Title: Executive Director

Address: 445 31st Street N
St. Petersburg, FL 33713

Date: _____

STATE OF FLORIDA } §
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this 19th day of March, 2024, by **Jack Humburg, Executive Director, Pinellas Affordable Living, Inc., a Florida non-profit Corporation** who is (X) personally known to me or () who has produced a _____ as identification.



Ashlee Waliszewski
Notary Public
State of Florida
Comm# HH126939
Expires 5/5/2025

(NOTARY STAMP/SEAL ABOVE)

Ashlee Waliszewski
(Signature)

Ashlee Waliszewski
(Name of Notary, typed, printed or stamped)

Signed, sealed, and delivered in the presence of:

*Note: two witnesses are required.

Della Klug

Witness

Della Klug

Print Name

Jo Alejandra Lugo

Witness

Jo Alejandra Lugo

Print Name

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: _____

APPROVED AS TO FORM
By: Derrell McArthur
Office of the County Attorney
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