

**AFTER RECORDING RETURN TO:**

Washington State Housing Finance Commission  
1000 Second Avenue, Suite 2700  
Seattle, Washington 98104-3601  
Attn: Allie Delano

**TRANSFER AGREEMENT**

OID: 04-84A-B

*(Arbor Park Apartment Homes)*

**PURPOSE:** Document is being recorded to maintain the terms of the **tax credit regulatory agreement and bond regulatory agreement** between the entities involved and the **Washington State Housing Finance Commission**

**TRANSFEROR:** **MOUNT VERNON ARBOR PARK, LLC**, a Washington limited liability company

**TRANSFeree:** **FAIRFIELD ARBOR PARK LP**, a Washington limited partnership

**ABBREVIATED LEGAL DESCRIPTION:** PTN NW SW 21-34-4 AND LOTS 7, 8, 9, 15, 16 AND 17, RIDGEWOOD 2ND ADDITION  
(Additional Legal Description on Exhibit A)

**TAX PARCEL NO(S):** 340421-3-014-0009; 340421-3-017- 0303; 4337-000-008-0008; 4337-000-007-0009; 4337-000-017-0007; 4337-000-015-0009; 4337-000-009-0007; 4337-000-016-0008

**REFERENCE NO(S):** 200603210147; 200407300161; 201511240016

TRANSFER AGREEMENT – Arbor Park Apartment Homes

**TRANSFER AGREEMENT**

OID: 04-84A-B

*(Arbor Park Apartment Homes)*Washington State Housing Finance Commission  
Tax Credit Regulatory Agreement

THIS TRANSFER AGREEMENT ("Agreement") is entered into as of \_\_\_\_\_, 2022, by and among the **Washington State Housing Finance Commission** (the "Commission"), a public body corporate and politic; **Mount Vernon Arbor Park, LLC**, a Washington limited liability company ("Transferor"); and **Fairfield Arbor Park LP**, a Washington limited partnership ("Transferee").

WHEREAS, the Commission and Transferor entered into a Regulatory Agreement (Extended Use Agreement) (the "Tax Credit Regulatory Agreement") which was dated February 16, 2005 and recorded March 21, 2006 in the official public records of **Skagit** County, Washington, under Auditor's File No. **200603210147** affecting that certain property described on Exhibit A attached hereto (the "Property"), wherein the Commission reserved an amount of Credit for allocation to the Property and improvements thereon in which Transferor agreed to own and operate such improvements as a "qualified low-income housing project" (the "Project") as that term is defined under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), and comply with the terms, conditions and obligations of the Tax Credit Regulatory Agreement and the Commission's low-income housing tax credit program (the "Program");

WHEREAS, the Commission and Transferor entered into a Regulatory Agreement dated July 1, 2004, and recorded July 30, 2004, in the official public records of **Skagit** County, Washington, under Auditor's File No. **200407300161** (the "Bond Regulatory Agreement") with respect to the Project and the Property in which Transferor agreed to own and operate the Project in compliance with the requirements of the Code and the Commission for the issuance of tax-exempt bonds to finance the Project;

WHEREAS, the Commission and Transferor entered into a Transfer Agreement dated November 23, 2015, and recorded in **Skagit** County, Washington on November 23, 2015 under Auditor's File Number **201511240016**, in which Transferor transferred all of its rights, title and interest in the Project including the Property and improvements thereon through a sale of its membership interests in Transferor, where following the sale, the Transferor remained the same, but the membership interests within the Transferor changed, including the identity of the managing member;

WHEREAS, Transferor intends to transfer all of its rights, title and interest in the Project including the Land and improvements thereon to the Transferee (the "Transaction").

NOW THEREFORE, the parties hereto agree as follows:

1. Transferor represents that it is not in default under the terms of the Tax Credit Regulatory Agreement or the Bond Regulatory Agreement.

2. Subject to the terms hereof, the Commission hereby consents to the Transaction. This consent is not a waiver of the Commission's right to require its consent with respect to all other or future sales or transfers of the Project.

3. Transferee hereby assumes and agrees to perform all of the obligations of Transferor under the Tax Credit Regulatory Agreement and the Bond Regulatory Agreement, and agrees to be bound by all of the covenants, terms and conditions thereof.

4. Transferor agrees that all of Transferor's rights under the Tax Credit Regulatory Agreement and Bond Regulatory Agreement are transferred to Transferee and that Transferor has no further right to the federal low-income housing tax credit under such Tax Credit Regulatory Agreement (the "Credit") and Bond Regulatory Agreement with respect to the Project.

5. Transferee expressly assumes such obligations and duties of Transferor and shall perform such terms, conditions and obligations as required by the Tax Credit Regulatory Agreement, any ancillary agreements entered into between the Commission and Transferor, the Program and Section 42 of the Code.

6. Transferee hereby acknowledges that, pursuant to Section 42(j)((6) of the Code, as amended by Section 3004(c) of the Housing and Economic Recovery Act of 2008, the statute of limitations for assessing a recapture tax will not expire until three years from the date the Internal Revenue Service is notified of a reduction in qualified basis.

7. Transferee understands and acknowledges that the Commission makes no representation or warranty as to the availability of Credit to the Project, the use of Credit by Transferee or any other party, or the compliance of the Project with the Code, the Commission's Program or the terms, conditions or obligations of the Tax Credit Regulatory Agreement and Bond Regulatory Agreement, and in no case shall the Commission's consent be construed as evidence of the Commission's determination that the Project is in such compliance.

8. Transferee hereby acknowledges and agrees that the Commission's consent is conditioned upon Transferee's compliance with the Tax Credit Regulatory Agreement and Bond Regulatory Agreement and any terms, conditions or obligations contained in any related documents or agreements.

9. Solely to meet the safe harbor requirements of IRS Revenue Procedure 2005-37 and as a clarification of requirements already contained in the Tax Credit Regulatory Agreement, the following language is hereby added to the Tax Credit Regulatory Agreement: During the Compliance Period and Extended Use Period, (i) no tenant of a Low-Income Housing Unit may be evicted, and (ii) the owner may not refuse to renew a rental agreement, other than for Good Cause and each rental agreement shall so provide. Further, in addition to any other rights and

remedies provided hereunder, any individual who meets the income limitation for a Low-Income Unit (whether a prospective, present or former occupant of the Building) shall have the right to enforce in any State court, the requirements of this Section. Good Cause is defined to mean (A) serious or repeated violation of the material term of the lease as that phrase is applied with respect to federal public housing at 24 C.F.R. Section 966.4(1)(2) or (B) failure or refusal to vacate the premises when there is a defective condition or damage that is so substantial that it is economically infeasible to remedy the defect with the tenant in possession.

10. Transferor and Transferee acknowledge that they have been advised to consult with their own legal counsel and tax advisors in connection with this Agreement, their participation in the Program, whether this Project qualifies for Credit, whether Credit may be utilized by Transferee or any investor, and with regard to the financial feasibility and viability of any building in the Project.

11. If any term or provisions of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected hereby. Each and every term of this Agreement shall be valid and enforceable to the fullest extent possible.

12. Transferee agrees to execute any and all documents and writings which may be necessary or expedient and to do other acts as will further the purposes hereof.

13. In the event any controversy or claim arises under this Agreement, the prevailing party shall be entitled to its reasonable costs, disbursements and attorney fees together with all expenses which it may reasonably incur, including but not limited to, costs incurred in searching records, expert witness and consultant fees, discovery depositions whether or not introduced into evidence in the trial, hearing or other proceeding and travel expenses in any arbitration, trial or other proceeding, including any proceeding brought to enforce an award or judgment, and any and all appeals taken therefrom.

14. This Agreement shall be governed by the laws of the State of Washington.

15. Transferor agrees to provide Transferee with the files, information, and data necessary to comply with the reporting requirements of the Tax Credit Regulatory Agreement and Bond Regulatory Agreement.

16. This Agreement may be executed in several counterparts, and as executed shall constitute one instrument, binding on all the parties hereto, notwithstanding that all parties are not signatory to the original or the same counterpart.

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective, duly authorized representatives.

**TRANSFEROR:**

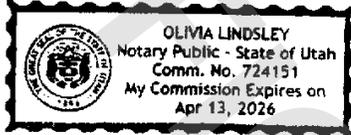
**MOUNT VERNON ARBOR PARK, LLC,**  
a Washington limited liability company

By: PCMFM, LLC, a Utah limited liability company,  
its manager

By:   
Jeff Danley, Manager

STATE OF Utah )  
 )  
COUNTY OF Utah )

This record was acknowledged before me on this 12<sup>th</sup> day of July, 2022, by Jeff Danley, Manager of PCMFM, LLC, a Utah limited liability company, Managing company of Mount Vernon Arbor Park, LLC, a Washington limited liability company.



Olivia Lindsley  
NOTARY PUBLIC for the State of Utah  
My commission expires 4/13/2026

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective, duly authorized representatives.

**TRANSFeree:**

**FAIRFIELD ARBOR PARK LP,**  
a Washington limited partnership

By: FRH Arbor Park LLC, a Delaware limited liability company,  
its Administrative General Partner

By: FRH GP LLC, a Delaware limited liability company,  
its Manager

By:   
Krista Miclat, Vice President and Assistant Secretary

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Krista Miclat, Vice President and Assistant Secretary of FRH Arbor Park LLC, a Delaware limited liability company, Administrative General Partner of Fairfield Arbor Park LP, a Washington limited partnership.

\_\_\_\_\_  
NOTARY PUBLIC for the State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

See attached Notary Acknowledgement

### ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Diego )

On July 11, 2022 before me, Kristen DiBernardo, Notary Public  
(insert name and title of the officer)

personally appeared Krista Miclat  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Kristen DiBernardo (Seal)



**EXHIBIT A**

**LEGAL DESCRIPTION**

**PARCEL A:**

The West Half of the West Half of the West Half of the Northwest Quarter of the Southwest Quarter of Section 21, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT the West 30 feet thereof conveyed to the City of Mount Vernon for street purposes by deed dated August 10, 1977, and recorded August 19, 1977, under Auditor's File No. 863093, records of Skagit County, Washington;

ALSO EXCEPT the West 5 feet thereof deeded to the City of Mount Vernon December 21, 1993, under Auditor's File No. 9312210046, records of Skagit County, Washington.

ALSO EXCEPT that portion lying within E. Division Street.

Situated in Skagit County, Washington.

**PARCEL B:**

The East 300 feet of the North 20 feet of the following described parcel:

The West 330 feet of the Southwest Quarter of the Southwest Quarter of Section 21, Township 34 North, Range 4 East of the Willamette Meridian; EXCEPT county road along the South line thereof.

Situated in Skagit County, Washington.

**PARCEL C:**

Lots 7, 8, 9, 15, 16 and 17, RIDGEWOOD 2ND ADDITION, according to the plat thereof recorded in Volume 11 of Plats, page 40, records of Skagit County, Washington.

Situated in Skagit County, Washington.