

**FIRST RIDER TO
DECLARATION OF WORKFORCE DWELLING UNIT COVENANTS and
NOTICE OF WORKFORCE DWELLING UNIT PROFFER
(Multiple Family Rental Development)**

THIS FIRST RIDER TO DECLARATION OF WORKFORCE DWELLING UNIT COVENANTS and NOTICE OF WORKFORCE DWELLING UNIT PROFFER ("First Rider") is made as of the _____ day of _____, 20____, by _____ ("Declarant") the owner of certain property ("Property") located in Fairfax County, Virginia as described on **Exhibit A** attached hereto and made a part hereof.

RECITALS

R-1. On [**Date of BOS approval of this rezoning/proffer application**], pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (the ordinance and the regulations established with respect thereto, as the same may be amended from time to time, are collectively referred to hereinafter as the "Ordinance"), [**Declarant(s) or Applicant(s) name(s) as applicable**], landowners, proffered certain conditions of development for a multi-family residential apartment building on the property to be known as [**_____**] (the "Project"). Those conditions of development, as may be amended from time to time, are referred to hereinafter as the ("Proffers"), in connection with [**Rezoning Name _____ and Rezoning Number _____**] (the "Rezoning Application").

R-2. On June 22, 2010, the Board of Supervisors of Fairfax County, Virginia established the Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines ("WDU Policy") to assist in providing affordable housing opportunities for various household

income levels up to one hundred twenty (120) percent of Area Median Income (AMI). WDU Policy requires, in pertinent part, that landowners that proffer in conjunction with a rezoning application, to provide a number of WDUs for rental to persons (collectively, “Eligible Tenants”, each individually an “Eligible Tenant”) who meet the income criteria established in accordance with the WDU Policy and Applicable Proffer.

R-3. Proffer [_____] (as may be amended from time to time, the (“Applicable Proffer”)) requires Declarant to provide workforce dwelling units (collectively, “WDUs”; each individually a “WDU”) on the Property in conformance with the WDU Policy in an amount whereby the total number of WDUs provided will be not less than 20 percent of the total residential units constructed on the Property as provided for within the Applicable Proffer. WDUs required under the applicable Proffers will be administered in accordance with the WDU Policy and the regulations established with respect thereto (the Policy and the regulations, as the same may be amended from time to time, are collectively referred to hereinafter as the “WDU Policy”).

R-4. Declarant has agreed that in consideration of benefits conferred upon Declarant under the WDU Policy and in compliance with Declarant’s obligations under the Proffers, Declarant will make available on the Property [_____] WDUs, for rental to Eligible Tenants as such WDUs are designated on that certain Declaration of Workforce Dwelling Unit Covenants and Notice of Workforce Dwelling Unit Proffer recorded on _____, in Deed Book _____, at Page _____, among the land records of Fairfax County, Virginia (“Original Declaration”).

R-5. The WDU Policy establishes certain conditions, limitations and controls on the WDUs that remain in effect with regard to rental and occupancy for a period (the “Control Period”) beginning on the date the first Residential Use Permit (RUP) is issued on the first available WDU until fifty (50) years thereafter; such latter date to be specified in the First Rider. At such time as any Project converts to condominium during the Control Period, the WDUs will be offered for sale under the WDU Policy and a new control period of thirty (30) years will be

recorded on the initial sale. Subsequent resale of units will be controlled for a new thirty (30) year control.

R-6. The WDU Policy provides that during the Control Period WDUs will be offered only at rents permitted under the WDU Policy and to Eligible Tenants. Nothing provided herein will preclude the Declarant from providing a higher percentage of WDUs for households in the lower income tiers.

R-7. The first RUP on the first available WDU was issued on _____, which thereby results in the Control Period Expiration Date occurring on _____.

R-8. In further compliance with the Policy under the terms of the Proffers, Declarant is making this First Rider as set forth below.

R-9. The Department of Housing and Community Development, as the entity responsible for enforcing certain rights under the Original Declaration and a necessary party to any modification thereof, is prepared to execute this First Rider for purposes of acknowledging the Control Period Expiration Date.

NOW, THEREFORE, Declarant hereby declares as follows:

1. CONTROL PERIOD EXPIRATION DATE. The Control Period Expiration Date pertaining to the WDUs on the Property is _____, representing the date fifty (50) years after the date the first RUP was issued with respect thereto.

2. ORIGINAL DECLARATION REMAINS IN FULL FORCE AND EFFECT. Except as amended by the addition of this First Rider confirming the Control Period Expiration Date the Original Declaration remains unmodified and in full force and effect.

IN WITNESS WHEREOF, Declarant _____ has caused this First Rider to Workforce Dwelling Unit Covenants and Notice of Workforce Dwelling Unit Proffer to be executed on behalf of _____.

DECLARANT:

By: _____

Print Name: _____

Title: _____

STATE OF _____

CITY/COUNTY OF _____: to-wit:

The foregoing instrument was acknowledged before me, a Notary Public in the State and County aforesaid, in the _____ (city or county) of _____, _____ (state), this _____ day of _____, 20____, by _____ in his/her capacity as _____ of _____.

_____ (SEAL)

Notary Public

My Commission Expires: _____

The Department of Housing and Community Development has executed the foregoing First Rider to Workforce Dwelling Unit Covenants and Notice of Workforce Dwelling Unit Proffer for the purpose of acknowledging the Control Period Expiration Date.

WITNESS:

AUTHORITY:
DEPARTMENT AND HOUSING COMMUNITY
DEVELOPMENT, on behalf of the BOARD OF
SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA

By: _____

Print Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX : to-wit:

The foregoing instrument was acknowledged before me, a Notary Public in the State and County aforesaid, in the County of Fairfax, Virginia, this _____ day of _____, 20 _____, by _____ in his/her capacity as _____ of the Department of Housing and Community Development.

_____ (SEAL)

Notary Public

My Commission Expires: _____

EXHIBIT A

Legal Description