

**WORKFORCE DWELLING UNIT
NOTICE OF AVAILABILITY AND RENTAL OFFERING AGREEMENT
INSTRUCTIONS**

Attached to this cover sheet is the Fairfax County form Workforce Dwelling Unit Notice of Availability and Rental Offering Agreement (the “Offering Agreement”), to be used in Multiple Family Rental Developments. The signature block must accurately state the Applicant’s legal name, the organizational type (such as corporation, limited partnership or limited liability company), the state in which the entity is organized, and contain accurate identification of authorized signing officers, partners or members, whether entities or individuals.

Prior to the issuance of Residential Use Permits (“RUPs”) and renting any Workforce Dwelling Unit (“WDU”) in the project, you must complete and submit an Offering Agreement for each multiple family rental WDU. The Offering Agreement must be approved by the Fairfax County Department of Housing and Community Development (“DHCD”) prior to its execution.

The Offering Agreement requires the following six attachments.

- A. Rental WDU project information and notification of rental WDUs being offered (see **Schedule A**, attached).
- B. Rental WDU general information sheet (see **Schedule B**, attached).
- C. Rental WDU certification of conformance (see **Schedule C**, attached).
- D. Floor plans for each unit type.
- E. Two copies of the approved site plan.
- F. Executed Declaration of Covenants (for all WDUs), with evidence of recordation.

NOTE: If Applicant has submitted documents D, E and F at an earlier date with an earlier Offering Agreement for the Development, then these documents do not need to be submitted again. However, the Applicant must attach a statement notifying DHCD.

The WDU Policy provides the Offering Agreement may be submitted at any time after the issuance of a building permit(s) for the WDU(s) being offered. It is recommended that the Offering Agreement is submitted at least 60 days prior to the issuance of RUPs for DHCD to review. Any questions about this the Offering Agreement or any of the required attachments should be directed to the WDU Program Administrator, DHCD, at 703-246-6626.

**WORKFORCE DWELLING UNIT NOTICE OF AVAILABILITY and
RENTAL OFFERING AGREEMENT**
(Multiple Family Rental Development)

Tax Map Number: _____

Rezoning Number: _____

Rezoning Name: _____

This **WORKFORCE DWELLING UNIT NOTICE OF AVAILABILITY and RENTAL OFFERING AGREEMENT**, is made as of the ____ day of _____, 20__ by _____ (the "Applicant or Owner") and the **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT** (the "DHCD") on behalf of the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA** (the "Board").

WHEREAS, Applicant desires to offer for rent as Workforce Dwelling Units (collectively, "WDUs"; each individually a "WDU") certain dwelling units in the Development (as defined below), in connection with [**Rezoning Name** _____ **and Rezoning Number** _____], approved by the Board on [**Date of BOS approval of the rezoning/proffer application**], and 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, and all applicable regulations established with respect thereto, as the same may be amended from time to time, Applicant proffered certain conditions of development for a multiple family rental development on the Property to be known as ["_____"] (the "Project").

1. Workforce Dwelling Unit Policy: On June 22, 2010, the Board of Supervisors of Fairfax County, Virginia established the Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines (the "WDU Policy"), to assist in providing affordable housing opportunities for various household income levels up to one hundred twenty percent (120%) of Area Median Income for the Washington Standard Metropolitan Statistical Area as specified annually by the Department of Housing and Urban Development ("AMI") or as otherwise provided for in the applicable proffer. NOW, THEREFORE, in consideration of the mutual promises, conditions, and obligations provided for herein, the parties hereby agree as follows:

2. Notice of Availability: Applicant will make available for rental [_____] WDU as identified and located in the multiple family rental development to be known as _____ (the "Development"). In **Schedule A**, attached hereto and incorporated herein by this reference, the land which is improved with the Development is described, and the units in the Development initially designated for rental as WDUs are identified by address and unit number. Applicant may change the dwelling units designated as WDUs from time to time, as contemplated by Proffer and the WDU Policy, as Applicant, in its discretion, deems appropriate to accommodate demand of prospective tenants for various unit types; provided that, at all times, [_____] dwelling units in the Development will be designated as WDUs. Applicant will notify the Board or its designee of changes in the dwelling units designated as WDUs. The number of bedrooms in the WDUs will be proportional to the bedroom mix of market rate units, unless Applicant will elect to provide a higher percentage of WDUs with a greater bedroom count.

3. Rental Rate: All WDUs will be made available to households meeting Applicant's standard rental criteria including credit requirements, with incomes such that the WDUs are affordable to households with income levels up to one hundred twenty percent (120%) of Area Median Income for the Washington Primary Metropolitan Statistical Area ("AMI") as specified annually by the Department of Housing and Urban Development ("HUD") or as otherwise provided for in the Applicable Proffer. Applicant will not be obligated to lease any dwelling unit to a tenant who does not meet Applicant's standard rental criteria including credit requirements. In addition to income eligibility requirements, tenants of WDUs shall have a household size appropriate for the WDU being rented, in accordance with the WDU Policy. Within the parameters of applicable fair housing law, preference is to be given to WDU applicants who live and/or work in Fairfax County.

The WDU Policy provides that during the Control Period, WDUs will be offered only at rents permitted under the WDU Policy and to any persons who meet the income criteria established under the WDU Policy and Applicable Proffer. Countywide rental prices will be established by the County Executive such that rental workforce housing is affordable to households in the income tiers as set forth in the WDU Policy and the Applicable Proffer. The allowable rental rate for each WDU will not exceed the applicable allowable limits established periodically by the County Executive pursuant to the WDU Policy. Nothing provided herein will

preclude Applicant from providing a higher percentage of WDUs for households in the lower income tiers.

4. Preferential Offering: The Board or its designee has an exclusive right to lease up to one-third (1/3) of the WDUs for a period of thirty (30) days from the date of execution of this Offering Agreement by the DHCD, on behalf of the Board and in such capacity. If the Board elects to lease a particular WDU, the Board will so notify Applicant in writing within thirty (30) days from the execution of this Agreement by DHCD, on behalf of the Board. The remaining two-thirds (2/3) of the WDUs and any WDUs not leased by the Board or its designee will be offered to any persons who meet the income criteria (collectively, “Eligible Tenants”, each individually an “Eligible Tenant”) established under the WDU Policy and Applicable Proffer. Applicant will not exclude households which are eligible for state and local rental subsidies.

5. Physical Description of Individual Units: The physical description of each dwelling unit initially designated as a WDU, along with the items contained in each such dwelling unit, is listed in Schedule C, attached hereto and incorporated herein by reference. Applicant warrants and guarantees that each dwelling unit initially designated as a WDU will conform, at the time of delivery by Applicant, to the minimum specifications for WDUs, as approved by the Board or its designee and as in effect as of the date of site plan approval for the Development. The Board or its designee has the right to inspect the dwelling units in the Development to determine if Applicant has complied with the minimum specifications.

6. Administration of Rental WDUs: Applicant will establish that each potential tenant that leases a WDU meets the requirements set forth within the WDU Policy at the initial leasing using the Rental WDU Income Certification and Compliance forms provided by the DHCD. Eligible Tenants must continue to meet the requirements set forth within the WDU Policy annually in order to continue occupancy of the WDU. Applicant will use the Rental WDU Income Certification and Compliance forms certifying that the Eligible Tenant continues to meet the requirements and occupies the WDU. Initial leases for WDUs will be for a minimum 6-month time period and a maximum one-year time period, and such leases will contain, as part of the lease or as an addendum thereto, the provisions mandated by the WDU Policy.

During the Control Period, except for those WDUs leased by the Board, all WDU leases must (i) be with Eligible Tenants for a minimum lease term of six (6) months and a maximum

renewable term of one (1) year, (ii) include language requiring the tenant to occupy the unit as his or her domicile, (iii) prohibit subleasing of the unit, and (iv) require continued compliance with the applicable eligibility criteria.

Eligible Tenants must continue to meet the income criteria established by DHCD in order to continue occupancy of the WDU. However, a tenant who no longer meets such eligibility criteria due to increased income or other factors may continue to occupy a WDU until the end of the lease term, and then must vacate the unit.

On or before the tenth (10th) day of the month after the execution of a rental agreement (lease) for a WDU, the Applicant must provide DHCD, on behalf of the Board, the following documents:

1. A copy of the rental application
2. A copy of the executed rental agreement (lease)
3. The Rental WDU Lease Restriction Addendum
4. The Rental WDU Income Certification Form (including supporting documentation)

7. Owners Certification Form and Monthly Report: On or before the tenth (10th) day of every month, Applicant must provide DHCD with the Owner Certification Form and the Rental WDU Monthly Report on the forms provided by DHCD on behalf of the Board.

The initial Rental WDU Monthly Report is due after the first dwelling unit designated as a WDU is occupied. Applicant will provide DHCD, on behalf of the Board, with a statement, verified under oath, that certifies, as of the first of such month and each month thereafter: (i) the address and name of the Development and name of the owner; (ii) the number of WDUs leased (other than those leased to the Board, if any) and the number of WDUs vacant, in each case specifying the unit number and the bedroom count for the dwelling unit; and (iii) for each occupied WDU, the following information:

1. Each unit address and bedroom count
2. Tenant name and household size
3. Effective date of the lease
4. Tenant's household income as of lease date or the most-recent certification
5. The current monthly rent

With each such certification, Applicant will provide a copy of each new or revised annual Rental WDU Certification form and Rental WDU Annual Occupancy Affidavit obtained from the renters of WDUs and not previously provided to DHCD. Applicant will document that, to its knowledge, preference was given toward leasing dwelling units designated as WDUs to tenants who live and/or work in Fairfax County. Applicant will also document that, to its knowledge, tenants leasing dwelling units designated as WDUs meet the eligibility criteria and occupancy requirements as contained in the Applicable Proffer, the WDU Policy, and this Agreement.

8. Declaration of Covenants: At or before the time of execution of this Agreement by Applicant, Applicant must supply DHCD with a copy of the original and duly executed Declaration of Covenants, with evidence of recordation, subjecting all required WDUs in the Development to the requirements of the Applicable Proffer and the WDU Policy.

9. Binding Effect: This Agreement is binding upon Applicant and Applicant's successors and assigns.

10. Notices and Liaison: Any notice sent pursuant to this Agreement must be delivered in writing as follows:

Fairfax County Department of Housing and Community Development
3700 Pender Drive, Suite 300
Fairfax, Virginia 22030
Attention: WDU Program Administrator

Notices to Applicant will be sent to:

11. Survival: The terms of this Agreement survive the execution and delivery of any deeds or leases and do not merge therein.

12. Applicable Laws and Regulations: Applicant agrees to abide by and comply with all applicable laws and regulations regarding the subject matter of this Agreement, whether or not such laws or regulations are herein specifically enumerated or referred to.

13. Severability: If any part, portion or provision of this Agreement is found to be null, void, illegal or unenforceable for any reason by any court or governmental regulations or ruling, then only such part, portion or provision will be affected thereby, and the remainder of this Agreement will remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURES FOLLOW ON NEXT PAGE]

APPLICANT:

[Name of Applicant]

By: _____ (Seal)

Name (Print): _____

Title: _____

STATE OF _____

CITY/COUNTY OF _____: to-wit:

The foregoing instrument was acknowledged before me, a notary public in and for the state and city/county aforesaid, this ___ day of _____ 20___, by _____, as the duly authorized _____ of the Applicant of the foregoing instrument on behalf of such Applicant.

Notary Public (Seal)

My Commission Expires: _____

Registration Number: _____

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

By: _____

Name (Print): _____

Title: _____

The 30-day preferential offering period will begin on _____.
(The above date will be determined by the DHCD)

STATE OF VIRGINIA,

COUNTY OF FAIRFAX, to wit:

The foregoing instrument was acknowledged before me, a notary public in and for the state and city/county aforesaid, this ____ day of _____, 20____, by _____, in his/her capacity as _____ of the Department of Housing and Community Development, who executed the foregoing instrument in the name and on behalf of the Board for the uses and purposes herein contained.

WITNESS my hand and seal this _____ day of _____, 20____.

My Commission Expires: _____

Notary Public

**SCHEDULE A
RENTAL WDU PROJECT INFORMATION
AND
IDENTIFICATION OF WDUS BEING INITIALLY OFFERED
(Multiple Family Rental Development)**

Project Information

1. Development Name: _____
Is this the legal name of the project? Yes ____ No ____
If not, what is the legal name? _____
2. Project Address: _____
3. Developer Name: _____
Developer Address: _____

4. Zoning Case Number: _____
5. Site Plan Number: _____

Rental WDUs Being Offered

In the description list individually according by unit type (floor plan type) and in the description list the unit size and AMI. For example: Two bedroom and one bathroom (2 at 60% AMI; 3 at 70% AMI; 5 at 80% AMI; 5 at 100% AMI and 5 at 120% AMI)

Unit Type #1; Description: _____

Number of Units: _____

<u>Unit #</u>	<u>Street Address</u>	<u>Tax Map Number</u>	<u>Building Permit Number</u>	<u>Building Permit Issue Date</u>
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SCHEDULE A
Continued (Use as many pages as needed)
Rental WDUs Being Offered

Unit Type #2; Description: _____

Number of Units: _____

<u>Unit #</u>	<u>Street Address</u>	<u>Tax Map Number</u>	<u>Building Permit Number</u>	<u>Building Permit Issue Date</u>
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Unit Type #3; Description: _____

Number of Units: _____

<u>Unit #</u>	<u>Street Address</u>	<u>Tax Map Number</u>	<u>Building Permit Number</u>	<u>Building Permit Issue Date</u>
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**SCHEDULE B
RENTAL WDU GENERAL INFORMATION SHEET**

1. Contact:

Name: _____ Title: _____

Address: _____

Phone: _____ Email: _____
2. Is this the party which signed the Rental WDU Offering Agreement? Yes ___ No ___
 If not, who signed the Rental WDU Offering Agreement? _____

3. Who are the utilities being paid by? Owner ___ or Tenant ___
 List any utilities to be paid by the tenant:

Item	Estimated Monthly Cost
_____	_____
_____	_____
_____	_____
4. What is the required security deposit? _____
5. What (if any) restrictions will be placed on the tenant (e.g., no pets, no campers, etc.)?

Approved Maximum Rental Rates:

<u>Unit Type</u>	<u>AMI Percentage</u>	<u>Max Rents</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

