

**CONSTRUCTION AGREEMENT REGARDING  
AFFORDABLE DWELLING UNITS**

**THIS AGREEMENT** is dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ (the "Applicant") and Loudoun County (the "County").

**WHEREAS**, the Applicant intends to construct \_\_\_\_\_ {number} Affordable Dwelling Units "ADUs" in a development known as \_\_\_\_\_ {Development name}, [pursuant to Proffer \_\_\_\_\_ of ZMAP/ZCPA \_\_\_\_\_ - \_\_\_\_\_]; and

**WHEREAS**, \_\_\_\_\_ {Development name} is subject to Article VII of the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance") and Chapter 1450 of the Codified Ordinances of Loudoun County (the "Codified Ordinances"), as the same may be amended from time to time (the Zoning Ordinance and the Codified Ordinances are together referred to hereinafter as the "Ordinances"); and

**WHEREAS**, the Applicant is the owner of all of the property which composes the development as set forth and described in the list attached hereto and made a part hereof as Exhibit A; and the sections(s) of the property dedicated for the provision of ADUs is described in the list attached hereto and made a part hereof as Exhibit B; and

**WHEREAS**, the Applicant desires to execute and deliver to the County a written Agreement acknowledging and documenting the number of ADUs to be constructed in the development, the required timing for the construction of such ADUs as provided in the Ordinances, the specifications for construction of ADUs which must be met, and the requirements governing the sale or rental of the ADUs, including the limits on sales prices and rents, and providing a staging plan for the construction and availability of the ADUs.

**NOW THEREFORE**, in consideration of the mutual premises, conditions and obligations provided for herein, the parties agree as follows:

1. Applicant intends to construct \_\_\_\_\_ {number} ADUs at \_\_\_\_\_ {Development name} in general compliance with the Enclosed Schedule attached hereto and made a part thereof as Exhibit C.

2. The Applicant will construct such ADUs along with or preceding the construction of the market rate dwelling units in the development in accordance with the following requirements of the Ordinances: For a development which includes single family detached or single family attached or multi-family lots, occupancy permits shall be issued for no more than 50 percent of the total number of approved units until occupancy permits for 50 percent of the required ADUs have been issued; and occupancy permits shall be issued for no more than 75 percent of the total number of approved units until occupancy permits for 100 percent of the required ADUs have been issued.

3. Applicant acknowledges that he/she has reviewed and is familiar with the specifications for ADUs developed and approved by the Affordable Dwelling Unit Advisory Board ("ADUAB") and has incorporated these specifications into each ADU included in building plans for the project as provided to the County and dated \_\_\_\_\_. Applicant agrees to construct

the proposed ADUs in conformance with the above-referenced building plans.

4. The County shall be entitled to enter upon the property and/or into the ADUs for the purpose of inspection to determine that such ADUs are being constructed in conformance with said specifications.

5. Applicant shall offer the ADUs for sale or rental in accordance with the requirements of the Ordinances. The Applicant shall not offer any ADUs for sale or rent until the final and effective receipt by the County of a fully and truthfully completed Notice of Availability and Sales Offering Agreement ("Notice and Agreement") that has been submitted to the Loudoun County Department of Family Services ("DFS") by registered or certified mail. Such Notice and Agreement shall be in the form provided by DFS and shall be submitted only after the issuance of a zoning permit for the ADU which is being offered for sale or rental. The sales price or rental amount for such ADU will be established by ADUAB only after the final and effective receipt of said Notice and Agreement.

I certify that the above information is true and correct.

WITNESS the following signature:

\_\_\_\_\_ Check one  Builder  Builder's Authorized Agent

\_\_\_\_\_  
(Type or print first name, middle initial, last name and title of signee)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the [State] [Commonwealth] of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

Registration Number: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**PROPERTY DESCRIPTION**

Development Name: \_\_\_\_\_

The property was acquired by \_\_\_\_\_ on \_\_\_\_\_ (date).

The Deed(s) are recorded at Deed Book No. \_\_\_\_\_, Page \_\_\_\_\_.

Tax Map Reference Legal Description/Sub/Lot/Block Street Address

**EXHIBIT B**

**ADU PROPERTY DESCRIPTION**

Development Name: \_\_\_\_\_

Identify the ADUs by Subdivision, Section, and Lot Number (if any), Tax Map Reference, Street Address and Unit Number (if any).

Tax Map Reference   Legal Description/Sub/Lot/Block   Street Address

## EXHIBIT C

### STAGING PLAN

Development Name: \_\_\_\_\_

Applicant agrees that units in the development will be constructed in accordance with the schedule indicated below. Applicant is aware that this schedule must indicate that the ADUs will be constructed along with or preceding other dwelling units in this development as specified in the Ordinance and that failure to comply with this sequence of construction will result in such enforcement measures authorized by the Ordinance.

Development Phase by section, lot, block street address, unit # if any	# Market Price Units in Phase	Construction Start Date Market Units (Mo/Year)	Estimated Del. Date Market Units	# ADUs in phase mo/yr	Est. Deliv Date ADUs
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