

When recorded return to:

City Clerk  
City of Federal Way  
33325 8<sup>th</sup> Avenue South  
Federal Way, WA 98003-6325

<b>AFFORDABLE HOUSING RESTRICTIVE COVENANT AND AGREEMENT</b>	<b>Assessor's Property Parcel/ Tax Account Number:</b> [REDACTED]
Reference Number(s) of Documents assigned or released: N/A	
<b>Grantor(s):</b>  1. Blue Fern Development, LLC, a Washington limited liability company	<b>Grantee(s):</b>  1. City of Federal Way, a Washington municipal corporation
LEGAL DESCRIPTION: ( <i>Abbreviated or full legal must go here. Additional legal on pages 2-3.</i> )  [REDACTED]	

**AFFORDABLE HOUSING RESTRICTIVE COVENANT AND AGREEMENT**

This Affordable Housing Restrictive Covenant and Agreement ("Covenant") dated this \_\_\_\_\_ day of \_\_\_\_\_, **2018**, is entered into between the City of Federal Way (the "City"), a Washington State Municipality and Blue Fern Development, LLC, a Washington limited liability company ("Owner") of the property known as Creekside Commons. This Covenant applies to the real property and any buildings constructed on the property legally described in Paragraph 1 below (the "Subject Property"), which is part of a larger development being undertaken by Owner known as the Creekside Commons Townhomes (the "Development").

**I. RECITALS**

WHEREAS, as a condition of the City of Federal Way approving the Development in accordance with its density bonus provision, as allowed by FWRC 19.110.010(3), for affordable housing zoning as defined under FWRC 19.110.010(2), the City has required a certain percentage of the homes within the Development be maintained as affordable housing;

WHEREAS, this Covenant is designed to satisfy the conditions of the Federal Way Revised Code by requiring that a minimum of five (5) lots within the Development to be maintained in perpetuity as affordable housing;

WHEREAS, this Covenant shall run with the land and apply to and be enforceable against all current and future owners of the Subject Property, and shall restrict and impose limitations on the sale, resale, lease, rental, mortgaging and use of the Subject Property by the Owner, and its successors and assigns, in perpetuity;

WHEREAS, for and in consideration of the restrictive covenant, receipt of which is hereby acknowledged, on the Subject Property by the Owner, the City agrees to waive certain development and mitigation fees as allowed by FWRC 19.110.010;

WHEREAS the Owner recognizes the special nature of the terms and conditions of this Covenant and, with the independent and informed advice of legal counsel, freely accepts the terms and conditions of this Covenant, including, without limitation, the terms and conditions that affect the marketability and the resale price of the Subject Property; and

THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The covenants contained herein shall apply to the Subject Property, which is legally described as follows:

Legal Description:

[Insert Legal Description of Affordable Lot]

Parcel No:

[Insert Parcel Number of Affordable Lot]

Address:

[Insert Address of Affordable Lot]

2. The Subject Property identified in Paragraph 1 must meet the definition of affordable housing found in FWRC 19.110.010(2) and can only be sold or leased to residents whose household income is less than eighty percent (80%) of the King County median annual income adjusted for household size.
3. Any sale or lease of the Subject Property identified in Paragraph 1 to any party or individual that is not in compliance with Paragraph 2 shall contravene the intent of this Covenant and be null and void.

4. The City of Federal Way shall be entitled to enforce these covenants as an intended beneficiary thereof.
5. The provisions of these paragraphs governing the sale or lease of the Subject Property shall run with the land and bind all holders, owners, lessees, occupiers, and purchasers of the Subject Property. These restrictive covenants apply in perpetuity and every subsequent instrument conveying an interest in all or any portion of the Subject Property shall include the restrictive covenant.
6. Owner shall cause the requirements of this Covenant to be placed in all instruments that convey an interest in the Subject Property and shall file this document with the King County Recorder's Office, Seattle, Washington.
7. In any action of any kind relating to enforcement of this Covenant the prevailing party shall be entitled to collect reasonable attorneys' fees and costs from the non-prevailing party in addition to any other recovery to which the prevailing party is entitled.
8. All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Covenant.
9. The interpretation and enforcement of this Covenant shall be governed by the laws of the State of Washington and venue shall be proper in King County, Washington.
10. The waiver by one party of any provision or breach of this Covenant shall not be deemed a waiver of any other provision or breach of this Covenant.
11. If any provision of this Covenant shall be held by a court of proper jurisdiction to be invalid or unenforceable; the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired thereby; and the court may, but shall not be required to, fashion a substitute for the provision held to be invalid or unenforceable.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2018.

BLUE FERN DEVELOPMENT, LLC,  
a Washington limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON

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

ss.

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of Blue Fern Development LLC, a Washington limited liability company, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,  
residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_