

AGREEMENT FOR AFFORDABLE HOUSING IN DOWNTOWN COLUMBIA

This Agreement for Affordable Housing in Downtown Columbia dated February 3, 2017 ("Agreement") is by and among Howard Research And Development Corporation ("HRD"), Columbia Downtown Housing Corporation ("CDHC"), the Howard County Housing Commission ("Commission"), and Howard County, Maryland, a body corporate and politic of the State of Maryland ("Howard County" or "County") (collectively, the "Parties").

RECITALS

1. On February 1, 2010, the Howard County Council approved the Downtown Columbia Plan, a General Plan Amendment (the "Downtown Columbia Plan"). The Downtown Columbia Plan envisions the evolution of Downtown Columbia as Howard County's urban center with new development of 5,500 dwellings, 640 hotel rooms, 4.3 Million square feet of office and 1.25 Million square feet of retail uses. The Downtown Columbia Plan further envisions a full spectrum housing program for Downtown Columbia to be achieved through the creation of a Downtown Columbia Community Housing Foundation which would administer a housing fund to be created from contributions from the Downtown Columbia Community Developer (i.e., HRD), developer and property owner contributions, and other sources.

2. As part of the Downtown Columbia Plan, HRD and other property owners and developers in Downtown Columbia were required to provide various Community Enhancements, Programs and Public Amenities ("CEPPAs"), including CEPPAs aimed at achieving affordable housing. CEPPAs 10 and 11 require contributions from HRD to the Fund (as defined below) of \$1,500,000 each and CEPPAs 26 and 27 require additional contributions to the Fund, including one-time payments of between \$2,000.00 and \$9,000.00 for each new dwelling unit.

3. The Howard County Council adopted Bill 24-2012 effective September 3, 2012, which established the Downtown Columbia Community Housing Fund ("Fund") for the purpose of providing affordable housing assistance as an amenity as described in the Downtown Columbia Plan and further providing for the recognition of a nonprofit entity as the Downtown Columbia Community Housing Foundation for purposes of administering the Fund. Bill 24-2012 also established mandatory contributions into the Fund by the Downtown Columbia Community Developer and property owners.

4. On November 5, 2012, the County Council adopted Resolution 154-2012 recognizing the Columbia Downtown Housing Corporation ("CDHC") as the Downtown Columbia Community Housing Foundation under the Downtown Columbia Plan.

5. Net New approved residential development includes (i) The Metropolitan comprised of 380 dwelling units and ground floor retail space; and (ii) Parcel C comprised of 437 total dwelling units and ground floor retail space, both of which were approved by final development plan FDP DC-Warfield-1. Site development plan approval of The Metropolitan (SDP 13-007) reduced the number of Net New dwelling units remaining to be constructed in Downtown Columbia to 5,200 units, and site development plan approval of Parcel C (SDP 14-024) further reduced the number of Net New dwelling units remaining to be constructed to 4,683 units.

HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0363, MSA CE53-17449. Date available 02/28/2017. Printed 07/13/2020.

75  
90  
A

LR - Agreement  
Recording Fee 75.00  
Mesa Howard Research  
Ref: 74  
FDP - Agreement  
40.00  
115.00  
230.00  
08:59  
08:59  
CC13-LH  
CC05.03.08 -  
CC05.03.08 -  
CC05.03.08 -

6. On or about October 8, 2013, HRD, as the designated Community Developer, in order to permit construction and occupancy of The Metropolitan, contributed \$2,329,422.20 to the Fund in accordance with the Downtown Columbia Plan, CEPPAs 10, 26 and 27, and Bill 24-2012. On or about June 14, 2016, HRD contributed an additional \$2,498,103.63 to the Fund in accordance with the Downtown Columbia Plan, CEPPAs 11, 26 and 27 and Bill 24-2012 in order to permit construction and occupancy of Parcel C. To date, approximately \$4,827,525.83 in contributions have been provided to the Fund by HRD.

7. On March 31, 2014, CDHC presented its Second Annual Report to the County Council and County Executive in which CDHC advised that changes in legislation will be necessary to realize the goals of the Downtown Columbia Plan for the development of a full spectrum housing program in Downtown Columbia.

8. On October 29, 2014, the County Council adopted Resolution 120-2014 requesting CDHC to consider whether legislative changes are necessary and appropriate to ensure the Downtown Columbia Plan's vision for a full spectrum of affordable housing can be achieved and to recommend any changes believed necessary and appropriate to the County Council and County Executive.

9. On February 27, 2015, CDHC presented its recommendations to the County Council and County Executive, which recommendations would have required 15% of future residential development in Downtown Columbia to be affordable, providing up to 702 units of affordable housing in Downtown Columbia at full residential build-out and serving households with an average AMI of 60% of the Howard County AMI.

10. As Community Developer under the Downtown Columbia Plan, HRD objected to CDHC's recommendations to the County Council and County Executive on the basis that the adoption of such recommendations would only stifle future development in Downtown Columbia. HRD suggested instead that a more nuanced approach be developed as a collaboration among HRD, the County, CDHC and the Howard County Housing Commission ("Commission"), which would actually "jump start" and maximize the potential to create affordable housing in Downtown Columbia.

11. On June 8, 2015, at a public worksession of the County Council representatives of HRD presented the County Council and representatives of CDHC and the Commission with an alternative means of achieving a full spectrum of housing in Downtown Columbia, and after discussion at this worksession, it was understood that HRD, CDHC and the Commission would attempt to work towards a joint recommendation regarding affordable housing and to determine what, if any, recommendations should be jointly made to the County Council and pursued.

12. Representatives of CDHC, HRD, the Commission and the Howard County Executive met over a period of months during summer and fall 2015 to understand the various perspectives and objectives of the parties, including, without limitation, achieving a full spectrum of housing, the economic constraints affecting the ability of the private sector alone to meet this objective, the existing requirements and recommendations of the Downtown Columbia Plan, CEPPAs and Bill 24-2012, and the potential use of mechanisms such as low income housing tax credits, PILOT, and land dedication and land exchanges to facilitate the creation of affordable housing.

13. On September 8, 2015, representatives of CDHC, HRD, the Commission and the Howard County Executive presented the County Council with a set of joint recommendations on affordable housing in Downtown Columbia (the "Joint Recommendations"). The Joint Recommendations describe a multi-faceted approach to achieve a full spectrum of housing by encouraging private investment including, without limitation, recommendations for (i) Very Low Income Units, Low Income Units, and Middle Income Units; (ii) an inclusionary program whereby Affordable Units are included in each residential rental building going forward; (iii) land exchanges, leases or contributions to facilitate development or redevelopment of a new Central Library, the existing Central Library, a new transit center, Toby's Dinner Theatre, the Banneker Fire Station, all of which (except for the new Central Library) are anticipated to include additional Affordable Units earlier than would be delivered in the development of the full residential buildout program, and in significant quantity, (iv) modification of the Fund contribution mechanism; and (v) accompanying legislation to facilitate this approach. Together the Joint Recommendations provide for the development of approximately 900 Affordable Units in Downtown Columbia at a full spectrum of household income levels at Full Residential Build Out.

14. HRD is, either itself or through its affiliates, engaged in the development, construction, redevelopment and management of real estate and owns or controls the residential development on parcels of real property in Downtown Columbia; including those parcels more particularly described on Exhibit "A" of the Development Rights and Responsibilities Agreement ("DRRA").

15. On July 5, 2016, the County Executive filed as legislation with the Howard County Council a DRRA petitioned by HRD and accompanying zoning and affordable housing law changes. The Howard County Council held a series of public hearings and worksessions to discuss the DRRA and accompanying legislation. As a result of this process, the Howard County Council, in consultation with, among others, HRD, CDHC, the Commission, and the Howard County Executive, filed legislative amendments to the proposed DRRA and accompanying legislation.

16. The Howard County Council adopted (i) ZRA-170 (CB54-2016) on November 9, 2016, effective January 14, 2017; (ii) Council Bill No. 52-2016 on November 9, 2016, effective January 14, 2017; (iii) Council Bill No. 53-2016 on November 9, 2016, effective January 14, 2017; (iv) Council Bill 55-2016 on November 9, 2016, effective January 14, 2017.

17. On November 9, 2016, the Howard County Council adopted Council Resolution 103-2016 authorizing the execution of the DRRA.

18. As the result of the aforementioned process, HRD shall be deemed to have satisfied all affordable housing obligations under the County Law for the term of the DRRA with respect to the development by HRD and its affiliates of up to 5,500 Net New dwelling units as further detailed in this Agreement and the DRRA.

19. On February 3, 2017, the Howard County Executive and HRD executed the DRRA.

20. The purpose of this Agreement is to set forth the Parties' agreement on elements critical to HRD's ability to satisfy the terms of the DRRA and to achieve the full spectrum affordable housing goals envisioned in the DRRA. The Parties intend that this Agreement be read in conformity with

the DRRA.

NOW, THEREFORE, in consideration of the foregoing recitals which are not merely prefatory but which are hereby incorporated into and made a substantive part of this Agreement, and the mutual covenants and agreements set forth below, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledge, the Parties hereby agree as follows:

1. Definitions.

Unless otherwise defined in this Agreement, the terms used in this Agreement shall have the same meaning as in the DRRA.

2. Affordable Housing. In conformity with the DRRA, the Parties agree to the following initiatives:

HRD agrees to facilitate 900 Affordable Units at or before Full Residential Build Out in Downtown Columbia, in accordance with the following initiatives:

A. **200 Very Low Income Units as described in Section 2.1.** In conformity with Section 2.1 of this Agreement, HRD shall ensure at least three percent (3%), but not more than seven percent (7%), of all Net New rental units in each building containing rental units (excluding the Metropolitan and the units to be constructed on Parcel C in the Warfield Neighborhood) (collectively, "the Metropolitan and Parcel C") that is constructed or otherwise provided on the Property as Very Low Income Units;

B. **200 Middle Income Units as described in Section 2.2.** In conformity with Section 2.2 of this Agreement, HRD shall ensure the inclusion of at least an additional three percent (3%), and not more than seven percent (7%), of all Net New rental units in each building containing rental units (excluding the Metropolitan and Parcel C) that is constructed or otherwise provided on the Property as Middle Income Units;

C. **417 Low Income Units as described in Section 2.3.** In conformity with Section 2.3 of this Agreement, HRD shall facilitate the development of up to five LIHTC Developments in Downtown Columbia that are specifically designated to provide affordable rental housing to tenants whose annual income does not exceed 60 percent of the AMI, which is approximately 50 percent of the HCAMI as more particularly set forth in Section 2.3 below.

D. **83 Affordable Units as part of a homeownership and a live-where-you-work program as described in Section 2.4.** In conformity with Section 2.4 of this Agreement, HRD shall provide to the CDHC at least \$7,775,000, subject to an annual adjustment based on the ENR Building Cost Index for the Baltimore region, to support CDHC's program of services, especially homeownership and a live-where-you-work program within the boundaries of Downtown Columbia.

2.1. Very Low Income Units.

A. In accordance with Sections 2.1.B and 2.1.C, HRD shall ensure a minimum of three percent (3%), but not more than seven percent (7%), of all Net New rental dwelling units

HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0366, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.



within each building containing rental units constructed or otherwise provided on the Property (excluding the Metropolitan and Parcel C) to be Very Low Income Units in order to achieve 200 Very Low Income Units on the Property at or before Full Residential Build Out. The Commission shall master lease from HRD and its affiliates such units in each building for a period of at least forty (40) years in accordance with the terms of a master lease in a form to be agreed upon by HRD and the Commission consistent with this Agreement and the DRRA, with unlimited renewal options, and upon substantially the same terms, for each building to be entered into by and between HRD and the Commission and containing the terms set forth below, and the Commission may then in turn lease the units to individual households holding Housing Choice Vouchers or at an income level of up to approximately 50% of the HCAMI. HRD shall lease the units to the Commission at a rate equal to 95% of the Housing Choice Voucher Payment Standard ("VPS") for Columbia, MD (100% minus a 5% allowance for vacancy), which VPS rates for 2016, for example, are \$1,123 for an efficiency, \$1,363 for a one bedroom, \$1,713 for a two bedroom, and \$2,195 for a three bedroom. The 95% of VPS payment to HRD will be guaranteed by the Commission with non-voucher funds regardless of vacancy (unless caused by HRD) and will not be discounted by a utility allowance. The lease rate shall be adjusted annually in accordance with adjustments in the VPS for Columbia, MD, but in no event shall the lease rate be decreased by more than 3% annually or by more than 10% cumulatively from the initial lease rate for each building for each master lease period (the "Lease Rate Reduction Caps") including the same Lease Rate Reduction Caps for each succeeding renewal period from the VPS in effect at the time of such renewal. Units developed as Very Low Income Units may include smaller square footages than Market Rate Dwelling Units and other design elements to reduce development cost and increase affordability, in accordance with the standards shown on Exhibit "B" of the DRRA. The rent commencement date under each master lease with respect to a building under this Section 2.1.A shall be the date that a use and occupancy permit is issued for that building. In the event the Commission elects not to renew the master lease for any building, the Very Low Income Units within that building shall no longer be subject to this Agreement and may be re-leased as Market Rate Dwelling Units, unless HRD and the Commission agree, in each of their sole and absolute discretion, to renew or extend a new master lease for that building.

B. Within the first phase of development within the Crescent Area 3 development area, HRD shall designate 3% of the Net New rental units within each building containing rental units as Very Low Income Units.

C. In future Downtown Columbia development phases, affordable designations will be made by HRD in accordance with the following schedule:

(i) For development up to and including the issuance of an occupancy permit for the 1,698<sup>th</sup> Net New rental dwelling unit, at least three percent (3%) of all Net New rental units in each building containing rental units (excluding the Metropolitan and Parcel C) constructed or otherwise provided on the Property will be Very Low Income Units.

(ii) For development from the issuance of an occupancy permit for the 1,699<sup>th</sup> Net New rental dwelling unit and all Net New rental dwelling units thereafter, at least five percent (5%) of all Net New rental units in each building containing rental units (excluding the Metropolitan and Parcel C) constructed or otherwise provided on the Property will be Very Low Income Units, subject to Section 2.1.D below.

D. In HRD's sole discretion, buildings in projects developed under 2.1.C(i) above may include more than 3% Very Low Income Units, and buildings in projects developed under 2.1.C(ii) above may include more than 5% Very Low Income Units, in which case the number of surplus Very Low Income Units may be deducted from the future 5% requirement in buildings in projects developed under 2.1.C(ii), so long as the number of Very Low Income Units in each building is always equal to or greater than the 3% requirement, and provided that any amount of Very Low Income Units in any one building in excess of 5% for buildings developed under 2.1.C(i) and any amount of Very Low Income Units in any one building in excess of 7% for buildings developed under 2.1.C(ii) shall not be credited against any future Very Low Income Unit requirements and the Commission shall not be obligated to master lease such units in excess of the 5% or 7% threshold, as applicable. Credits for excess units shall be in whole units only. For example, if a 300 unit building developed under 2.1.C(i) contained 10 Very Low Income Units (one unit more than required), then a corresponding 300 unit building developed under 2.1.C(ii) could contain only 14 Very Low Income Units (one fewer than the 5% requirement), and if a 295 unit building developed under 2.1.C(i) contained ten Very Low Income Units, then one Very Low Income Unit could be credited against the requirements for a future building and HRD would not receive any additional fraction of a credit. Finally, if a 300 unit project developed under 2.1.C(i) contained 16 Very Low Income Units then the number of excess units which could be applied against a 300 unit project developed under 2.1.C(ii) would be limited to 6 Very Low Income Units.

## 2.2 Middle Income Units.

A. In addition to the units provided in Section 2.1 and in accordance with Sections 2.2.B and 2.2.C, HRD shall record in the Land Records a Declaration in the form of Exhibit "D" of the DRRA in order to designate a minimum of three percent (3%), but not more than seven percent (7%), of all Net New rental dwelling units in each building containing rental units constructed or otherwise provided on the Property (excluding the Metropolitan and Parcel C) to be Middle Income Units in order to achieve 200 Middle Income Units on the Property at or before Full Residential Build Out. Units developed as Middle Income Units may include smaller square footages than Market Rate Dwelling Units and other design elements to reduce development costs and increase affordability, in accordance with the standards shown on Exhibit "B" of the DRRA. Such units shall be leased to households earning up to 80% of HCAMI, adjusted for family size. Income qualification shall be performed by HRD or its designated building manager, and an annual compliance certification for the purpose of verifying household income for each leased Middle Income Unit shall be requested in writing by the County or the Commission as its designee and must be provided in writing by HRD within thirty (30) days after the request is received. Households leasing a Middle Income Unit may remain in the unit so long as their income does not exceed 100% of HCAMI for more than one year, in which case the building manager may either raise the rent to a market level and lease an alternative unit to a qualifying household at the restricted rent level, or relocate the original household to another unit and re-lease the Middle Income Unit to a qualifying household. HRD will execute and record a binding covenant on each parcel of property on which a building containing rental units is to be constructed, enforceable by CDHC, the Commission and the County, to require that the income qualification program and restricted rent levels shall be maintained for the Restriction Period. At the end of the Restriction Period, the units may, in HRD's sole and absolute discretion, be re-leased as Market Rate Dwelling Units.

B. Within the first phase of development within Crescent Area 3, HRD shall designate 3% of the Net New rental units within each building containing rental units as Middle Income Units.

C. In future Downtown Columbia development phases, affordable designations will be made by HRD in accordance with the following schedule:

(i) For development up to and including the issuance of an occupancy permit for the 1,698<sup>th</sup> Net New rental dwelling unit, at least three percent (3%) of all Net New rental units in each building containing rental units (excluding the Metropolitan and Parcel C) that is constructed or otherwise provided on the Property will be Middle Income Units.

(ii) For development from the issuance of an occupancy permit for the 1,699<sup>th</sup> Net New rental dwelling unit and all Net New rental dwelling units thereafter, at least five percent (5%) of all Net New rental units (excluding the Metropolitan and Parcel C) in each building containing rental units that is constructed or otherwise provided on the Property will be Middle Income Units, subject to Section 2.2.D below.

D. In HRD's sole discretion, buildings in projects developed under 2.2.C(i) above may include more than 3% Middle Income Units, and buildings in projects developed under 2.2.C(ii) above may include more than 5% Middle Income Units, in which case the number of surplus Middle Income Units may be deducted from the future 5% requirement in buildings in projects developed under 2.2.C(ii), so long as the number of Middle Income Units in each building is always equal to or greater than the 3% requirement, and provided that any amount of Middle Income Units in any one building in excess of 5% for buildings developed under 2.2.C(i) and any amount of Middle Income Units in any one building in excess of 7% for buildings developed under 2.2.C(ii) shall not be credited against any future Middle Income Unit requirements. Credits for excess units shall be in whole units only. For example, if a 300 unit building developed under 2.2.C(i) contained 10 Middle Income Units (one unit more than required), then a corresponding 300 unit project developed under 2.2.C(ii) could contain only 14 Middle Income Units (one fewer than the 5% requirement), and if a 295 unit building developed under 2.2.C(i) contained ten Middle Income Units, then one Middle Income Unit could be credited against the Middle Income Unit requirement for a future building and HRD would not receive any additional fraction of a credit. Finally, if a 300 unit project developed under 2.2.C(i) contained 16 Middle Income Units then the number of excess units which could be applied against a 300 unit project developed under 2.2.C(ii) would be limited to 6 Middle Income Units.

2.3 Projects to be Developed Using Low Income Housing Tax Credits ("LIHTC"). HRD shall facilitate the development of as provided herein, up to five LIHTC Developments in Downtown Columbia that are specifically designed to include not less than 417 Low Income Units, as follows:

A. *Banneker Fire Station Site.*

(i) The County has determined to redevelop the Banneker Fire Station at its existing location at 5815 Banneker Road.

(ii) The Parties acknowledge that Howard County intends to convey its portion of the existing Banneker Fire Station Site to the Commission upon the Commission's completion of construction documents and financing for the Banneker Redevelopment (defined below) as part of a mixed use residential project. HRD shall convey an adjacent parcel received from the Columbia Association in fee simple to the Commission at no cost, simultaneously with the County's conveyance of its portion of the existing Banneker Fire Station Site. The Parties acknowledge that the Commission intends to construct a new fire station and residential development on the Banneker Fire Station Site at no cost to HRD (the "Banneker Redevelopment"). The Banneker Redevelopment is intended to include a residential project containing up to 100 dwelling units designed for and restricted to occupancy by households having at least one member who is 62 years of age or older ("Senior Affordable Project"). Pursuant to Section 131.0.N.1 of the Howard County Zoning Regulations, children less than 18 years of age shall not reside in a dwelling unit for more than a total of 90 days per calendar year. Simultaneously with conveyance of the Banneker Fire Station Site by the County and HRD to the Commission, the County and HRD shall record a covenant on the Banneker Fire Station Site, running with the land, and enforceable by the Commission and CDHC, restricting the development of the Banneker Fire Station Site to the uses contemplated in this Section 2.3.A(ii) for the duration of the Restriction Period. Any residential development on the Banneker Fire Station Site shall not count against the 5,500 unit density cap established in the Downtown Columbia Plan, except to the extent that HRD or its affiliates are a partner in the development, in which case the number of units that will count against the 5,500 unit density cap will be equal to HRD's or its affiliates proportional share of the total number of market rate units included in the LIHTC Development. For example, if HRD is a partner having a 40% interest in a LIHTC Development that includes 100 total units, 50 of which are affordable and 50 of which are market rate, 20 of the 50 market rate units would count against the density cap and 30 of the market rate units would not count against the density cap. Upon conveyance of the adjacent parcel to the Commission, HRD shall be relieved of any and all further obligations under this Section 2.3.A.

(iii) Conveyance of the Banneker Fire Station Site to the Commission, as contemplated herein, is subject to County laws and procedures for the disposition of County property.

(iv) The County and the Commission shall enter into such other agreements as may be necessary for the Banneker Fire Station Site as set forth in the DRRA and this Agreement, including, but not limited to, agreements related to the design, construction, inspection, acceptance, leasing, operation and maintenance of County facilities on the site.

B. *Toby's Site.*

Within sixty (60) days after receiving written notice from the Commission that it has reached a binding agreement with the owners of Toby's for the redevelopment of that facility, HRD shall transfer to the Commission in fee simple approximately 0.44 acres of land (the "Toby's Adjacent Parcel"), at no cost, for the redevelopment of the Toby's Site with future contemplated improvements consisting in concept of a new building for Toby's, a performing and visual arts



facility, a parking structure and up to 200 dwelling units containing between 40 and 50 percent Low Income Units. Simultaneously with transfer of the Toby's Adjacent Parcel by HRD to the Commission, the Commission shall record a covenant on the Toby's Adjacent Parcel, running with the land, and enforceable by the Commission and CDHC, restricting the development of the Toby's Adjacent Parcel to the uses contemplated in this Section 2.3.B for the duration of the Restriction Period. Simultaneously with the Commission's receipt of the balance of the Toby's Site at deal closing, the Commission shall place a covenant on the balance of the Toby's Site, running with the land, and enforceable by the Commission and CDHC, restricting the development of the balance of the Toby's Site to the uses contemplated in this Section 2.3.B for the duration of the Restriction Period. Any residential development on the Toby's Site shall not count against the 5,500 unit density cap established in the Downtown Columbia Plan, except to the extent that HRD or its affiliates are a partner in the development, in which case the number of units that will count against the 5,500 unit density cap will be equal to HRD's or its affiliates proportional share of the total number of market rate units included in the LIHTC Development. For example, if HRD is a partner having a 40% interest in a LIHTC Development that includes 100 total units, 50 of which are affordable and 50 of which are market rate, 20 of the 50 market rate units would count against the density cap and 30 of the market rate units would not count against the density cap. Upon conveyance of the Toby's Adjacent Parcel to the Commission, HRD shall be relieved of any and all further obligations under this Section 2.3.B.

C. *Existing Central Library Site & New Central Library Site.*

i. The County shall pursue a land swap agreement with HRD whereby for zero dollars HRD would convey in fee simple to the County the New Central Library Site shown on Exhibit "C" of the DRRA or a similar site that accommodates a similar development plan in Crescent Area 3 as mutually agreed by the Parties, and the County intends to convey the Existing Central Library Site to HRD ("The Library Land Swap Election").

ii. The Parties acknowledge that Howard County intends to convey the New Central Library Site and HRD shall convey the Existing Central Library Site to the Commission. The Commission would then construct a New Central Library as part of a mixed use mixed-income residential project on the New Central Library Site. The residential project ("New Library Residential Project") shall contain up to 120 dwelling units containing between 40 and 50 percent Low Income Units. The Commission would also construct the Existing Central Library Site as a mixed-income residential project containing between 40 and 50 percent Low Income Units.

iii. Simultaneously with the conveyances of the Existing Central Library Site and New Central Library Site, the County and HRD shall record covenants on the Existing Central Library Site and the New Central Library Site, respectively, running with the land, and enforceable by the Commission and CDHC, restricting the development of the Existing Central Library Site and the New Central Library Site to the uses contemplated in Section 2.3.C(ii) for the duration of the Restriction Period. Any residential development on the Existing Central Library Site and the New Central Library Site shall not count against the 5,500 unit density cap established in the Downtown Columbia Plan, except to the extent that HRD or its affiliates are a partner in the development, in which

case the number of units that will count against the 5,500 unit density cap will be equal to HRD's or its affiliates proportional share of the total number of market rate units included in the LIHTC Development. For example, if HRD is a partner having a 40% interest in a LIHTC Development that includes 100 total units, 50 of which are affordable and 50 of which are market rate, 20 of the 50 market rate units would count against the density cap and 30 of the market rate units would not count against the density cap.

iv. Upon conveyance of the Existing Central Library Site to the Commission and the New Central Library Site to the County, and the simultaneous recordation of the covenants described above, HRD shall be relieved of any and all further obligations under this Section 2.3.C.

v. Notwithstanding anything to the contrary above, the County shall not exercise the Library Land Swap Election unless the Howard County Council has adopted a resolution approving the land swap and the terms of this Section 2.3.C.

(vi) The County and the Commission shall enter into such other agreements as may be necessary for the Existing Central Library Site and the New Central Library Site as set forth in the DRRA and this Agreement, including, but not limited to, agreements related to the design, construction, inspection, acceptance, leasing, operation and maintenance of County facilities on the site.

D. *Future Downtown Transit Center Site.*

(i) The Downtown Columbia Plan envisions a new transit center as part of the redevelopment of Downtown Columbia. The December 2011 Nelson Nygaard transit study ("Study") provided to the County by HRD in satisfaction of CEPPA 5 recommended locating the new transit center in the Symphony Overlook Neighborhood, generally between the Mall and the Corporate Center buildings. In accordance with CEPPA 14, HRD, in cooperation with the Howard County Office of Transportation, will identify the Future Downtown Transit Center Site prior to approval of the first SDP in the Symphony Overlook Neighborhood and will provide the Future Downtown Transit Center Site to the County by fee simple transfer at no cost for the County's construction of a new transit center. The Parties acknowledge that Howard County intends to convey the Future Downtown Transit Center Site to the Commission. The Commission would then construct a Future Downtown Transit Center as a mixed use mixed-income residential project containing between 40 and 50 percent Low Income Units. Conveyance of the Future Downtown Transit Center Site to the Commission, as contemplated herein, is subject to County laws and procedures for the disposition of County property. Simultaneously with conveyance of the Future Downtown Transit Center Site to the Commission, the County shall record a covenant on the Future Downtown Transit Center Site, running with the land, and enforceable by the Commission and CDHC, restricting the development of the Future Downtown Transit Center Site to the uses contemplated in this Section 2.3.D for the duration of the Restriction Period. Any residential development on the Future Downtown Transit Center Site shall not count against the 5,500 unit density cap established in the Downtown Columbia Plan, except to the extent that HRD or its affiliates are a partner in the development, in which case the number of units that will count against the 5,500 unit density cap will be equal to HRD's or its affiliates proportional share of the total number of market rate units included in the LIHTC Development. For example, if HRD is a partner

having a 40% interest in a LIHTC Development that includes 100 total units, 50 of which are affordable and 50 of which are market rate, 20 of the 50 market rate units would count against the density cap and 30 of the market rate units would not count against the density cap. Upon conveyance of the Future Downtown Transit Center Site to the County, HRD shall be relieved of any and all further obligations under this Section 2.3.D.

(ii) Conveyance of the Future Downtown Transit Center Site to the Commission, as contemplated herein, is subject to County laws and procedures for the disposition of County property.

(iii) The County and the Commission shall enter into such other agreements as may be necessary for the Future Downtown Transit Center Site as set forth in the DRRA and this Agreement, including, but not limited to, agreements related to the design, construction, inspection, acceptance, leasing, operation and maintenance of County facilities on the site.

E. *Relocation of LIHTC Sites.*

Notwithstanding anything to the contrary in this Agreement, HRD may propose a comparable substitute location for the applicable LIHTC Development, subject to the approval of the County, the Commission and CDHC (the "Covenant Parties"). Upon receipt of any such proposal from HRD, the Covenant Parties agree to work diligently and in good faith with HRD to consider such comparable substitute location for the applicable LIHTC Development. If all of the Covenant Parties approve the alternative location proposed by HRD then the relocated LIHTC Development shall be developed on the approved alternative site, and the Covenant Parties shall release any affordable housing covenants from the original site upon the placement of comparable covenants on the approved alternative site. HRD shall then be free to develop the applicable original site previously identified for such LIHTC Development free of all limitations contained in the original covenants (but subject to applicable law and this DRRA). If the Covenant Parties do not approve an alternative site proposed by HRD for a LIHTC Development, then the applicable LIHTC Development shall be developed on the original site in conformance with the applicable recorded covenants.

F. *LIHTC Unit Counts.*

The Parties acknowledge that unit counts for the LIHTC Developments listed in this Agreement are based on approximate site areas and an assumed density similar to the Metropolitan project recently completed Downtown of approximately 100 units per acre. All LIHTC Development sites will require development approvals from the County. To the extent that the Commission acts as the developer of any of the LIHTC Development sites, it shall use commercially reasonable efforts to design to and obtain approval for the unit counts contained herein and the densities feasible for the sites. The limits on income and identity of the units subject to restriction shall be specified in recorded declarations filed by the County or the Commission which restrictions shall continue for the duration of the Restriction Period. In the event that one of the LIHTC Development sites is developed with less than the number of Low Income Units anticipated in this Agreement, the difference between the expected number of Low Income Units

and the actual number of Low Income Units on the site shall constitute a “Low Income Unit Shortfall”. HRD, in consultation with the Commission and CDHC, shall make up any Low Income Unit Shortfall by providing for additional Low Income Units through any combination of (i) additional units above the New Central Library Site, (ii) additional units above the Transit Center Site, or (iii) elsewhere in Downtown Columbia at a location mutually agreed upon by the Parties. Additional units provided to make up a Low Income Unit Shortfall shall provide for both Low Income Units and Market Rate Dwelling Units so that each mixed-income project described in this Section 2.3 contains between 40 and 50 percent Low Income Units.

G. *Gap Financing.*

HRD shall provide to the CDHC \$3,200,000 upon issuance of a building permit for the 818<sup>th</sup> Net New dwelling unit to provide funding for the development of the LIHTC Developments described in this Section 2.3 needed to make the development financially feasible following commercially reasonable efforts to secure all traditional sources of financing (“Gap Financing”).

H. *Environmental.*

The documentation for, or contract of, the transfer of a LIHTC Development site or any portion thereof under this Agreement shall provide for the customary period for evaluating and for addressing the existing environmental conditions on the site prior to the closing on the site so that the site can be made suitable for residential development in accordance with such document’s or contract’s terms.

I. *Restrictive Covenants.*

To the extent that HRD is the beneficiary of any restrictive covenants on any LIHTC Development sites described in this Section 2.3, HRD shall terminate such covenants as necessary to permit LIHTC Developments.

2.4 Homeownership and Live-Where-You-Work Programs.

HRD shall provide to the CDHC an amount intended to provide at least \$7,775,000 to support a homeownership and a Live-Where-You-Work (LWYW) program within the boundaries of Downtown Columbia or other areas to the extent permitted by law.

A. HRD shall pay a fee of \$1,734 per unit for the 1,583<sup>rd</sup> Net New rental dwelling unit and all subsequent Net New rental dwelling units, excluding the Very Low Income Units and Middle Income Units set forth in Sections 2.1 and 2.2, through and including the 5,178<sup>th</sup> Net New rental dwelling unit.

B. HRD shall pay a fee of \$6,963 per unit for all Net New for sale dwelling units up to and including the 322<sup>nd</sup> Net New for sale dwelling unit. All Net New for sale dwelling units developed after the 322<sup>nd</sup> shall comply with the For Sale Offset Unit requirement described in Section 2.5 below and shall also pay the fee for Net New rental dwelling units of \$1,734 per unit described in Section 2.4.A above.



C. In the event, that more than 5,178 Net New rental dwelling units are built, each unit above 5,178 will pay the fee associated with the Net New for sale units.

D. The amounts to be paid under Section 2.4 shall be subject to an annual adjustment based on the ENR Building Cost Index for the Baltimore region in effect when the Agreement becomes effective and shall be contingent on the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed, upon the issuance of a final decision upholding the issuance of the permit.

E. HRD shall work with CDHC and Howard County employers participating in the live-where-you-work program to accept some form of guaranty from the aforementioned parties in place of the security deposit and any other initial leasing costs in excess of first month's rent, whenever HRD is a 50% or more owner in a rental dwelling unit building (excluding the Metropolitan and Parcel C).

## 2.5 For Sale Units.

The realization of the 400 inclusionary units (i.e., the 200 Very Low Income Units described in Section 2.1 and 200 Middle Income Units described in Section 2.2) assumes that of the 5,500 Net New dwelling units, 322 of these units will be for-sale Market Rate Dwelling Units. As more particularly set forth below, to the extent that HRD develops more than 322 for-sale Market Rate Dwelling Units, HRD shall provide additional Very Low Income Units and Middle Income Units in its new buildings containing Net New rental dwelling units (the "For Sale Offset Units"), as follows:

A. The number of For Sale Offset Units required shall be calculated as follows:

(i) For each for-sale unit developed in excess of the 322<sup>nd</sup> for-sale Net New Market Rate Unit at or before reaching the 1,698<sup>th</sup> unit threshold described in Section 2.1.C(i) and 2.2.C(i) above, 0.03 Very Low Income Units and 0.03 Middle Income Units shall be required.

(ii) For each for-sale unit developed in excess of the 322<sup>nd</sup> for-sale Net New Market Rate Unit after reaching the 1,698<sup>th</sup> unit threshold described in Section 2.1.C(i) and 2.2.C(i) above, 0.05 Very Low Income Units and 0.05 Middle Income Units shall be required.

B. To the extent that HRD has developed surplus Very Low Income Units or Middle Income Units and has such credits available as described in Sections 2.1.D and 2.2.D, these units may be used to satisfy the requirements for For Sale Offset Units. To the extent that such surplus Very Low Income Units or Middle Income Units are not available, HRD shall include additional Very Low Income Units or Middle Income Units in its next building containing rental Market Rate Dwelling Units to satisfy the requirements for For Sale Offset Units, up to the maximum percentage threshold of 5% and 7%, as applicable, as described in Sections 2.1.D and 2.2.D, and shall continue to include the maximum percentages of Very Low Income Units or Middle Income Units, as applicable, in each subsequent building containing Net New rental dwelling units until the For Sale Offset Unit requirement is satisfied.

C. For example, should HRD propose a 100 unit for-sale Net New dwelling unit project, after 322 for sale Net New Market Rate Units have already been developed, and after the 1,698<sup>th</sup> unit threshold described in Section 2.1.C(i) and 2.2.C(i) has been passed, then HRD would be required to provide five (5) additional Very Low Income Units and five (5) additional Middle Income Units. If HRD had not previously developed surplus Very Low Income Units or Middle Income Units as described in Sections 2.1.D and 2.2.D and/or did not have those credits available, then HRD would be required to include the additional For Sale Offset Units in its next building containing Net New rental dwelling units. If HRD's next building containing Net New rental dwelling units was a 300 unit project, it would then need to provide twenty (20) Very Low Income Units and twenty (20) Middle Income Units in the building to meet both the baseline inclusionary requirement plus the For Sale Offset Unit requirement. Fractional For Sale Offset Unit count requirements shall be rounded up.

3. Recordation, Nature, Survival and Transfer of Obligations. HRD agrees that this Agreement shall run with the land and be binding upon and inure to the benefit of HRD and its affiliates, and their respective successors and assigns, and upon any and all successor owners of record of all or any portion of the Property (except owners of an individual condominium dwelling unit improved as part of the Project and pursuant to a validly issued building permit). To assure that all such successors, assigns, and successor owners have notice of this Agreement and the obligations created by it, HRD agrees that it shall:

A. Have this Agreement recorded among the Land Records within twenty (20) days after the date on which the Parties execute this Agreement;

B. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into after the Effective Date of this Agreement for the sale of all or any portion of the Property; and

C. Prior to the transfer of all or any portion of the Property (except the transfer of an individual condominium dwelling unit solely for use as a private residence), or any equitable interest therein, require the transferee to execute an enforceable written agreement, in a form reasonably satisfactory to Howard County, binding transferee to this Agreement.

3.1 Binding Upon Successors and Assigns. The Parties agree that all obligations assumed by it under this Agreement shall be binding on it, its agencies, employees, and governmental units, and its and their respective successors and assigns.

3.2 Disputes.

A. This Agreement shall be governed by the law of the state of Maryland, without regard to its choice of law rules, and the Parties hereby agree to venue in and the exclusive jurisdiction of the Circuit Court of Maryland for Howard County.

B. Each party knowingly, voluntarily and intentionally waives its right to a trial by jury to the fullest extent permitted by law in all actions and other legal proceedings arising out of or relating to this Agreement and the transactions contemplated hereby. This waiver applies to all actions and other legal proceedings, whether sounding in contract, tort or otherwise.

C. If any party shall fail or refuse to perform its obligations as required, then after sixty (60) days from receipt of written notice provided to such party by another party indicating the nature of the default and if the offending party has not commenced action to cure the default and diligently pursued the same, any other party may seek equitable relief to enforce the terms and conditions of this Agreement either through a decree for specific performance or an injunction. Should the remedies of specific performance or injunction not be available, the party shall be entitled to bring a legal action for damages. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall constitute a waiver of any immunities available to the County or the Commission under applicable law. Any payment of the County pursuant to this Agreement is contingent upon the availability of funds, appropriations or insurance proceeds in an amount sufficient to satisfy such payment at the time that payment, if any, is required by the County.

4. Effect and Cooperation.

As stated in Recital 21 of the DRRA, the Parties acknowledge and agree that the affordable housing goals in the Downtown Columbia Plan will be served to a greater extent by the implementation of this Agreement and the DRRA than by adherence to the 12% and 15% MIHU requirement for Downtown Columbia. Accordingly, the Parties agree to cooperate in good faith in the implementation of this Agreement and the DRRA. Should there be a future need to address changes to the MIHU law, or other State and County law, regulation or requirement that would affect the Parties' obligations under or ability to implement the DRRA and this Agreement, the Parties shall work cooperatively and in good faith to address such a need.

5. Approvals Required. HRD shall obtain all approvals necessary under any provision of Maryland or federal law before proceeding with development of the Property. This Agreement does not address any approvals required by Maryland or federal law, and HRD shall be responsible for obtaining any approvals required by local, Maryland, or federal law.

6. Fees. HRD shall pay all fees (specifically including but not limited to excise taxes, surcharges and water and sewer connection fees) required by the County at the time of the Effective Date of this Agreement at the rate in effect at the time the fee is due. Nothing in this Agreement shall be construed as a waiver or reduction of any such fee except as provided herein.

7. Growth Control Delay. In the event that a "Growth Control Delay" (as hereinafter defined) is imposed, then any deadline concerning HRD's obligation to construct, install, fund or post financial guarantees for the infrastructure improvements required pursuant to any development approval for the development of all or a portion of the Property in accordance with the phasing requirements set forth therein shall be extended for one (1) additional day for each day during which such Growth Control Delay exists, and the development shall not be subjected to any additional regulation, legislation, limitation, phasing, contributions, penalties or delay in construction, or issuance of zoning certificates/building permits solely as a result of the Growth Control Delay. Any deadlines placed on the County, the Commission or CDHC under this Agreement shall likewise be extended reciprocally in the event a Growth Control Delay is imposed. The term "Growth Control Delay" shall mean any and all delays caused during APFO Approval and/or the implementation or declaration by the United States Government, State of Maryland, Howard County, and/or any agency, department, division and/or branch thereof for

purposes of a limitation, prohibition, restriction and/or phasing upon the review, recording, development and construction as intended by HRD, which is deemed to be essential to ensure the public health, safety, and welfare of County residents.

8. Time of Essence. Time is of the essence in the performance of all terms and provisions of this Agreement.

9. Term.

A. This Agreement shall constitute covenants running with the land and shall run with and bind the Property. This Agreement shall terminate and be of no further force or effect thirty (30) years after the Effective Date of the DRRA, unless the term of the DRRA is extended in which case this Agreement shall be extended for the same amount of time, provided that any recorded covenants or master leases provided for in this Agreement and entered into during the term of this Agreement which, by their terms, extend beyond thirty (30) years after the Effective Date of the DRRA shall continue in accordance with their terms for the full term under any such recorded covenant or master lease.

B. Nothing in this Agreement shall be construed to supersede the term(s) as set forth in any other agreement(s) between any of the Parties, except with respect to the obligation of HRD to provide or provide assistance for the provision of affordable housing units within Downtown Columbia. In the event of a conflict between this Agreement and the DRRA between the County and HRD, the DRRA shall supersede this Agreement.

10. Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (1) when delivered in person on a business day at the address set forth below; (2) on the third business day after being deposited in any main or branch United States post office for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address set forth below; or (3) upon delivery by any commercial express or next day delivery service, properly addressed and all charges prepaid, at the address set forth below.

Notices and communications to HRD shall be addressed and delivered to the following address:

Galleria Tower One, 22<sup>nd</sup> Floor  
1335 Noel Road  
Dallas, Texas 75240  
Attention: General Counsel  
Telephone: (214) 741-7744  
[peter.riley@howardhughes.com](mailto:peter.riley@howardhughes.com)

With a copy to:

John E. DeWolf, III  
Senior Vice President  
Howard Hughes Corporation  
10480 Little Patuxent Parkway, Suite 400



Columbia, Maryland 21044

Notices and communications to CDHC shall be addressed and delivered to the following address:  
Columbia Downtown Housing Corporation

Attn: President

c/o The Howard County Department of Housing

The Gateway Building, 3<sup>rd</sup> Floor

6751 Columbia Gateway Drive

Columbia, Maryland 21046.

with a copy to:

Carney, Kelehan, Bresler, Bennett & Scherr

Attn: Kevin J. Kelehan

10715 Charter Drive, Ste. 200

Columbia, Maryland 21044

Notices and communications to the Commission shall be address and delivered to the following address:

Howard County Housing Commission

Attn: Executive Director

6751 Columbia Gateway Dr., 3rd Floor

Columbia, Maryland 21046.

with a copy to:

Howard County Office of Law

Attn: County Solicitor

3450 Courthouse Drive

Ellicott City, Maryland 21043

---

---

---

---

By notice complying with the requirements of this Section, any party shall have the right to change the address or addressee or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

11. Amendments. The Parties to this Agreement may amend the Agreement by mutual consent of all Parties. All amendments to this Agreement shall be in writing and shall be executed by each of the Parties hereto.

12. Termination or Suspension. The Parties to this Agreement may terminate or suspend the Agreement by mutual written consent of all Parties. In the event that the DRRA terminates, then this Agreement shall also terminate and be of no further force or effect. If the DRRA is suspended, then this Agreement shall also be suspended for the same period of time as the DRRA.

13. Authority to Execute.

A. The Parties hereby warrant and represent to the other Parties that the persons executing this Agreement on its behalf have been properly authorized to do so. Each of the Parties agrees not to challenge this Agreement or any of the obligations created by it on grounds that it or any of the other Parties, or persons acting on behalf of such Parties, lacked authority to enter into all or a portion of this Agreement.

B. HRD hereby warrants and represents to the other Parties that (i) it or its affiliates is the fee simple, record owners of the Property; (ii) that it has the right, power and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth herein and to bind the Property as set forth herein, (iii) that all legal actions needed to authorize the execution, delivery and performance of this Agreement have been taken, and (iv) that it has been duly represented by attorneys.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

15. Consent to Jurisdiction. The Parties irrevocably consent to the jurisdiction of the Circuit Court for Howard County, Maryland.

16. Remedies Cumulative. Each right, power and remedy of a party provided for in this Agreement, or any other agreement between the Parties, now or hereafter existing, shall be cumulative and concurrent and in addition to every other right, power or remedy provided for in this Agreement or any other agreement between the Parties, now or hereafter existing.

17. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

18. Interpretation. All headings are inserted in this Agreement only for convenience and ease of reference and are not to be considered in the construction or interpretation of this Agreement. Unless the context clearly requires otherwise: (a) words such as “include”, “including”, or “such as” shall be interpreted as if followed by the words “without limitation”; and (b) any reference to an Article, Section, or other subdivision, or Exhibit, is intended to refer to an Article, Section, or other subdivision, or Exhibit, of this Agreement.

19. No Third Party Beneficiary Status. The Parties specifically agree that this Agreement is not intended to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations under this Agreement.

20. Represented By Counsel. Each party acknowledges that such party and its counsel, after negotiation and consultation, have reviewed and revised this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule of construction, to wit, that ambiguities in this Agreement should be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any amendments, modifications or exhibits hereto or thereto.

21. Further Assurances. Within 15 days after a party’s request, the other Parties shall execute such further assurances of this Agreement as may be necessary or desirable to effectuate the intent and purposes of this Agreement. Without limiting the generality of the preceding sentence, in each instance under Section 2.3 in which HRD has proposed, and the County has approved, a substitute site for a LIHTC Project, the Parties to this Agreement shall execute and deliver to HRD, within 15 days after HRD’s request, a recordable release of the previously designated site from the obligations of this Agreement, the form of which shall be reasonably acceptable to HRD.

22. Recordation.

A. HRD shall record this Agreement in the Land Records against the Property within 20 days after the day on which the Parties execute this Agreement. In addition, at any time during the term of this Agreement, HRD shall have the right to record this Agreement against the Development Rights Property. Upon recordation of this Agreement against such additional property, the additional property shall be deemed a part of the Property and shall be subject to the terms of this Agreement, and HRD shall provide the other Parties with a copy of the recorded Agreement promptly after such recordation. In the case of a “Combined Site”, the requirement to develop affordable Net New rental units shall be as set forth in the DRRA.

B. Notwithstanding anything to the contrary in this Section, if HRD records this Agreement against any real property in which HRD or its affiliates hold merely an equitable interest at the time of such recordation but fails to acquire fee ownership thereof within three (3) years after such recordation, then such property shall be deemed automatically released from this Agreement on the expiration of such three (3)-year period.

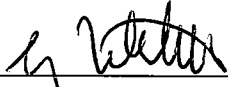
29370025\_1

[SIGNATURE PAGE FOLLOWS]

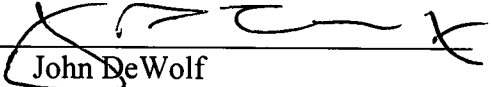


IN WITNESS WHEREOF, the Parties have hereunto set their hands on the date first above written.

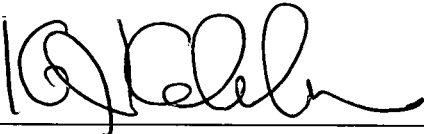
WITNESS/ATTEST

  
\_\_\_\_\_  
GREG FITCHITT

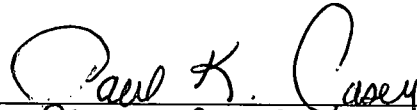
/ THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION

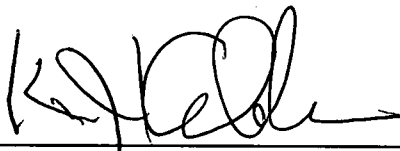
By:   
\_\_\_\_\_  
John DeWolf  
Vice President

WITNESS/ATTEST


  
\_\_\_\_\_  
KEVIN J. KELAHAN

/ COLUMBIA DOWNTOWN HOUSING CORPORATION


By:   
\_\_\_\_\_  
Name: PAUL K. CASEY  
Title: President

  
\_\_\_\_\_  
KEVIN J. KELAHAN

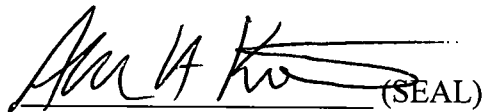
/ HOWARD COUNTY HOUSING COMMISSION

By:   
\_\_\_\_\_  
Name: CAROL P. MACPHEE  
Title: Chair

ATTEST:

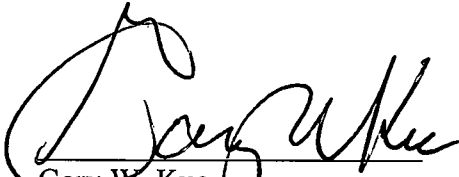
  
\_\_\_\_\_  
LONNIE R. ROBBINS  
Chief Administrative Officer

/ HOWARD COUNTY, MARYLAND

  
\_\_\_\_\_  
Allan H. Kittleman  
Howard County Executive

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

this 8<sup>th</sup> day of February 2017.



Gary W. Kuc  
County Solicitor

*[Notaries on Following Pages]*

STATE OF MARYLAND,

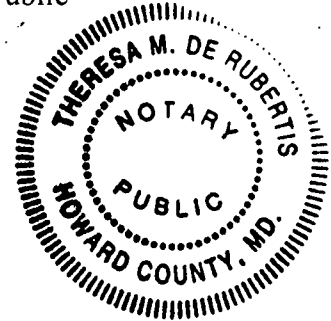
HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of Feb., 2017, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared B. John DeWolff, representative for THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION, personally known to me or proven to be the individual named herein and executed this Agreement for the purposes stated therein.

AS WITNESS my Hand and Notarial Seal.

Theresa M. DeRubertis  
Notary Public

My Commission Expires: 6/7/2020



STATE OF MARYLAND,

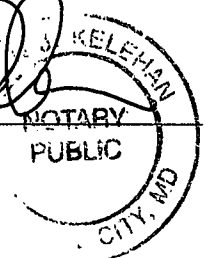
HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of Feb., 2017, before me, the subscriber, a Notary Public of the State of Maryland, in and for the ~~County~~ Principles City aforesaid, personally appeared Paul K. Casey, representative for COLUMBIA DOWNTOWN HOUSING CORPORATION, personally known to me or proven to be the individual named herein and executed this Agreement for the purposes stated therein.

AS WITNESS my Hand and Notarial Seal.

Theresa M. DeRubertis  
Notary Public

My Commission Expires: 7/1/17



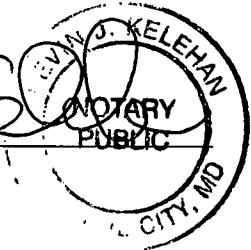
HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0385, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.

STATE OF MARYLAND,

HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this 3rd day of Feb, 2017, before me, the subscriber, a Notary Public of the State of Maryland, in and for the ~~County aforesaid~~ Baltimore City, personally appeared Carole R. Maphal, representative for HOWARD COUNTY HOUSING COMMISSION, personally known to me or proven to be the individual named herein and executed this Agreement for the purposes stated therein.

AS WITNESS my Hand and Notarial Seal.

[Signature]  
Notary Public  


My Commission Expires: 7/1/17

STATE OF MARYLAND,

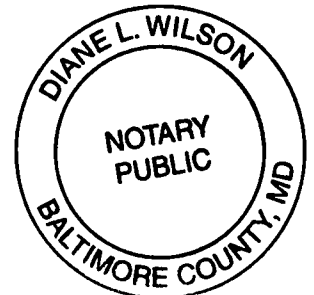
Baltimore COUNTY, TO WIT:

I HEREBY CERTIFY that on this 3rd day of Feb, 2017, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared ALLAN H. KITTLEMAN, the County Executive for HOWARD COUNTY, MARYLAND, who acknowledged the same to be the act of the County and that he executed the foregoing Agreement for the purposes therein contained by signing in my presence the name of Howard County, Maryland as County Executive.

AS WITNESS my Hand and Notarial Seal.

[Signature: Diane L. Wilson]  
Notary Public

My Commission Expires: 11/19/2019




\_\_\_\_\_

HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0386, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.



ATTORNEYS' CERTIFICATION

THIS IS TO CERTIFY that the undersigned are members, in good standing, of the Bar of the Court of Appeals of Maryland, and that the within instrument was prepared by the undersigned or under their supervision.

  
Arianne H. Monroe

Upon Recordation Please Return To:

Todd D. Brown, Esq.  
Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
12505 Park Potomac Avenue  
6th Floor  
Potomac, MD 20854

Theresa deRubertis  
The Howard Hughes Corp.  
10480 Little Patuxent Pkwy  
Suite 400  
Columbia, MD 21044

LIENHOLDER CONSENTS AND SUBORDINATION OF INTERESTS

The undersigned lienholder, Principal Life Insurance Company, does hereby consent to the aforesaid Agreement, and by the signature of its Trustee, does hereby agree that its Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement 757950 from Clover Acquisitions LLC dated January 19, 2017, and recorded among the Land Records of Howard County, Maryland in Book 17401 Page 161 (DOT) shall be subordinate to the Agreement and that the Agreement shall survive any sale under its DOT.

In no event, however, shall this Lienholder Consents and Subordination of Interests be deemed to: (a) waive or modify any duties or obligations of the borrower or any other person or entity under such Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement 757950 or any other loan documents executed in connection therewith, or release borrower or any other person or entity from any such duties and obligations; or (b) provide that any lien rights or monetary obligations arising under the aforesaid Agreement shall survive any such sale under such Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement 757950.

[Remainder of page is blank; signature pages follow]

HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0388, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.

IN WITNESS WHEREOF, the undersigned has executed this Lienholder Consents and Subordination of Interests this 20<sup>th</sup> day of February, 2017.

/PRINCIPAL LIFE INSURANCE COMPANY,  
an Iowa Corporation

By: PRINCIPAL REAL ESTATE INVESTORS,  
LLC, a Delaware limited liability company, its  
authorized signatory

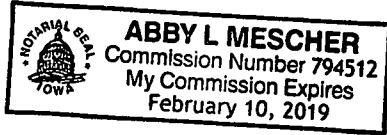
By: Elizabeth A Jensen  
Name: Elizabeth A. Jensen  
Title: Sr. CMS Asset Manager

By: [Signature]  
Name: C. Kent Jurgensen  
Title: Director - CMS Asset Management

STATE OF IOWA            )  
  )  
COUNTY OF POLK        )

On this 20 day of February, 2017, before me, the undersigned, a Notary Public in and for the said State, personally appeared Elizabeth A. Jensen and C Kent Jurgensen, to me personally known to be the identical persons whose names are subscribed to the foregoing instrument, who being by me duly sworn, did say that they are the Sr. CMS Asset Manager and Director CMS Asset Management, respectively, of PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, authorized signatory of PRINCIPAL LIFE INSURANCE COMPANY, an Iowa corporation, and that the instrument was signed on behalf of the corporation by Principal Real Estate Investors, LLC, as authorized signatory of Principal Life Insurance Company, by authority of the Board of Directors of Principal Life Insurance Company; and that the aforesaid individuals each acknowledged the execution of the foregoing instrument to be the voluntary act and deed of Principal Real Estate Investors, LLC, as authorized signatories of said corporation, by it and by them voluntarily executed.

[Signature]  
Notary Public in and for said State  
My Commission Expires:



HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0389, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.

WITNESS:

Brenda Stephany  
Brenda Stephany

TRUSTEE:

Brenda S. Tyler  
Brenda S. Tyler

STATE OF Iowa, CITY/COUNTY OF Polk, TO WIT:

I HEREBY CERTIFY that on this 20<sup>th</sup> day of February, 2017, before me, the subscriber, a Notary Public of the State aforesaid, in and for the County aforesaid, personally appeared Brenda S. Tyler, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and made oath in due form of law that she executed the foregoing instrument for the purposes contained and in the capacity stated.

AS WITNESS my Hand and Notarial Seal.

Abby L Mescher  
Notary Public

My Commission Expires: 2-10-19



LIENHOLDER CONSENTS AND SUBORDINATION OF INTERESTS

The undersigned lienholder, Wells Fargo Bank, National Association does hereby consent to the aforesaid Agreement, and by the signature of its Trustee, does hereby agree that such instrument shall be subordinate to and shall survive any sale under its Deed of Trust from 10 CCC, LLC, 20 CC, LLC, 30 CCC, LLC, 40 CCC, LLC, 50 CCC, LLC, 60 CCC, LLC, 50/60/70 CCC Parking Deck, LLC, 40 CCC, Parking Deck, LLC, and 10/20/30 CCC Parking Deck, LLC, dated May 6, 2015, and recorded among the Land Records of Howard County, Maryland in Book 16182 Page 350, as amended.

WITNESS:

*[Handwritten signature]*

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: *[Signature]*  
Name: **Ryan Campbell**  
Title: **Vice President**

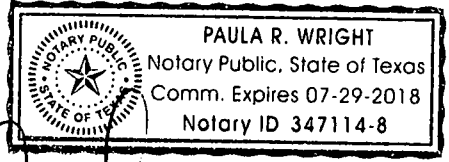
STATE OF TEXAS, CITY/COUNTY OF DALLAS/DALLAS TO WIT:

I HEREBY CERTIFY that on this 21 day of February, 2018, before me, the subscriber, a Notary Public of the State aforesaid, in and for the County aforesaid, personally appeared RYAN CAMPBELL *V.P.*, of Wells Fargo Bank, National Association, and made oath in due form of law that he/she executed the foregoing instrument for the purposes contained and in the capacity stated.

AS WITNESS my Hand and Notarial Seal.

My Commission Expires: 7/29/18

*Paula R. Wright*  
Notary Public



WITNESS:

*[Handwritten signature]*

TRUSTEE:

*Natalie Anderson*  
Natalie Anderson

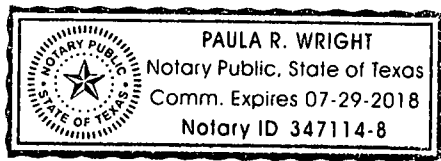
STATE OF TEXAS, CITY/COUNTY OF DALLAS/DALLAS TO WIT:

I HEREBY CERTIFY that on this 21 day of February, 2018, before me, the subscriber, a Notary Public of the State aforesaid, in and for the County aforesaid, personally appeared Natalie Anderson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and made oath in due form of law that she executed the foregoing instrument for the purposes contained and in the capacity stated.

AS WITNESS my Hand and Notarial Seal.

My Commission Expires: 7/29/18

*Paula R. Wright*  
Notary Public



HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0391, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.



LIENHOLDER CONSENTS AND SUBORDINATION OF INTERESTS

The undersigned lienholder, JPMorgan Chase Bank, N.A., does hereby consent to the aforesaid Agreement and does hereby agree that such instrument shall be subordinate to and shall survive any sale under its Deed of Trust, Assignment and Security Agreement from Crescent Area 1-A Holdings, LLC and Crescent Area 1 Parking Deck 1, LLC, dated February 25, 2016, and recorded among the Land Records of Howard County, Maryland in Book 16716 Page 144.

WITNESS:

[Signature]

/ JPMORGAN CHASE BANK, N.A.

By: [Signature]  
Name: Diane Chavez  
Title: Authorized Officer

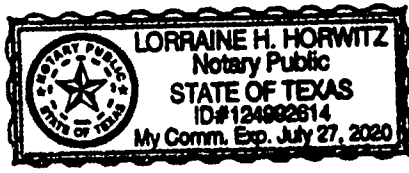
STATE OF Texas, CITY/COUNTY OF Dallas, TO WIT:

I HEREBY CERTIFY that on this 16<sup>th</sup> day of February, 2017, before me, the subscriber, a Notary Public of the State aforesaid, in and for the County aforesaid, personally appeared Diane Chavez, Authorized Officer, of JPMorgan Chase Bank, N.A., and made oath in due form of law that he/she executed the foregoing instrument for the purposes contained and in the capacity stated.

AS WITNESS my Hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: July 27, 2020



HOWARD COUNTY CIRCUIT COURT (Land Records) WAR 17457, p. 0392, MSA\_CE53\_17449. Date available 02/28/2017. Printed 07/13/2020.

LIENHOLDER CONSENTS AND SUBORDINATION OF INTERESTS

The undersigned lienholder, JPMorgan Chase Bank, N.A., does hereby consent to the aforesaid Agreement and does hereby agree that such instrument shall be subordinate to and shall survive any sale under its Deed of Trust, Assignment and Security Agreement from Crescent Area 1-B Holdings, LLC, dated October 7, 2016, and recorded among the Land Records of Howard County, Maryland in Book 17183 Page 421.

WITNESS:

[Signature]

JPMORGAN CHASE BANK, N.A.

By: [Signature]  
Name: Diane Chavez  
Title: Authorized Officer

STATE OF Texas, CITY/COUNTY OF Dallas, TO WIT:

I HEREBY CERTIFY that on this 16<sup>th</sup> day of February, 2017, before me, the subscriber, a Notary Public of the State aforesaid, in and for the County aforesaid, personally appeared Diane Chavez, Authorized Officer, of JPMorgan Chase Bank, N.A., and made oath in due form of law that he/she executed the foregoing instrument for the purposes contained and in the capacity stated.

AS WITNESS my Hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: July 27, 2020

