

CITY OF ANNAPOLIS, MARYLAND
AGREEMENT TO BUILD MODERATELY PRICED DWELLING UNITS FOR A
PERMIT OF 10 OR MORE DWELLING UNITS

THIS AGREEMENT dated the ____ day of _____ 20____, by and between _____(herein "Applicant") and City of Annapolis, MARYLAND, (herein "City").

WHEREAS, the Applicant plans to construct ten (10) or more dwelling units in the subdivision or development known as _____, located in City of Annapolis, Maryland and to be eligible to receive benefits of the optional density provision afforded by Ordinance O-07-03 City of Annapolis, Maryland, Chapter 20.30, as amended.

WHEREAS, the provisions of Chapter 20.30. of the City of Annapolis Code, as amended, require that a percentage of the total number of dwelling units in a residential development project be moderately priced dwelling units (MPDUs); and

WHEREAS, The City is willing to issue building permits for the construction of dwelling units under the terms stated in this Agreement and pursuant to the provisions of Chapter 20.30 of the City of Annapolis Code, as amended.

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

1. Applicant agrees to construct ____ total dwelling units in the subdivision, including _____MPDUs in strict accordance with the construction schedule attached hereto and made a part hereof as Exhibit A

2. All land owned by the Applicant in whole or in part, or which is under contract to the Applicant in City of Annapolis, Maryland, which is available for residential building development is shown on the Statement of Land Owned, attached hereto, and made a part hereof as Exhibit B.

3. The Applicant shall construct MPDUs along with or preceding market rate dwelling units in the subdivision, and the City agrees that compliance with the construction schedule in Exhibit A shall satisfy the MPDU staging requirement and the provisions of Chapter 20.30 of the City of Annapolis Code, as amended.

4. The City will issue building permits as requested by the Applicant for _____(Subdivision or Development Name) and with a site plan number _____. Applicant acknowledges City's authority to suspend or revoke any or all building or occupancy permits issued to Applicant for this subdivision and/or to suspend or deny the issuance of all subsequent permit requests by Applicant for this subdivision, and/or invoke any other of the enforcement measures authorized by Chapter 20.30 of the City of Annapolis Code, as amended, and any regulations adopted pursuant thereto, for failure to comply with this Agreement.

5. (a) Applicant must offer MPDUs for sale or rental in accordance with the requirement

of Chapter 20.30 of the City of Annapolis Code, as amended, and in accordance with regulations promulgated, or as may be promulgated, in the furtherance of said Chapter. Applicant agrees to offer the MPDUs for sale or rent by completing fully and truthfully the Offering Agreement form provided by the Department of Planning and Zoning. The Contract of Sale or the lease executed by the Applicant for the sale or rental of any MPDU must contain language imposing a covenant running with the land invoking the requirements of Chapter 20.30 of the City of Annapolis Code, as amended. This provision is not to be construed as granting the rental option to those Applicants who are not eligible to rent their MPDU according to the provisions of Chapter 20.30 of the City of Annapolis Code, as amended.

(b) Applicant must, at the time of Contract of Sale or Rental Agreement is executed or otherwise agreed to, or entered into, by Applicant, whether written or oral, or at such other time as may be requested by the City, execute a separate Declaration of Covenants, to run with the land, subjecting the MPDUs to the requirement of Chapter 20.30, City of Annapolis Code, as amended.

(c) The Contract of Sale, Deed, Lease and the separate Declaration of Covenants must contain language as contained in The Declaration of Covenants for Sale Subdivisions attached hereto, and made a part hereof. (In addition, the duly recorded Deed or executed Lease Agreement must contain specific language, in conspicuous form, subjecting the herein referred property to the Declaration of Covenants, which language shall contain the date of recordation and the Liber and Folio reference of the said duly recorded Declaration of Covenants.

(d) The Declaration of Covenants contained in Exhibit D must be fully executed by the Applicant and must contain the necessary jurat for either individual or corporate signatures, as the case may be, in such form as may be required to properly record said Declaration of Covenants among the Land Records of City of Annapolis, Maryland. Said Declaration of Covenants must be returned to City of Annapolis for approval, execution and recordation by City of Annapolis among the Land Records.

6. Applicant, his agents, heirs, assigns or successors, hereby irrevocably assigns to City of Annapolis, Maryland, all its right, title, interest and obligation to enforce the provisions of the Declaration of Covenants referred to herein during the term the Covenants are in effect; to institute any proceeding in law or equity for the collection of such sums as may be in excess of those allowed by law; or to enjoin any violation or attempted violation of said Covenants or the provisions of Chapter 20.30 of the City of Annapolis Code, as amended.

7. Applicant must provide a copy of the final Contract of Sale or Lease Agreement for each MPDU covered by the building permits issued under the Agreement to the City, as well as settlement sheets and such other documents and information as may be required.

8. The City shall be entitled to enter upon the property and/or into the subject unit or units for purposes of inspection at all reasonable times to determine compliance with the Agreement.

9. The number, type, location and development phases of the MPDUs to be constructed by Applicant are shown on the approved preliminary or site plan attached hereto and made a part

hereof as Exhibit E. By executing this Agreement, the Applicant certifies that a) in single-family dwelling unit subdivisions each MPDU must have two or more bedrooms; and b) in multifamily unit subdivisions, the number of efficiency and one-bedroom MPDUs each must not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market- rate units in the subdivision.

10. A waiver by the City of a specific default must be in writing from the City, and shall not be a waiver of any other or subsequent default of similar or different nature.

11. No failure on the part of the City to exercise, and no delay in exercising, any right to remedy permitted by law or pursuant to this Agreement will operate as a waiver thereof.

12. Applicant may make written application to the Director of the Department of Planning and Zoning or designee for a modification of the construction schedule set forth on Exhibit A, describing the basis for such change. The Director or designee must review the application and make a final determination on the request which must be delivered to the Applicant within thirty days. Applicant may not depart from the schedule set forth on Exhibit A without the prior approval of the Director or designee.

13. Any notices sent pursuant to this Agreement must be delivered in writing to:

Director
City of Annapolis :
Department of Planning and Zoning
145 Gorman Street
Annapolis, MD 21401
Attn: Jon Arason, Director of Planning

With a copy sent to

Office of the City Attorney
145 Gorman Street
Annapolis, MD 21401

Applicant: (please provide contact information)

14. This Agreement is binding upon the agents, successors, heirs, and assigns of the Applicant.

15. The provisions of this Agreement will survive the execution and delivery of any

deeds or leases, and shall not merge therein.

16. 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 and Applicant agrees to sign such documents as may be required to effectuate the intent and purpose of this Agreement.

IN WITNESS WHEREOF, Applicant has caused these presents to be executed by _____ its, _____ and its corporate seal to be affixed, and does hereby appoint its true and lawful attorney-in-fact to acknowledge and deliver these presents, and City of Annapolis, Maryland has on the day and year herein above written caused these presents to be signed by Jon Arason representing the Department of Planning and Zoning, and does hereby appoint the said Jon Arason its true and lawful attorney-in-fact to acknowledge and deliver these presents.

WITNESS:

entity)

APPLICANT:

(Insert typed name of business

BY: _____

(Insert typed name and title)

CITY OF ANNAPOLIS, MARYLAND
WITNESS:

BY: _____
Jon Arason, Director
Department of Planning and Zoning

CITY ATTORNEY: _____

JURATS APPEAR ON THE FOLLOWING PAGE

STATE OF MARYLAND

CITY OF ANNAPOLIS

I HEREBY CERTIFY that before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared _____, attorney-in-fact for _____ Applicant, who is personally well known to me as the person named as attorney-in-fact in the afore going instrument, and as attorney-in-fact, as aforesaid executed and acknowledged the afore going instrument in the name and on behalf of _____ Applicant, for the uses and purposes herein contained.

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

My Comm. Exp.: _____

NOTARY PUBLIC

STATE OF MARYLAND
CITY OF ANNAPOLIS

I HEREBY CERTIFY that before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared Jon Arason, Director of the City of Annapolis Department of Planning and Zoning, who is personally well known to me, or proven to be, the person named as attorney-in-fact in the foregoing instrument for the City of Annapolis, Maryland and as attorney-in-fact executed and acknowledged the foregoing instrument in the name of and on behalf of the City of Annapolis, Maryland for the uses and purposes therein contained.

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

My Comm. Exp.: _____

NOTARY PUBLIC

**EXHIBIT A
CONSTRUCTION SCHEDULE**

In compliance with Chapter 20.30 of the City of Annapolis Code, as amended, Applicant agrees that the _____ (subdivision name) will be constructed in accordance with the schedule indicated below. Applicant is aware that this schedule must indicate that the MPDUs shall be constructed along with, or preceding, other dwelling units in this subdivision and that failure to comply with this schedule may result in suspension or revocation of any building permit, occupancy permit or subdivision plan associated with the project described herein or such other enforcement measure authorized by Chapter 20.30 of the City of Annapolis Code, as amended. The MPDU staging plan must be consistent with the site plan enforcement agreement. The applicant must sequence the construction of the MPDUs so that the construction of MPDUs reasonably coincides with the construction of the market rate housing. The last building built must not contain only MPDUs.

Development Phase	No. of Market Priced Units	Mo. & Yr. of Constr.1/ Start of Mkt. Priced Units	Mo. & Yr. of Constr.2/ Completion of Mkt. Priced Units	Number of MPDUs*	Mo. & Yr. of Constr.1/Start of MPDUs	Mo. & Yr. of Construction completion of MPDUs
Total Units						

1. "Construction Start" is be defined as the date on which footings are poured for the subject units.

2. "Construction Completion" is defined as the date that final inspections by the Department of Neighborhood and Environmental Programs are completed.

* Applicants submitting an MPDU agreement covering less than an entire subdivision must provide the lot and block numbers for the units to be constructed in that phase of the development covered by this agreement. This information should be provided on a separate sheet of paper and attached to the agreement as an appendix.

EXHIBIT B

STATEMENT OF LAND OWNED FOR COMPLIANCE WITH THE MODERATELY PRICED HOUSING LAW

Pursuant to Chapter 20.30 of the City of Annapolis Code, as amended, Applicant hereby provides a list* which is attached hereto as Schedule A,** describing all land owned in whole or in part, or which is under contract to, the Applicant, in City of Annapolis, Maryland, which is available for residential development. Applicant, in consideration for the issuance of Building Permit Application for (subdivision) affirms that the said Schedule A includes all property as described above for which:

- 1. A preliminary subdivision plan or development plan has been filed or for which a building permit application has been filed; and
- 2. Public water and sewer will be utilized; and
- 3. The optional zoning provisions of the Moderately Priced Dwelling Unit Law and/or Zoning Ordinance, are applicable.

Applicant affirms that the attached Schedule A includes all such property in City of Annapolis, Maryland and not solely that property within the subdivision which is the subject of this Building Permit Application.

WITNESS:

APPLICANT:

SUBSCRIBED AND SWORN to before me, a Notary Public in and for the State of Maryland, City of Annapolis, by Applicant(s) this ____ day of _____, 20__.
My Comm. Exp: _____

NOTARY PUBLIC

* For any Building Permit Application subsequent to the initial application subject to these requirements, Applicant needs only submit changes to the list of property holdings.

* * Schedule A shall contain information stating the owner's name, location and size of parcels, subdivision name, Liber and folio references of latest deeds and Plat Book references.

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(Please include additional pages as necessary)

EXHIBIT D
Covenants

Please attach applicable MPDU covenants (for sale or rental)

EXHIBIT E
Approved Site Plan of Preliminary Plan