

## MPDU SALES OFFERING AGREEMENT

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by and between \_\_\_\_\_ ("Developer") and the City of Annapolis, a municipal corporation of the State of Maryland ("City").

Whereas, the Developer owns property located in the City and has applied to the City for approval to construct a Moderately Priced Dwelling Units within the Property;

Whereas, Chapter 20.30 of the Code of the City of Annapolis governs Moderately Priced Dwelling Units;

Whereas, the Developer is required to enter into this Agreement with the City as part of the process required by Chapter 20.30 of the Code of the City of Annapolis.

Now, therefore, in consideration of these premises and the terms set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

### 1. Applicable Law

a. This Agreement shall be governed by Chapter 20.30 of the Code of the City of Annapolis and any other State or Federal laws, regulations and rules governing Moderately Priced Dwelling Units.

### 2. Description of Property and Moderately Priced Dwelling Units

a. The Developer's property is described in a deed dated \_\_\_\_\_ recorded among the land records of Anne Arundel County, Maryland, in liber \_\_\_\_\_, page \_\_\_\_\_, and is reflected in a subdivision plat recorded as plat no. \_\_\_\_\_ among the land records of Anne Arundel County, Maryland in plat book \_\_\_\_\_, page \_\_\_\_\_.

b. The Moderately Priced Dwelling Units ("MPDUs") which are the subject of this Agreement are indicated in Schedule A of this Agreement.

### 3. Construction

a. The Developer shall construct each MPDU in accordance with specifications imposed by the City's Department of Planning and Zoning ("Department").

### 4. Offering by City

a. For a period of 90 days from the date of the execution of this Agreement by both parties or from the date of any lottery, priority drawing conducted by the City, whichever is later, the City shall have an exclusive, preferential offering period within which to make any MPDU available for sale or lease to persons on the City's moderately priced housing eligibility list.

b. Those persons found eligible by the City who contract the sale or lease of an MPDU shall be required to turn in their MPDU eligibility certificates to the Developer at the time of the execution of a contract for the purchase of an MPDU or lease.

5. Offering by Developer

a. If the City does not offer the MPDUs for sale or lease pursuant to paragraph 2 of this Agreement, or if it does and no sale or lease occurs as a result within a reasonable period of time to be determined by the City in its sole discretion, the Developer shall be entitled to offer the MPDUs for sale or lease.

b. All Developer sales and leases of MPDUs shall be governed by this Agreement, a corresponding agreement of the parties dated \_\_\_\_\_, the provisions of Chapter 20.30 of the Code of the City of Annapolis, and other laws, regulations and rules governing Moderately Priced Dwelling Units.

c. Within 10 days after the date of execution of a contract of sale for the purchase of any MPDU or lease for an MPDU, the Developer shall provide the City with copies of the following items

1. contract of sale for the MPDU purchase, or lease;
2. the original sale certification form;
3. the original certificate of eligibility of the purchaser.

d. Within 10 days after settlement or leasing, the Developer shall provide the City with copies of the settlement statement and deed for the MPDU sold, or lease for any MPDU rented.

6. Delivery of Moderately Priced Dwelling Units

a. The Developer shall have all MPDUs indicated in Schedule A of this Agreement available for occupancy in compliance with City building code requirements and all other MPDU requirements within 365 days of the date of the execution of this Agreement by both parties or from the date of any lottery, priority drawing conducted by the City, whichever is later.

7. Physical Description of MPDUs

a. The Developer warrants and guarantees that each MPDU indicated in Schedule A of this Agreement shall conform at time of delivery by the Developer pursuant to paragraph 6 of this Agreement to the specifications for all MPDUs as required by the Department.

b. The physical description of each MPDU is indicated in Schedule B of this Agreement.

c. The floor plan for each MPDU is indicated in Schedule C of this Agreement.

8. Purchase Price

a. The sales price and rent calculation sheet for each MPDU is indicated in Schedule D of this Agreement.

b. The Department, in its sole discretion, shall be entitled to adjust the sales price or rent established for each MPDU.

9. Fees

- a. The Homeowners Association Fee for each MPDU shall be \_\_\_\_\_ per year.
- b. The Condominium Fee for each MPDU shall be \_\_\_\_\_ per year.
- c. The Water Connection Fee for each MPDU shall be \_\_\_\_\_.
- d. The Sewer connection fee for each MPDU shall be \_\_\_\_\_.
- e. The Front Foot Benefit Charge for each MPDU shall be \_\_\_\_\_.

10. Declaration of Covenants

- a. Simultaneously with the execution of this Agreement by both parties, the Developer shall provide the City with a fully executed Declaration of Covenants that govern all MPDUs.
- b. The Declaration of Covenants shall be subject to the City's review and final approval.
- c. The Declaration of Covenants shall be recorded among the land records of Anne Arundel County, Maryland by the City at the Developer's expense prior to the sale of the first MPDU.
- d. All deeds transferring an MPDU or lease for the rental of an MPDU shall reference the Declaration of Covenants by liber and folio.

11. Indemnification

- a. The Developer shall indemnify, defend and hold the City, its Mayor, City Council members, employees, contractors and other agents and representatives harmless from all liability that may result from the Developer's breach of this Agreement or its failure to conform to the requirements of Chapter 20.30 of the Code of the City of Annapolis, or its failure to comply with any other law, regulation or rule that governs the construction, occupancy, sale or lease of any MPDU.

12. Waivers

- a. No waiver by the City of a specific breach or default of this Agreement shall be enforceable unless the waiver is in writing and signed by a person with authority to make the waiver, and any such waiver shall not constitute a waiver of any other or subsequent breach or default of this Agreement of the same or similar or different nature.
- b. No failure by the City to exercise, and no delay in exercising, any right or remedy permitted by law or pursuant to this Agreement shall operate as a waiver of such right or remedy.

13. Breach

a. Upon any breach of this Agreement by the Developer, the City shall have authority to issue stop work orders, suspend or revoke any or all building, grading, use and occupancy permits, and any other permits or approvals issued to the Developer in connection with any MPDU, and to deny the issuance of all subsequent permits or approvals, or suspend or revoke subsequent permits or approvals issued in connection with the MPDU, and invoke any other enforcement measure authorized by Chapter 20.30 of the Code of the City of Annapolis and any applicable regulations of the Department.

14. Binding Effect

a. This Agreement shall run with the Property and is binding upon the Developer's successors and assigns.

15. Survival of Agreement

a. This Agreement shall survive the execution and delivery of all deeds by which the Developer transfers title to the Property or to any MPDU within the Property, and to all leases by which the Developer rents any MPDU within the Property, and shall not merge therein.

16. Modifications/Amendments

a. All modifications and amendments of this Agreement shall be in writing executed by the parties and notarized.

17. Notice

a. All notices required of the parties shall be sent to \_\_\_\_\_ at \_\_\_\_\_ on behalf of the Developer and to the Department at 145 Gorman Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401 on behalf of the City.

b. Except for any notice required to be given by law in another manner, the parties shall give notice to each other for any matters having to do with this Agreement by sending such notice by regular or certified mail or by delivering it in person to the address each has designated above, or such other address as they may designate to the other

c. The parties may mutually agree that e-mail or fax notice is an acceptable alternative.

18. Governing Law

a. This Agreement shall be construed for all purposes in accordance with the laws of the State of Maryland.

b. The venue for any actions pursuant to this Agreement shall be the courts of Anne Arundel County, Maryland.

c. The parties waive trial by jury in any action brought pursuant to this Agreement.

19. Integration

a. This Agreement is the final and entire agreement of the parties with respect to the requirements of Chapter 20.30 of the Code of the City of Annapolis and all matters related thereto, and there are no oral or written understandings between them other than as stated herein.

Witness the signatures and seals of the parties.

Developer

\_\_\_\_\_  
Witness

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

State of Maryland, County of \_\_\_\_\_:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, a Notary Public in and for the State and County referenced above, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person who has signed this Agreement, and he/she has signed this Agreement in my presence and acknowledged that he/she is \_\_\_\_\_ of \_\_\_\_\_ and is authorized to sign this Agreement on its behalf and to bind it thereby, and that this Agreement is his/her free and voluntary act and the free and voluntary act of \_\_\_\_\_ made for the purposes set forth therein.

Witness my signature and Notary seal.

\_\_\_\_\_  
Notary Public  
My Commission expires:

Attest:

City of Annapolis

\_\_\_\_\_  
Regina Watkins-Eldridge, City Clerk

By: \_\_\_\_\_  
Joshua J. Cohen, Mayor

State of Maryland, County of \_\_\_\_\_:

I hereby certify that on this \_\_\_ day of \_\_\_\_\_, 2012, before me, a Notary Public in and for the State and County referenced above, personally appeared Joshua J. Cohen, known to me or satisfactorily proven to be the person who has signed this Agreement, and he has signed this Agreement in my presence and acknowledged that he is Mayor of the City of Annapolis and is authorized to sign this Agreement on its behalf and to bind it thereby, and that this Agreement is his free and voluntary act and the free and voluntary act of the City of Annapolis made for the purposes set forth therein.

Witness my signature and Notary seal.

\_\_\_\_\_  
Notary Public  
My Commission expires:

Approved for legal sufficiency:

\_\_\_\_\_  
Gary M. Elson, Assistant City Attorney



Schedule B  
(Description of MDPD Units)

Structure Type \_\_\_\_\_

Number of Bedrooms 1 2 3 4

Size of unit by square feet

Number of Baths

Basement: (Walkout) or (In Ground)

Schedule C  
Floor Plan(s) of MPDU Units

Schedule D  
Sales Price of MPDU Units