
CITY OF ROCKVILLE, MARYLAND
MODERATELY PRICED DWELLING UNITS PROGRAM AGREEMENT
(For Sale Units)

This **MODERATELY PRICED DWELLING UNITS PROGRAM AGREEMENT – FOR SALE UNITS** (this “**Agreement**”) is entered into as of this _ day of _____ 2025 (the “**Effective Date**”) by and between **THE MAYOR AND COUNCIL OF ROCKVILLE**, a body corporate and municipal corporation of the State of Maryland (the “**Mayor and Council**”) and **MICHAEL HARRIS AT TOWER, LLC**, a Maryland limited liability company, qualified to conduct business in the State of Maryland, having a principal address at 6345 Executive Blvd., Rockville, Maryland 20852 (the “**Owner**”). Individually, the Mayor and Council and the Owner may each be referred to hereinafter as the “**Party**,” or collectively as the “**Parties**.”

RECITALS

- A. **WHEREAS**, on December 13, 2023, the Owner submitted Level 2 Site Plan Application #2024-00473 (“**STP #2024-00473**”) to the City of Rockville Department of Community Planning and Development Services (“**CPDS**”), and on July 24, 2024, the Planning Commission for the City of Rockville (the “**Planning Commission**”) approved STP #2024-00473 to allow for (i) the construction of eighty-two (82) townhomes, (ii) the construction of a community green, a tot lot, public streets, private alleys, and other associated improvements on 2200 Tower Oaks Boulevard, (iii) the installation of bicycle parking at 2000 Tower Oaks Boulevard (collectively, the “**Tower Preserve Development**”), on an approximately 6.1 acre site, identified as Development Area 4 of the Tower Oaks Planned Development (the “**Tower Preserve Real Property**”), subject to certain conditions, including a condition that the Owner submit for review and approval by the Planning Commission final record plat applications to dedicate streets to public use and resubdivide the Tower Preserve Real Property into new record lots for the Tower Preserve Development (the “**Final Record Plat Condition**”), which final record plats must be approved and recorded prior to the issuance of building permits for the Tower Preserve Development; and
- B. **WHEREAS**, on October 30, 2023, the Mayor and Council adopted Resolution No. 15-23 (the “**Project Plan Resolution**”) approving Project Plan Application PJT2023-00015, allowing for, among other things, the development of 82 Townhouses, associated amenities and infrastructure and an 18% parking reduction for the existing Office Building located at 2000 Tower Oaks Boulevard within Development Area 4 of the Tower Oaks Planned Development; and
- C. **WHEREAS**, on October 11, 2024, the Owner submitted Final Record Plat applications #PLT2025-00627, #PLT2025-00628, #PLT2025-00629, and #PLT2025-00630 (“**Plat Applications**”) to CPDS in accordance with STP #2024-00473, and on March 12, 2025, the Planning Commission approved the Plat Applications to allow for the resubdivision of

the Tower Preserve Real Property as described on **Exhibit A**, attached hereto (the “**Tower Preserve Townhomes Real Property**”) as contemplated by STP #2024-00473; and

- D. WHEREAS**, the Owner was formed and organized as a Maryland limited liability company for the purpose of, among other things forming, developing, financing, constructing, owning and selling up to eighty-two (82) residential townhouse dwelling units with front or rear-loaded garages (the “**Tower Preserve Townhouse Units**”) on the 82 Lots; and
- E. WHEREAS**, pursuant to the Project Plan Resolution and STP #2023-00473, a minimum of thirteen (13) townhouse units constructed in the Tower Preserve Development are required to be designated as moderately priced dwelling units (“**Moderately Priced Dwelling Units**” or “**MPDUs**”) in accordance with Chapter 13.5 of the Rockville City Code (the “**MPDU Ordinance**”) and the associated City of Rockville, Maryland Moderately Priced Housing Regulations (the “**MPDU Regulations**”) which must be reserved for sale to Eligible Households (as defined below) (the “**Rockville Affordable Housing Contribution Requirement**”); and
- F. WHEREAS**, pursuant to the MPDU Ordinance and the terms of this Agreement, the Owner shall designate, administer, and sell thirteen (13) Tower Preserve Townhouse Units as MPDUs (the “**MPDU Townhouse Units**”), of which (i) four (4) shall be reserved for sale to and occupancy by Eligible Households with annual incomes at or below fifty percent (50%) of the Area Median Income, (ii) four (4) shall be reserved for sale to and occupancy by Eligible Households with annual incomes at or below sixty percent (60%) of the Area Median Income, and (iii) five (5) shall be reserved for sale to and occupancy by Eligible Households with annual incomes at or below eighty percent (80%) of the Area Median Income; and
- G. WHEREAS**, as required by the MPDU Ordinance, (i) in order to obtain a building permit for all or portions of the Tower Preserve Development, the Owner is required to submit to the CPDS a fully executed copy of this Agreement that has been approved by the Mayor and Council and the City Attorney, and (ii) the Owner is required to execute certain documents in order to evidence compliance with the Rockville Affordable Housing Contribution Requirement and, pursuant thereto, the Owner’s execution of this Agreement and Tower Preserve MPDU Restrictive Covenant (as defined below) shall evidence such compliance, as more particularly set forth below.

NOW, THEREFORE, IN CONSIDERATION of the foregoing and the covenants and agreements of the Parties hereto, as are hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party hereto, the Parties hereby agree as follows:

ARTICLE I INCORPORATION OF RECITALS; DEFINITIONS; AND EXHIBITS

Section 1.01. Incorporation of Recitals. The foregoing recitals above are an integral part of this Agreement and set forth the intentions of the Parties and the premises on which the Parties have decided to enter into this Agreement. Accordingly, the foregoing recitals are fully incorporated into this Agreement by this reference as if fully set forth herein.

Section 1.02. Specific Definitions. In addition to other terms defined herein, each of the following terms shall have the meaning assigned to it in this Section, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders:

“Area Median Income” or ***“AMI”*** means the median income for the Washington, DC-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area, adjusted for Household Size, as published from time to time by HUD pursuant to Section 4 of the United States Housing Act of 1937.

“DHCD” means the City of Rockville Department of Housing and Community Development.

“Director” means the Director of the City of Rockville Department of Housing and Community Development.

“Eligible Household” means a person or household whose annual gross income qualifies the person or household to participate in the Mayor and Council’s moderately priced dwelling unit (MPDU) homeownership program, as determined by the City Manager or his authorized designee.

“Eligibility List” means the list, maintained by DHCD in accordance with the MPDU Ordinance, of Eligible Households who are seeking to purchase moderately priced dwelling units in the City of Rockville pursuant to the Mayor and Council’s moderately priced dwelling unit (MPDU) homeownership program.

“Household Size” means the actual number of persons in the Eligible Household.

“Housing Agency” means the Rockville Housing Enterprises, the successor entity to the Housing Authority of the City of Rockville, or such other agency or organization as the Mayor and Council may designate.

“HUD” means the United States Department of Housing and Urban Development.

“Owner” means Michael Harris at Tower, LLC, a Maryland limited liability company, qualified to do business in the State of Maryland, having a principal address of 6345 Executive Blvd., Rockville, Maryland 20852, and its successors and approved assigns.

“Moderately Priced Dwelling Unit” or **“MPDUs”** shall have the meaning described in the Recitals.

“MPDU Ordinance” shall have the meaning described in the Recitals.

“MPDU Regulations” shall have the meaning described in the Recitals.

“MPDU Restrictive Covenants” means that certain *Deed of Declaration of Restrictive Covenants and Conditions for the Mayor and Council of Rockville’s Moderately Priced Dwelling Unit (MPDU) Homeownership Program*, dated the Effective Date and recorded among the Montgomery County, Maryland land records (the **“Land Records”**) by the Owner for the benefit of the Mayor and Council and its MPDU Home Ownership Program, containing covenants, conditions and restrictions regarding the ownership, operation, use, sale and occupancy of each MPDU Townhouse Unit during the MPDU Townhouse Unit Compliance Control Period, substantially in the form attached hereto as **Exhibit B**.

“MPDU Townhouse Unit Compliance Control Period” means the thirty (30) year period commencing upon the date of the first sale and settlement of each MPDU Townhouse Unit and terminating thirty (30) years later at 11:59 p.m., during which time the Owner covenants and agrees for itself, its successors, or its assigns, that each MPDU Townhouse Unit shall be conveyed subject to the MPDU Restrictive Covenants and Article II of this Agreement.

“MPDU Townhouse Units” shall have the meaning described in the Recitals.

“Priority Eligibility List” means that certain list, maintained by DHCD, of Eligible Households who are seeking to purchase moderately priced dwelling units in the City of Rockville pursuant to the Mayor and Council’s moderately priced dwelling unit homeownership program, that includes: (i) persons in an Eligible Households that live or work within the corporate boundaries of the City of Rockville, (ii) Eligible Households that are headed by a person or persons over the age of fifty-five, or (iii) Eligible Households that are seeking to purchase an MPDU with 3 or more bedrooms.

“Priority Marketing Period” means the ninety (90) day period, as determined by DHCD, during which time only Eligible Households who are listed on the Priority Eligibility List may contract to purchase MPDUs listed in an Offering Notice.

“Project Plan Resolution” shall have the meaning described in the Recitals.

“Rockville Affordable Housing Contribution Requirement” shall have the meaning described in the Recitals.

“STP #2024-00473” shall have the meaning described in the Recitals.

“Term” means from the Effective Date through the date of the closing of the sale of the last MPDU Townhouse Unit, during which time the Owner covenants and agrees for itself, its

successors or its assigns under this Agreement, to comply with each restriction and covenant set forth in the MPDU Restrictive Covenants and this Agreement.

“Tower Preserve Development” shall have the meaning described in the Recitals.

“Tower Preserve Real Property” shall have the meaning described in the Recitals.

“Tower Preserve Townhouse Lots” shall have the meaning described in the Recitals.

“Tower Preserve Townhouse Units” shall have the meaning described in the Recitals.

Section 1.03. General. Any capitalized term to which a meaning is expressly given in this Agreement shall have the meaning assigned to it hereunder, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders.

Section 1.04. Exhibits. The following Exhibits are attached to this Agreement and are fully incorporated into this Agreement by this reference as if fully set forth herein:

Exhibit A	Legal Description of the Tower Preserve Townhomes Real Property
Exhibit B	Form of MPDU Restrictive Covenants
Exhibit C	Construction Staging Plan

ARTICLE II ROCKVILLE AFFORDABLE HOUSING CONTRIBUTION COVENANTS

Section 2.01. General Covenant. In accordance with the MPDU Ordinance, the Owner hereby covenants and agrees for itself, its successors, and its assigns, to comply with each restriction and covenant set forth in the MPDU Restrictive Covenants and this Article II for the duration of the Term.

Section 2.02. Affordable Housing Contribution Requirement – Designation of MPDUs.

(a) Intentionally Omitted.

(b) MPDU Townhouse Units. The Owner covenants and agrees to comply with the Rockville Affordable Housing Contribution Requirement and the MPDU Ordinance by designating the following thirteen (13) residential townhouse units on the Tower Preserve Townhouse Lots as Moderately Priced Dwelling Units solely for sale to and occupancy by Eligible Households pursuant to the terms of this Agreement and the MPDU Townhouse Unit Restrictive Covenants:

Address	Tax ID Number	Eligible Household Maximum Income	Number Of BRs/ BAs	Approx. NET Sq Ft	Initial Maximum Sale Price
1. 2124 Towler Street	04-03903443	80% AMI	3 /2	1200 min	\$340,000
2. 2120 Towler Street	04-03903454	50% AMI	3 /2	1200 min	\$195,000
3. 2116 Towler Street	04-03903465	60% AMI	3 /2	1200 min	\$245,000
4. 2221 Hillpark Lane	04-03903578	80% AMI	3 /2	1200 min	\$340,000
5. 2225 Hillpark Lane	04-03903580	60% AMI	3 /2	1200 min	\$245,000
6. 2229 Hillpark Lane	04-03903591	80% AMI	3 /2	1200 min	\$340,000
7. 2317 Rosefield Lane	04-03903693	60% AMI	3 /2	1200 min	\$245,000
8. 2321 Rosefield Lane	04-03903705	50% AMI	3 /2	1200 min	\$195,000
9. 2333 Rosefield Lane	04-03903738	60% AMI	3 /2	1200 min	\$245,000
10. 2337 Rosefield Lane	04-03903740	50% AMI	3 /2	1200 min	\$195,000
11. 2240 Towler Street	04-03903864	80% AMI	3 /2	1200 min	\$340,000
12. 2220 Towler Street	04-03903911	80% AMI	3 /2	1200 min	\$340,000
13. 2216 Towler Street	04-03903922	50% AMI	3 /2	1200 min	\$195,000

(c) Intentionally Omitted.

Section 2.03. Construction of MPDU Townhouse Units.

(a) Construction Staging. In accordance with the MPDU Ordinance, and pursuant to that certain plan for staging construction of the Tower Preserve Townhouse Units (the “**Construction Staging Plan**”), attached hereto as **Exhibit C**, the Owner covenants and agrees to construct, or cause to be constructed, the MPDU Townhouse Units contemporaneously with or

before the market-rate Tower Preserve Townhouse Units within the phase of the Tower Preserve Development complex, as provided for in the Construction Staging Plan.

(b) The Owner covenants and agrees that each MPDU Townhouse Unit constructed shall be comparable in infrastructure, construction quality, and exterior design to market-rate units constructed on the Tower Preserve Real Property. Interior features and finishes must be durable, of good quality, and consistent with contemporary standards for new housing and comparable in quality to the market-rate units constructed on the Tower Preserve Real Property.

(c) The Owner covenants and agrees that each MPDU Townhouse Unit constructed shall comply with all applicable local, state and federal laws, statutes, ordinances and regulations necessary to permit occupancy of the MPDU Townhouse Units.

(d) The Owner covenants and agrees that, upon completion of construction and prior to the sale of each MPDU Townhouse Unit, the City Manager or his authorized designee shall have the right to perform on-site inspections during normal business hours after reasonable prior written notice to the Owner in order to confirm compliance with the terms of this Agreement. The Owner shall cooperate with any such inspection.

Section 2.04. Offering of MPDU Townhouse Units.

(a) Offering to the General Public. The Owner covenants and agrees to offer the MPDU Townhouse Units to the general public for sale to Eligible Households in accordance with the MPDU Ordinance and the terms of this Agreement.

(b) Offering Notice. Prior to offering any MPDU Townhouse Unit for sale, the Owner covenants and agrees that it shall provide the DHCD Director with an “**Offering Notice**” that shall include the following information:

- i. The number of MPDU Townhouse Units being offered for sale;
- ii. The bedroom mix of the MPDU Townhouse Units being offered for sale;
- iii. The floor area for each MPDU Townhouse Unit type being offered for sale;
- iv. A description of the marketing standard features offered in each MPDU Townhouse Unit being offered for sale;
- v. A statement of the availability of MPDU Townhouse Units for sale, including information regarding any mortgage financing available to potential buyers;
- vi. The date on which the Owner will be ready to begin marketing the MPDU Townhouse Units listed in the Offering Notice to Eligible Households;

- vii. A vicinity map of the area where the MPDU Townhouse Units that will be offered are located; and
- viii. A fully executed copy of the approved development, subdivision or site plan, as applicable, for the Tower Preserve Development, and such information or documents as the DHCD Director may reasonably require.

(c) Acceptance of Offering Notice. In accordance with the MPDU Ordinance, upon acceptance by the DHCD Director of a complete Offering Notice, the DHCD Director shall:

- i. notify the Housing Agency that it has an option to purchase up to 33 and 1/3% of the MPDU Townhouse Units listed in the Offering Notice (In order to exercise its option, the Housing Agency must submit to the Owner, within twenty-one (21) calendar days of receipt of the notification from the DHCD Director, a notice of intent to exercise its option to purchase specific MPDU Townhouse Units); and

- (d) notify the Owner (A) as to when the Priority Marketing Period will begin for the available MPDU Townhouse Units listed in the Offering Notice, and (B) as to whether the Owner will be required to offer the available MPDU Townhouse Units listed in the Offering Notice to Eligible Households pursuant to a lottery or by another method that will assure that Eligible Households will have an equitable opportunity to purchase the available MPDU Townhouse Units not otherwise purchased by the Housing Agency.

Section 2.05. Initial Sale of MPDU Townhouse Units and MPDU Condominium Units.

(a) Sale – Eligible Households on the Priority Eligibility List.

- i. During the ninety (90) day Priority Marketing Period, all of the MPDU Townhouse Units listed in the Offering Notice (excluding those units that the Housing Agency will purchase pursuant to its option) shall be exclusively offered for sale to Eligible Households selected from the Priority Eligibility List, in accordance with DHCD’s notification, marketing, and selection procedures. The Owner shall make a good faith effort to enter into purchase contracts with Eligible Households selected from the Priority Eligibility List during the Priority Marketing Period.

- ii. Notwithstanding subsection (a)i., the Owner shall not offer any MPDU Townhouse Units for sale to an Eligible Household selected from the Priority Eligibility List, unless and until the Owner has first executed and recorded the MPDU Restrictive Covenants among the Land Records.

(b) Sale – Eligible Households on the Eligibility List. If any of the MPDU Townhouse Units listed in the Offering Notice remain unsold after the Priority Marketing Period, then all of the remaining unsold MPDU Townhouse Units listed in the Offering Notice shall be offered for sale to Eligible Households selected from the Eligibility List, in accordance with DHCD’s notification, marketing, and selection procedures.

(c) Purchase Contract. A final executed copy of purchase contract for each MPDU Townhouse Unit must be delivered to the DHCD Director no later than thirty (30) days prior to settlement. The purchase contract for each MPDU Townhouse Unit must include a notice provision which fully and completely discloses the resale price restrictions and controls established in this Agreement.

(d) Notification, Marketing, and Selection Procedures. The Owner covenants and agrees to comply with all notification, marketing, and selection procedures established by the DHCD Director in order to assure Eligible Households an equitable opportunity to purchase available MPDU Townhouse Units listed in the Offering Notice.

Section 2.06. Maximum Sale Price Restrictions; Limit on HOA and Condominium Fees.

(a) In accordance with the MPDU Ordinance, the Owner covenants and agrees that the MPDU Townhouse Units shall not be sold by the Owner at prices that exceed the initial maximum sale prices established by the Mayor and Council, as listed in Section 2.02(b).

(b) The Owner covenants and agrees that the owners of the MPDU Townhouse Units shall have full access to all amenities provided to owners of the market-rate Tower Preserve Townhouse Units, if any, subject to the rules, regulations and conditions governing the use of these facilities for all owners as reasonably established by the Owner, its agent, or a home owners association created for the Tower Preserve Development (“**HOA**”). For the duration of the MPDU Townhouse Unit Compliance Control Period, each owner of a MPDU Townhouse Unit shall pay no more than fifty percent (50%) of the regular monthly HOA assessment charged to owners of the market-rate Tower Preserve Townhouse Units. The fifty percent (50%) cap on regular monthly HOA assessments for each owner of a MPDU Townhouse Unit will not apply to special HOA assessments charged to such owner.

Section 2.07. Buyer Certification.

(a) In accordance with the MPDU Ordinance, every buyer of a MPDU Townhouse Unit shall certify on a certificate prescribed by the City Manager (the “**Certificate of Eligibility**”) that such buyer will be purchasing the MPDU Townhouse Unit under the Mayor and Council of Rockville’s MPDU Homeownership Program for such buyer’s own use, or as the primary residence of the buyer’s family. A copy of each Certificate of Eligibility must be provided to the DHCD Director and must be maintained on file with DHCD.

(b) The Owner covenants and agrees that it shall not sell any MPDU Townhouse Units without first obtaining the buyer’s Certificate of Eligibility.

Section 2.08. Required Deed Language.

(a) The Owner covenants and agrees that each deed from the Owner to the initial purchaser of a MPDU Townhouse Unit shall contain the following language setting forth

that the townhouse unit being conveyed is subject to the MPDU Restrictive Covenants, and that all future deeds transferring the MPDU Townhouse Unit being conveyed shall be subject to the MPDU Restrictive Covenants for the duration of the MPDU Townhouse Unit Compliance Control Period:

THIS TOWNHOUSE UNIT IS SUBJECT TO THAT CERTAIN DEED OF DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS FOR THE MAYOR AND COUNCIL OF ROCKVILLE'S MODERATELY PRICED DWELLING UNIT (MPDU) HOMEOWNERSHIP PROGRAM, RECORDED IN DEED BOOK _____, PAGE _____ AMONG THE MONTGOMERY COUNTY LAND RECORDS. This provision shall run with the property and bind upon the property and shall bind Grantee(s) and each of Grantee's, heirs, personal representatives, successors and assigns. All future deeds for this property shall contain this provision.

(b) Intentionally Omitted.

(c) The Owner covenants and agrees that during the Term, the Owner shall submit to the DHCD Director a copy of each fully executed purchase agreement and, upon closing of the sale of each MPDU Townhouse Unit, the closing statement and a copy of the recorded deed. Further, the Owner covenants and agrees to provide any additional information reasonably requested by the DHCD Director. The City Manager or his written designee shall have the right to examine and make copies of all books, records or other documents of the Owner which pertain to the MPDU Townhouse Units.

Section 2.09. Intentionally Omitted.

Section 2.10. Term of this Agreement. The Parties hereby declare their express intent that the covenants and restrictions set forth in this Article II shall bind the Owner during the Term. Upon the expiration of the Term (*i.e.*, the closing date of the sale of the last MPDU Townhouse Unit, subject to the terms of this Agreement), the Owner shall have no further obligation under this Article II. Every contract, deed or other instrument hereafter executed covering MPDU Townhouse Units during the Term, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument.

Section 2.11. Restrictive Covenants to Run with the Land. The Owner covenants and agrees to record in the Land Records the MPDU Restrictive Covenants, dated the Effective Date, substantially in the form attached hereto as **Exhibit B**. The Mayor and Council and the Owner hereby declare their express intent that the MPDU Restrictive Covenants shall run with the land and shall bind all successors in title to each of the MPDU Townhouse Units. All deeds to purchasers of the MPDU Townhouse Units shall state that the real property which is encumbered by such deed is subject to the MPDU Restrictive Covenants for the duration of the MPDU Townhouse Unit Compliance Period as set forth in Section 2.08(a) above. The City Manager (or his authorized designee) shall administer, implement, and enforce the requirements of the MPDU Restrictive Covenants for every MPDU Townhouse Unit. After the initial sale of the MPDU

Townhouse Units by the Owner, the Owner shall have no obligation to administer, implement or enforce the MPDU Restrictive Covenants.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE OWNER

The Owner hereby (i) makes the following representations and warranties to the Mayor and Council, as of the Effective Date, (ii) covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Agreement not to be true in any material respect, the Owner shall promptly give written notice of such fact or condition to the City Manager or his written designee, and (iii) acknowledge that the Mayor and Council shall rely upon the Owner's representations made herein notwithstanding any investigation made by or on behalf of the Mayor and Council:

Section 3.01. Organization.

(a) Intentionally Omitted.

(b) The Owner is duly organized, validly existing and in good standing under the laws of the State of Maryland, is duly qualified to do business under the laws of the State of Maryland and has the power and authority to own the Tower Preserve Real Property and carry on its business as now being conducted.

(c) Intentionally Omitted.

Section 3.02. Authority of the Owner. The Owner has full power and authority to execute and deliver this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

Section 3.03. Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of the Owner, and all actions required under the Owner's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken (to the extent such actions are required as of the date of execution and delivery of the above-named documents).

Section 3.04. Valid Binding Agreements. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed, and delivered constitute, legal, valid, and binding obligations of the Owner enforceable against the Owner in accordance with their respective terms, subject to laws affecting creditors rights and principles of equity.

Section 3.05. No Breach of Law or Agreement. To the knowledge of the Owner, neither the execution nor delivery of this Agreement nor any other documents or instruments executed

and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on the Owner, or any provision of the organizational documents of the Owner, or will materially conflict with or constitute a material breach of or a material default under any agreement to which the Owner is a Party, or will result in the creation or imposition of any lien upon assets or property of the Owner.

Section 3.06. Pending Proceedings. To the Owner's knowledge, the Owner is not in default in any material respect under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of the Owner, threatened against or affecting the Owner or the Tower Preserve Townhomes Real Property, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to the Owner, materially affect the Owner's obligations under this Agreement.

Section 3.07. Title to Land. At the time of recordation of the MPDU Restrictive Covenants, the Owner shall have good and marketable fee title to the Tower Preserve Townhomes Real Property, subject to any ground leases, mortgages, deeds of trusts, easements, rights of way, and other encumbrances, none of which interferes with the use and intended use of Tower Preserve Townhomes Real Property or the MPDU Restrictive Covenants.

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

Section 4.01. Notices, Demands, and Communications Between the Parties. Formal notices, demands, and communications between the Owner and Mayor and Council shall be given either by (a) personal service, (b) delivery by reputable overnight document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (c) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, addressed to:

To the Mayor and Council: Mayor and Council of Rockville
c/o Office of the City Clerk
111 Maryland Avenue
Rockville, Maryland 20850
Attn: Sara Taylor-Ferrell, City Clerk / Director of
Council Operations

With copies to:

Office of the City Attorney
111 Maryland Avenue
Rockville, Maryland 20850
Attn: Robert E. Dawson, City Attorney

Office of the City Manager
111 Maryland Avenue
Rockville, Maryland 20850
Attn: Jeff Mihelich, City Manager

Department of Housing and Community Development
111 Maryland Avenue
Rockville, Maryland 20850
Attn: Ryan Trout, Director

To the Owner: Michael Harris at Tower, LLC
6345 Executive Boulevard
Rockville, Maryland 20852
Attn: Harris Schwalb

With copies to:

Lerch, Early & Brewer, Chtd.
7600 Wisconsin Ave, Suite 700
Bethesda, Maryland 20814
Attn: Erin E. Girard

Notices personally delivered shall be deemed effective upon receipt or refusal thereof. Notices given by a reputable overnight document delivery service shall be deemed effective one (1) business day after delivery by such service. Notices mailed shall be deemed effective on the third (3rd) business day following deposit in the United States mail. Such written notices, demands, and communications shall be sent in the same manner to such other addresses as any Party may from time to time designate in writing. As used herein, “business day” means a day other than Saturday, Sunday, or a federal holiday, state holiday in the State of Maryland, or a city holiday in the City of Rockville, Maryland

Section 4.02. Relationship of Parties. The provisions of this Agreement are intended solely for the purpose of defining the relative rights of the Parties and no relationship of partnership, joint venture or other joint enterprise shall be deemed to be created hereby by and among the Parties pursuant to this Agreement.

Section 4.03. Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement.

Section 4.04. Indemnification. The Owner shall indemnify, defend and hold the Mayor and Council and its respective officers, employees, agents, successors and assigns harmless from and against: (a) any and all claims, liabilities and losses whatsoever (together with any expenses directly related thereto, including but not limited to, damages, court costs and reasonable attorneys’ fees) occurring to or resulting from any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, (b) any and all claims, liabilities and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Owner’s performance of this Agreement, including but not limited to any such claims, liabilities or losses which occur on the Tower Preserve Townhomes Real Property, and (c) such claims, liabilities, or losses which arise out of the renovation, construction and operation of the Tower Preserve Townhomes Real Property. “Owner’s performance” includes Owner’s action or inaction and the action or inaction of the Owner’s officers, employees, agents, contractors, and subcontractors. This indemnification and hold harmless obligation shall not extend to any claim arising solely out of the gross negligence or willful misconduct of the Mayor and Council, DHCD, and its respective employees and agents. The provision of this Section 4.04 shall survive the expiration of the MPDU Townhouse Unit Compliance Control Period.

Section 4.05. Non-Liability of Officials, Employees and Agents. No member of the Mayor and Council or any of its respective officers, employees, successors or agents shall be personally liable to the Owner in the event of any default or breach by the Mayor and Council or for any amount which may become due to the Owner or its respective successors or assigns or on any obligation under the terms of this Agreement.

Section 4.06. No Third-Party Beneficiaries. No provision of this Agreement shall be construed to confer any rights upon any person or entity who is not a Party hereto, whether a third-party beneficiary or otherwise.

Section 4.07. Parties Bound. Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land shall bind the Owner and its respective successors and assigns for the entire Term, and the benefit hereof shall inure to the benefit of the Mayor and Council and its successors and assigns.

Section 4.08. Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. In the event that all or any portion of this Agreement is found to be unenforceable, this Agreement or that portion which is found to be unenforceable shall be deemed to be a statement of intention by the Parties; and the Parties further agree that in such event, and to the maximum extent permitted by law, they shall take all steps necessary to comply with such procedures or requirements as may be necessary in order to make valid this Agreement or that portion which is found to be unenforceable.

Section 4.09. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Maryland. The Parties consent to the jurisdiction and venue of the Circuit Court for Montgomery County, Maryland.

Section 4.10. Liability of the Mayor and Council. The Mayor and Council, by the acceptance and performance of this Agreement does not assume any liability (other than to the Owner pursuant to the terms hereof), and the Owner hereby releases the Mayor and Council and any of its individual agents or employees from any such liability, and no claim shall be made by the Owner upon the Mayor and Council or such employees or agents for or on account of any matter or thing.

Section 4.11. Exhibits. All Exhibits referred to in this Agreement are by such references fully incorporated herein.

Section 4.12. Entire Agreement, Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to the Rockville Affordable Housing Contribution Requirement. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the Parties.

Section 4.13. Time of the Essence. Time is of the essence in the performance of this Agreement.

Section 4.14. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any Party and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

Section 4.15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be original, and such counterparts shall constitute one and the same instrument.

Section 4.16. No Waiver of Sovereign Immunity by Mayor and Council. Notwithstanding any other provisions of this Agreement to the contrary, nothing in this Agreement nor any action taken by the Mayor and Council pursuant to this Agreement nor any document which arises out of this Agreement shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of the City of Rockville's elected and appointed officials, officers, and employees, except as set forth in Section 4.04 above.

Section 4.17. Violation. Any breach, default, or violation of or under this Agreement by the Owner that is not cured within a reasonable period of time after written notice by the City Manager shall also be considered a violation of the MPDU Ordinance.

(Signature pages to follow)

IN WITNESS WHEREOF, the Mayor and Council and the Owner have each executed, or caused to be duly executed, this Moderately Priced Dwelling Units Program Agreement – For Sale Units under seal in duplicate, in the name and behalf of each of them (acting individually or by their respective officers or appropriate legal representatives thereunto duly authorized) as of the day and year first written above.

MAYOR AND COUNCIL

Approved as to form:

**THE MAYOR AND COUNCIL OF
ROCKVILLE**, a body corporate and municipal
corporation of the State of Maryland

Robert E. Dawson, City Attorney

By: _____
Jeff Mihelich, City Manager

ATTEST

By: _____
Sara Taylor-Ferrell, City Clerk / Director of
Council Operations

OWNER

Michael Harris at Tower, LLC, a Maryland limited liability company.

By: Tower Manager, LLC, a Maryland limited liability company, Manager

By: _____

Name: Harris Schwalb

Title: Manager

ACKNOWLEDGMENT

STATE OF MARYLAND
COUNTY OF MONTGOMERY

On this the ____ day of _____ 2025, before me, personally appeared Harris Schwalb, who acknowledged himself to be the Manager of Michael Harris at Tower, LLC, a Maryland limited liability company and named as Owner in the above instrument, and that he, as Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of Michael Harris at Tower, LLC, a Maryland limited liability company by him as the Manager of said Michael Harris at Tower, LLC.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires: _____

Serial Number: _____

Exhibit A
LEGAL DESCRIPTION OF
TOWER PRESERVE TOWNHOMES REAL PROPERTY

Legal Description

All those lots or parcels of land, together with the improvements thereon and appurtenances thereunto belonging, lying, situate and being in the City of Rockville, Montgomery County, Maryland, being more particularly described as follows:

All of Parcel E, Block A, and Lots 1 through 8 and Parcel D, Block B, Tower Preserve, recorded as Plat No. 26231 in the Land Records for Montgomery County (“Land Records”), and Lots 9 through 53, Parcels A, B, and C, Block B, Tower Preserve, recorded as Plat No. 26232 in the Land Records, and Lots 18 through 29, Parcel A, Block A, Tower Preserve, recorded as Plat No. 26233 in the Land Records, and Lots 1 through 17, Parcel B, C, and D, Block A, Tower Preserve, recorded as Plat No. 26234 among the Land Records.

NOTE FOR INFORMATIONAL PURPOSES ONLY:

Address	Lot #	Block	Tax ID Number
2124 Towler Street, Rockville, MD 20852	2	B	04-03903443
2120 Towler Street, Rockville, MD 20852	3	B	04-03903454
2116 Towler Street, Rockville, MD 20852	4	B	04-03903465
2221 Hillpark Lane, Rockville, MD 20852	14	B	04-03903578
2225 Hillpark Lane, Rockville, MD 20852	15	B	04-03903580
2229 Hillpark Lane, Rockville, MD 20852	16	B	04-03903591
2317 Rosefield Lane, Rockville, MD 20852	26	B	04-03903693
2321 Rosefield Lane, Rockville, MD 20852	27	B	04-03903705
2333 Rosefield Lane, Rockville, MD 20852	30	B	04-03903738
2337 Rosefield Lane, Rockville, MD 20852	31	B	04-03903740
2240 Towler Street, Rockville, MD 20852	43	B	04-03903864
2220 Towler Street, Rockville, MD 20852	48	B	04-03903911
2216 Towler Street, Rockville, MD 20852	49	B	04-03903922

(End of Exhibit “A”)

Exhibit B
FORM OF MPDU RESTRICTIVE COVENANTS

(See Attached)

(End of Exhibit “B”)

WOOTTON PARKWAY

SEE MATCH LINE THIS SHEET

SCALE 1" = 20'

SEE MATCH LINE THIS SHEET

TOWER OAKS BOULEVARD

PLAN LEGEND

Moderately Priced Dwelling Unit

VICINITY MAP

SITE

UNIT TYPE KEY

CONTRACTOR: MICHAEL HARRIS HOMES, LLC
 PROJECT: MICHAEL HARRIS HOMES AT TOWER OAKS
 DATE: 07/2024-00073
 DRAWN BY: MICHAEL HARRIS
 CHECKED BY: MICHAEL HARRIS
 PROJECT MANAGER: MICHAEL HARRIS
 PROJECT LOCATION: 10000 WOOTTON PARKWAY, WOODBRIDGE, VA 22191
 PROJECT NUMBER: 07/2024-00073
 SHEET: 19-1.00