

March 15, 2016

Hon. Allan H. Kittleman  
Howard County Executive  
3430 Court House Drive  
Ellicott City, Maryland 21043

Re: Petition for Development Rights and Responsibilities Agreement (Downtown  
Columbia)

Dear Mr. Kittleman:

Pursuant to Section 16.700, *et seq.*, of the Howard County Code, The Howard Research And Development Corporation ("HRD") submits this Petition to negotiate and execute a Development Rights and Responsibilities Agreement ("DRRA") for Downtown Columbia. The purpose of the DRRA is to ensure the development of Downtown Columbia fulfills the vision expressed in the Downtown Columbia Plan, including the development of a full spectrum of affordable housing.

I. Background

Existing County law mandates a full-spectrum housing program for Downtown Columbia based on the model described in the Downtown Columbia Plan. This model has been funded by HRD with two lump-sum \$1.5 Million payments, a one-time payment of between \$2,000 - \$9,000 for each new dwelling unit, and annual contributions from commercial development. To date, HRD has paid more than \$4.8 Million into the Fund. These and subsequently collected funds are to be used by the Columbia Downtown Housing Corporation ("CDHC") to create affordable housing opportunities Downtown.

On October 29, 2014, in response to concerns expressed by CDHC about the lack of a viable mechanism to fulfill its obligations, the County Council adopted Resolution 120-2014 asking whether legislative changes were needed to achieve a full spectrum of housing. In response, CDHC presented a set of initial recommendations. HRD objected to these recommendations explaining how they would discourage investment by HRD and others and would stifle Downtown revitalization. The Council then asked CDHC and HRD to work together toward a set of joint recommendations.

## II. Joint Recommendations on Affordable Housing

Over the next 10 months, HRD and CDHC worked, along with representatives from both the Howard County Housing Commission ("Commission") and your office, to develop a comprehensive set of recommendations to achieve a full spectrum of housing ("Joint Recommendations") (Attachment 1). During that same period, the County Council held nine public worksessions to help it and the public understand the issues, challenges, economic implications and potential opportunities surrounding this issue and its relationship to successful revitalization Downtown.

The Commission subsequently approved the Joint Recommendations and offered the following additional recommendations (Attachment 2):

1. HRD should grant the Housing Commission a right of first refusal to purchase Low Income Housing Tax Credit ("LIHTC") projects that HRD develops (discussed below).
2. HRD should provide gap financing to the Housing Commission for the LIHTC projects as lender of last resort.
3. CDHC should agree to provide funding from the Downtown Columbia Community Housing Fund as necessary to assist in developing any LIHTC projects.
4. HRD should agree in a Master Lease to the Commission for the very low income units to provide the same level of maintenance, repair and capital improvements as are provided for the market rate units.

The attached DRRA is an agreement between HRD and the County. The DRRA implements the Joint Recommendations and each of the Commission's additional recommendations. An exception is HRD's proposed financing of the Commission's acquisition of the Columbia Flier site for its development by the Commission as a mixed income project. This transaction, part of the Joint Recommendations, is instead addressed in a separate agreement with the Commission.

Accordingly, the enclosed packet of materials is the result of the combined efforts of HRD, CDHC and the Commission working with the County staff and administration to address affordable housing needs in the Downtown Columbia area. Please see the attached materials for specific provisions and details.

## III. Development Rights and Responsibilities Agreement ("DRRA")

The DRRA (Attachment 3) will create up to 900 affordable units, including very low income units, low income units and middle income units. This figure represents 16.4% of the 5,500 market rate units to be developed Downtown, including The Metropolitan and Parcel C

development for which HRD has already made the required payments to the Housing Fund. The figure is 19.2% of the 4,683 market rate units remaining to be developed Downtown.

When development of the Flier site is included, up to an additional 110 affordable units and 110 market rate units will be developed, increasing the total number of affordable units to 1,010. This figure represents 15.3% of the new total number of units (both market rate and affordable – 1,010/6,620).

The DRRA requires all new market rate rental housing developments to include both very low income and middle income units with an inclusionary zoning requirement. This will create approximately 400 additional affordable units. The DRRA also provides for a long term master lease with the Commission to assure newly created housing opportunities will be available for very low income residents.

The DRRA also describes five LIHTC projects that will create up to 500 additional low income units. To facilitate the LIHTC projects, the DRRA includes land exchanges, land contributions and long term leases. In addition, the DRRA establishes timeframes for each project and can include mandatory conveyance of land by HRD to the Commission at no cost to the Commission if timeframes are not met. The LIHTC sites also include opportunities for senior housing and provisions to facilitate the redevelopment and creation of new public facilities for the existing Banneker Fire Station, the existing Central Library, a new Downtown Transit Center, and Toby's Dinner Theatre.

The DRRA also includes funding by HRD of an additional \$3.2 Million in loans and gap financing for the Commission to develop additional affordable housing opportunities, and provides the Commission with a right of first offer to purchase for either of the two LIHTC projects which HRD may develop.

#### IV. Amendment to the Downtown Columbia Plan ("DCP Amendment")

The enclosed DCP Amendment (Attachment 4) filed with the Planning Board by the Department of Planning and Zoning ("DPZ") revises the affordable housing provisions of the Downtown Columbia Plan to impose an inclusionary MIHU requirement on rental development and the option to enter into a development rights and responsibilities agreement to provide more affordable units, serve lower income households, and/or provide affordable units at earlier stages of development. The DCP Amendment also modifies the existing for-sale housing payment provisions to be based on the square footage of each unit.

Lastly, the DCP Amendment modifies the Downtown Revitalization Phasing Progression and CEPPA Implementation Chart to be consistent with the above changes.

V. Amendment to Plan Howard 2030 ("PH Amendment")

The PH Amendment also filed with the Planning Board by DPZ modifies provisions regarding Downtown Columbia and the housing allocations chart in the existing plan. (Attachment 5)

VI. Amendments to Title 13, Housing and Community Development, Title 16, Subdivision and Land Development Regulations, and Title 28, Downtown Columbia ("Code Amendment")

A proposed amendment to the County Code is forthcoming and will be appended to the DRRRA once submitted for introduction by the Administration. The Code Amendment will revise the affordable housing provisions of the County Code to implement the new MIHU requirement discussed above. The Code Amendment will also amend provisions of the adequate public facilities ordinance to take CEPPA 17 into account.

CEPPA 17 requires that HRD, if deemed necessary by the Board of Education, reserve an adequate school site or provide an equivalent location within Downtown Columbia. CEPPA 17, like the other CEPPAs, is required to assure that the community enhancements, programs and public amenities supporting Downtown Revitalization are provided as development proceeds. Because development cannot proceed unless particular milestones are met and the CEPPA requirements are satisfied, CEPPA 17 guarantees there will be school capacity to serve Downtown Columbia.

The Code Amendment will also modify Code provisions that require the affordable housing payments under the current model. The amendment limits future payments to for-sale units and bases the payment schedule on the square footage of each unit as discussed above.

VII. Zoning Regulation Amendment ("ZRA")

A proposed amendment to the Howard County Zoning Regulations is also forthcoming from the Administration and will be appended to the DRRRA ("ZRA"). The ZRA will exclude affordable units from the maximum number of new dwellings Downtown. Importantly, to be excluded, the affordable unit must be restricted either by a development rights and responsibilities agreement or a restrictive covenant that is enforceable by the County for at least forty (40) years.

The ZRA will also establish the inclusionary MIHU requirement on all rental development unless the County determines the purposes of the affordable housing provisions of the

County Code will be served to a greater extent by a development rights and responsibilities agreement.

Lastly, the ZRA will propose a modest reduction in the parking requirements for studio and one bedroom apartments based on Department of Planning and Zoning research of local case studies, nearby jurisdictional standards, current industry practice, and professional design methodologies.

### Conclusion

The DRRA is the culmination of nearly two years' effort to understand and responsibly address the issue of affordable housing. The DRRA employs a variety of tools, inclusionary requirements, land contributions and transfers, and tax credits to achieve this result, and it does so in a way that will encourage, rather than stifle, additional investment Downtown.

The DRRA implements the Joint Recommendations and each of the additional recommendations of the Howard County Housing Commission by establishing the rules and regulations governing HRD's development Downtown. As a consequence, the DRRA provides greater certainty in the County's comprehensive planning process, the implementation of its General Plan, and the provision of a full spectrum of affordable housing.

We look forward to working with the Administration and to the execution of the DRRA so that the progress we have made in Downtown Columbia can continue to benefit all of the County's citizens.

Sincerely,



John E. DeWolf III  
Vice President  
THE HOWARD RESEARCH AND  
DEVELOPMENT CORPORATION

### Enclosures

cc: Tom Carbo, Esq.  
Paul Casey, Esq.  
Kevin Kelehan, Esq.  
Mr. Carl DeLorenzo