

DOWNTOWN COLUMBIA DEVELOPMENT MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "Memorandum" or "MOU") is made as of November 9, 2016, by and between **HOWARD COUNTY, MARYLAND**, a body politic and corporate and a political subdivision of the State of Maryland (the "County"), and **THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION**, a Delaware corporation (the "Developer").

RECITALS

A. The Developer is the Community Developer for Downtown Columbia under the Downtown Columbia Plan adopted by the County in 2010 as a 30-year plan for the revitalization and redevelopment of Downtown Columbia and as the controlling expression of land planning in Downtown Columbia. The Downtown Columbia Plan calls for the redevelopment of approximately 391 acres of land located in Downtown Columbia, Maryland, into a transformative, urban-oriented business and cultural hub, that will include more than 13 million square feet of new building development at completion. The Developer has put forward a plan for the development of approximately 8.5 million square feet of this new building area within the Crescent, Lakefront, Warfield, and Symphony Overlook neighborhoods (the "Development") in the proposed tax increment financing district currently under consideration by the County in Council Bill No. 56-2016 and Council Resolution No. 105-2016 (collectively referred to as the "Legislation").

B. The Developer estimates the Development will take between 10 and 20 years to complete, depending on economic market conditions, but is projected to result in (a) \$2.34 billion in construction expenditures, (b) 19,500 permanent full time equivalent jobs at completion, and (c) \$408 million in net local government revenues to the County general fund after payment of all debt service, capital and operating costs associated with the Development.

C. The Developer estimates that at full build out of the 13 million square feet, Downtown Columbia is expected to generate (a) more than \$6.1 billion in economic activity during construction, (b) \$4.1 billion in ongoing, post construction annual economic impact, (c) more than 25,000 construction jobs supported or created during the construction period, (d) 31,000 new permanent full time equivalent jobs at completion in technology, health care, cybersecurity, education, data analytics, retail, etc., and (e) more than \$42 million in annual net local government revenues to the County general fund.

D. The Development cannot occur without the creation of the necessary public infrastructure, such as streets, roads, sidewalks, water lines, sewerage systems, and structured parking. The cost of such public improvements is estimated at \$171 million of which approximately \$149 million are considered by the County to be qualified expenditures, a portion of which would be funded with enactment of the Legislation through the issuance of tax increment financing bonds (the "TIF Bonds"), the debt service on which will be paid by (i) the future incremental ad valorem real property tax revenues generated by the Development, (the "TIF-Funded Public Improvements"), and (ii) special taxes, if necessary, levied against the Developer's land. The Developer will also be responsible for any qualified capital improvements for the Development that the TIF Bonds cannot support, currently estimated at more than \$21 million. The Developer acknowledges, understands and agrees that enactment of the Legislation may not be construed to imply, recommend, or promise the approval of any future bond authorization for tax increment financing for the Development or any other development by the Developer in Downtown Columbia. The Developer's commitments, undertakings

and intentions under this MOU are independent of any tax increment financing and will be performed during the term of this MOU as defined herein.

E. Downtown Columbia, Howard County and the Developer would also benefit from many new public facilities and amenities in and around the Downtown Columbia area, including a new elementary school, a new fire station, a new arts center, a new transit center, a new central library, a rapid response emergency station and transportation improvements, including potentially a third interchange with Route 29, in connection with the Development. The County has structured the proposed tax increment financing ("TIF") so that a portion of the incremental real property taxes from the Development will be "set aside" through an intervening revenue stream and made available for the County to fund these major public projects at the appropriate phases of the Development. The County and the Developer wish to clarify that the bond indenture which shall be executed in connection with the TIF Bonds will contain provisions with respect to the "set-asides" for the debt service on the County's general obligation bonds to fund the costs of the new public facilities and amenities referenced above.

F. The Developer is committed to diversity and inclusive workforce opportunities for residents of Howard County, supporting local Howard County businesses and entrepreneurship, enhancing homeownership, housing affordability and financial stability in Howard County, supporting the arts, wellness, cultural, educational and environmental sustainability programs in Howard County, transit oriented development in Downtown Columbia and modernizing and improving the real property covenant structure in Columbia.

G. The Developer and the County wish to establish certain goals, support certain programs, or perform certain actions for the Developer with respect to such certain commitments as hereafter set forth.

H. The County wishes to assure certain matters with respect to the use and operation of the approximately 2,500 space structured parking garage that is a part of the Public Improvements and financed with a portion of the TIF Bonds (the "TIF Garage").

I. The County wishes to expedite the turnover of Merriweather Post Pavilion as contemplated in the Downtown Columbia Plan and called for in CEPPA 24.

J. The County and the Developer have discussed and agreed to include a "look-back" provision as part of the documents related to the TIF Bonds and wish to agree upon the format for that provision as herein provided.

AGREEMENTS

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference as if set forth below, and mutual covenants contained herein, and intending to be bound hereby, the County and the Developer (collectively referred to as the "Parties") hereby agree as follows:

I. Downtown Columbia Development Diversity and Inclusion Program

- A. MWDVOLBE Program. As set forth below, the Developer is committed to diversity and inclusion and will make a genuine good faith effort in providing Minority, Women, Disabled, Veteran Owned and Local Business Enterprises (“MWDVOLBEs”) with access to business and contracting opportunities with respect to all TIF-Funded Public Improvements for all development phases in Downtown Columbia for which contracts have not already been entered into by the Developer (the “Public Improvements”). In furtherance of this effort:
- i. the Developer will make a genuine good faith effort to achieve a MWDVOLBE goal of 30% of the Public Improvements work (the “MWDVOLBE Goal”);
 - ii. Minority, Women, and Disabled Business Enterprises (“MWDBEs”) shall constitute at least two-thirds (2/3) of the MWDLBE Goal;
 - iii. Howard County certified local business enterprises (“LBEs”) and Veteran Owned business enterprises (“VOBEs”) may constitute any amount of the MWDVOLBE Goal, however LBEs and VOBEs which are not also MWDBEs may only constitute up to one-third (1/3) of the MWDVOLBE Goal;
 - iv. LBEs and VOBEs which are also MWDBEs may be counted both as qualifying LBEs, VOBEs and MWDBEs in determining compliance with the MWDVOLBE Goal;
 - v. the Developer and its general contractor shall work with and use the Howard County Equal Business Opportunity Commission (EBOC), as its prime referral source to identify such potential MWDBEs working in or capable of working in Howard County. Howard County MWDBE’s shall be certified by EBOC.
 - vi. the Developer and its general contractor shall work with the Howard County Office of Purchasing as its prime referral source to identify such potential LBEs working in or capable of working in Howard County. Howard County LBE’s shall be certified under the Howard County Local Business Initiative administered by the Howard County Office of Purchasing.
 - vii. the Developer and its general contractor shall work with the United States Department of Veteran Affairs as its prime referral source to identify such potential VOBEs working in or capable of working in Howard County. Howard County VOBEs shall be certified by the Center for Validation and Evaluation of the United States Department of Veterans Affairs. VOBEs shall include both veteran owned small businesses (“VOSBs”) and service-disabled veteran owned small businesses (“SDVOSBs”).
 - viii. the Developer will offer a series of pre-development training sessions for MWDVOLBEs to prepare for possible business opportunities for the Public Improvements work;
 - ix. when evaluating bids or proposals from vendors, contractors or subcontractors, the Developer and its general contractor shall include an evaluation factor for any MWDBE certified by the EBOC, for any LBE certified under Howard County’s Local Business Initiative Program and for any VOBE certified by the Center for Validation and Evaluation of the United States Department of Veterans Affairs; and

- x. if requested, the Developer and/or its general contractor will provide feedback to MWDVOLBEs that submitted but failed to be awarded a contract on the Public Improvements. The feedback is meant to help MWDVOLBEs understand why their proposal was not selected and help them understand how they may become more competitive in their proposals in order to win future contracts.
- xi. the Developer will form a diversity and inclusion team made up of representatives or designees from the Developer, the general contractor, the EBOC, the Howard County Office of Purchasing, and the Howard County Economic Development Authority. Members of the diversity and inclusion team will work with the Developer to facilitate the MWDVOLBE program and help the Developer meet its MWDVOLBE Goal.
- xii. the Developer will submit annual MWDVOLBE contracting, subcontracting, and outreach efforts reports to the County identifying progress toward the MWDVOLBE Goal.

B. MWDVOLBE Post-Construction Program. In addition to the above, the Developer wishes to support diverse local businesses and will actively outreach to MWDVOLBE businesses for other post-construction business opportunities, such as, but not limited to, opportunities in property management, property leasing, professional services, maintenance, security, and opportunities to lease space to operate retail establishments and restaurants. Review of these efforts shall be included by the diversity and inclusion team in the annual reports they prepare.

II. **Downtown Columbia Development Workforce Opportunities and Local Hiring**

- A. General Statement. As set forth below, the Developer is committed to supporting workforce initiatives and local hiring in Howard County, and will undertake the following good faith efforts:
- i. Local Hire Program. The Developer is committed to hiring individuals who reside in Howard County. The Developer will make a genuine good faith effort that 10% of on-site employees newly hired by contractors and subcontractors performing work on the Public Improvements will reside in Howard County.
 - ii. Apprenticeship and Workforce Development Opportunities. The Developer and the County agree that Howard County's existing workforce may be strengthened through the use of training programs, including apprenticeship programs and other workforce development programs. Contractors and subcontractors performing work on the Public Improvements will identify workforce development opportunities associated with their contracts and may utilize apprenticeship programs or other similar workforce development programs where feasible with the work performed. This shall include workforce development opportunities for disabled individuals in Howard County.
 - iii. Reporting. The Developer will submit an annual report to the County identifying progress toward the workforce opportunities and local hiring initiatives.

III. **Downtown Columbia Development Environmental Support and Enhancement**

- A. General Statement. In addition to complying with Subtitle 10 of the Title 3 of the County Code, the Developer is committed to supporting an environmentally sustainable community and the value of open space to the community and in the furtherance of these objectives, the Developer intends to implement the following:
- i. Green Building Initiative. The Developer is committed to the robust environmental initiatives set forth in the Downtown Columbia Plan, and the Developer commits to the following:
 - a. to achieve LEED Certification status or better on all buildings constructed by the Developer in Downtown Columbia;
 - b. to target LEED Silver on all buildings constructed by the Developer in Downtown Columbia and achieve LEED Silver or better where economically feasible; and
 - c. to explore innovative sustainability and resiliency measures in all buildings constructed by the Developer in Downtown Columbia such as, but not limited to, green roofs, rooftop solar, microgrids, geothermal, on-site energy generation, stormwater and greywater recapture and reuse, local building material sourcing, recycled building material content, and to implement such measures where feasible.
 - ii. Open Space Initiative. The Developer recognizes the value of open space to a community and:
 - a. Commits to restore and provide significant permanent open space in Downtown Columbia including approximately 19 acres in the Merriweather District as generally shown on the plan attached hereto as Exhibit A ("Permanent Open Space to be Provided"), with final areas to be determined at the time of Site Development Plan approval; and
 - b. Intends to implement a plan to plant 10,000 trees in Howard County over the next 20 years. This plan is in addition to any tree planting required by County law for the Development. The Developer will submit an annual report to the County outlining the progress made toward fulfilling this plan at a rate of at least 250 trees per year, until all 10,000 trees are planted.

IV. Downtown Columbia Public Facilities and Infrastructure Support

- A. General Statement. The Developer recognizes that increased development in the Downtown Columbia area will require additional public facilities and infrastructure to support such development and intends to make the following contributions in recognition of such need and its role as a leader in the Howard County community:
- i. The Developer intends to provide a new revenue source to the Reserve Fund for Permanent Public Improvements, or if such fund does not exist the County's General Fund, in the form of a contribution of \$1.00 per square foot for each square foot of new building area developed in Downtown Columbia, to be

contributed at the time of building permit issuance, estimated to provide a total contribution of \$12,000,000;

- ii. To accelerate the growth of this new revenue source, the Developer intends that the contribution associated with the 12,000,000 square feet of new development will be front-loaded over the first 9,000,000 square feet, so that the effective rate of contribution over the next 9,000,000 square feet of development, starting with the development of Area 3 in the Merriweather District, will be \$1.33 per square foot. After 9,000,000 square feet of development has been achieved and the \$12,000,000 has been contributed, the next 3,000,000 square feet of development would not entail further contributions, since the contributions will have already been made through the accelerated contribution schedule;
- iii. As part of the issuance of TIF Bonds to finance the cost of the TIF Garage, work with the Howard County Department of Fire & Rescue Services (“DFRS”) to design and build a permanent centralized emergency facility within the TIF Garage (the “Crescent Station”). Further, the Developer intends to provide funding for a special parking garage fire-fighting apparatus, as it is not a TIF qualifying expenditure, but desired by DFRS to better serve Downtown Columbia.

B. Developer Intent. The County (a) agrees that the foregoing expressions of intent by the Developer are not conditions to the approval by the County of the Legislation, or the affordable housing legislation, or the issuance of any building permits by the County for the Development, and (b) understands that given the voluntary nature of such contributions, the Developer intends to take a charitable deduction for such contributions from its federal income taxes and will not oppose such deduction.

V. **Columbia Covenant Modernization and Improvement**

- A. General Statement. The Developer is committed to modernizing and improving the real property covenant structure in Columbia and, in the furtherance of this goal, the Developer and the County have set the following goal:
 - i. Deed Covenant Modernization and Improvement Initiative. The Developer shall make a good faith effort to work over the next 6 to 12-months after the enactment of the Legislation, with the County, the Columbia Association, the Columbia Village Associations and commercial property owners throughout Columbia, to improve and modernize the real property covenant structure throughout Columbia.

VI. **Downtown Columbia Development - Transit-Oriented Development**

A. General Statement. The Developer agrees that the area around the new Downtown Columbia Transit Center can be an ideal opportunity for transit-oriented development and in the furtherance of this objective, the Developer and the County have set the following goal:

i. Transit-Oriented Development. Should the County accept the proposed location in Symphony Overlook as discussed in the DRRRA, as generally identified on the TIF maps, and with approximately the same footprint area as identified on p.11 of the 2011 Nelson/Nygaard Transit Study prepared for CEPPA No. 5, then the Developer shall provide the site and all air rights above the site to the County by fee simple absolute transfer for no cost to the County. The transfer of the site and air rights shall occur in conjunction with the redevelopment of this area of Symphony Overlook known as 10-30 Columbia Corporate Center and following approval of an SDP for such redevelopment, but the site identification contained herein and commitment to transfer the property in fee simple absolute, including the air rights above and placement of a recorded covenant on the site with these terms, is intended upon Planning Board approval to constitute full satisfaction of CEPPA No. 14. If such transfer of the site has not occurred within ten (10) years, the County may elect to extend this requirement or request an alternate site and immediate turnover under the same terms as described above, specifically transfer by fee simple absolute with air rights above. Any development on the Transit Center site, whether the Symphony Overlook site or another site, shall not count against the density caps established in the Downtown Columbia Plan, except to the extent that Developer or its affiliates are a partner in the project, in which case the amount of development that counts against the density caps shall be proportional to Developer or its affiliates' ownership. In the event that the County elects to, following transfer of the Transit Center site, sell all or a portion of the Transit Center site, Developer shall have, assuming that no related tax-exempt bonds have been issued and remain outstanding which would preclude such a right, a right of first refusal to purchase the Transit Center site or portion thereof to be offered for sale. After the future Downtown Columbia Transit Center location is identified and accepted by the County, the Developer will work with the County to produce a first- class transit-oriented development, which utilizes national best practices for transit-oriented development, maximizing the compactness, density, walkability, bikeability, and mix of uses surrounding the site so as to promote transportation choices beyond the single-occupancy vehicle.

VII. Use and Operation of the TIF Garage

A. The Developer and the County agree that the documents to be executed in connection with the issuance of TIF Bonds and the ownership and operation of the TIF Garage shall contain the provisions as outlined in the Ownership and Operation of TIF Garage term

sheet dated, June 27, 2016 (the "Parking Term Sheet"), a copy of which is attached hereto as Exhibit B, along with the following clarifications, changes and/or additions:

- i. The TIF Garage will be a public garage, owned and operated by the County, which will be available for the general public, including without limitation to visitors and employees of the retail/restaurant businesses, employees and patrons of office tenants, and visitors to the new park space commonly referred to as Merriweather District Area 3, along with patrons of Merriweather Post Pavilion for concerts, local high school graduations and other events, and visitors to Symphony Woods, the Chrysalis, Toby's, the proposed arts center planned to be developed at the Toby's site, the planned new central library, and other public or civic uses. The TIF Garage is also expected to serve as a key component in achieving the Permanent Parking Solution for Merriweather Post Pavilion as outlined in the Letter of Agreement dated May 26, 2016 (the "Permanent Parking Solution"), attached hereto as Exhibit C. To serve the aforementioned intended uses for the garage and to maximize its efficient operation, the County will solicit input from the various users of the TIF Garage to implement further procedures for its operation and will update these from time to time.
- ii. To address the incorporation of the Crescent Station into the TIF Garage, expenses associated with the Crescent Station will be excluded as it relates to the Parking Term Sheet and the Developers obligations with respect to any operation and maintenance costs.
- iii. The Parties understand that the Parking Term Sheet initially anticipates a "no parking charge" covenant with the bond holders. Further, they also understand that this covenant can be eliminated by the County based on the provisions outlined in the Parking Term Sheet. In addition to those provisions, the County will consider, among other factors in making a decision to charge for parking, a local market study and an urban market study for parking.
- iv. The Developer will notify its tenants in The Merriweather District Area 3 of the Permanent Parking Solution and notify the tenants that may be utilizing the TIF Garage of Section VII of this MOU. This notification shall occur within thirty (30) days of execution of the MOU for existing or signed tenants and as part of the lease documents for future tenants.

VIII. Look-Back Agreement

- A. The County and the Developer agree that the documents to be executed in connection with the TIF Bonds shall include a "look-back" agreement containing the material provisions which are set forth in the form of Look-Back agreement attached hereto as Exhibit D [form from Annapolis Junction], with the completion of the amounts, percentages and definitions as negotiated by the County's Director Finance, with advice from the County's TIF Financial Advisor, and the Developer.

IX. "Set Aside" For Elementary School

- A. The County and the Developer agree that the bond indenture to be executed in connection with the issuance of the TIF Bonds will contain a provision whereby the First Available to Debt Service shall not, as a result of the levy and collection of special tax, include annual tax increment revenues set aside for the County to support \$15 million of twenty (20) year general obligation bond debt based on applicable industry accepted interest rates at the time of the signing of this MOU as shown in Schedule XVIII, dated November 5, 2016 (attached as Exhibit E), of which debt is intended to fund the planned elementary school. This will apply to the first series of TIF Bonds and shall also apply to the following two series of TIF Bonds, if issued for a total of \$45,000,000 of support.

X. Excess TIF Increment for Fire Station, Library, Arts Center, Transit Center, Transportation Improvements and Schools

- A. The County and the Developer agree that the bond indenture to be executed in connection with the issuance of the TIF Bonds will contain a provision whereby the amount of tax increment revenues credited against the Special Tax Requirement (as defined in the RMA) shall be limited to the amounts shown in the "First Available to Debt Service" column shown on Exhibit E, Schedule XVIII of the MuniCap TIF projections dated November 5, 2016 (attached as Exhibit E), and the next tranche of tax increment revenues shown on Schedule XVIII as "Second Available to Howard County" shall go to the County's general fund and may be used for any legal purpose, but are intended to provide a funding source for the capital and operating costs for projects associated with new Downtown development, such as a new fire station, library, arts center, transit center, transportation improvements and schools, and only after the funding for such capital projects, as represented by the tax increment revenues shown on Schedule XVIII as the "Second Available to Howard County" and as described above, has been accounted for shall surplus tax increment revenues be available to be credited against any remaining Special Tax Requirement or debt service on the TIF Bonds.
- B. Additionally, the Special Tax Requirement (as defined in the RMA) will take into account any tax credits applied for and received by property owners or lessees in the Development District which reduce the availability of tax increment revenues.

XI. Term

- A. Term of this Memorandum. The term of this Memorandum shall be 30 years from the issuance of the first tranche of the TIF Bonds. Commitments within this Memorandum

which specify a longer period than the term of this Memorandum shall survive its expiration.

XII. Live Where You Work

- A. The Developer shall work with the Columbia Downtown Housing Corporation and Howard County Business Owners participating in Live Where You Work to accept some form of guaranty from the parties listed in this paragraph in place of the security deposit and any other initial leasing costs in excess of first month's rent, whenever the Developer is a fifty-percent (50%) or more owners in a rental building (excluding the Metropolitan and Parcel C).

XIII. Miscellaneous

- A. Contingent on Approval of Legislation and Issuance of TIF Bonds. The Developer's and the County's commitments under this MOU are contingent and conditional on the adoption of the Legislation and County Council Resolution No. 103-2016 and the enactment of County Council Bill Nos. 55-2016, 54-2016, 53-2016, and 52-2016 (with the Legislation, the "Downtown Legislation") without material change in budget or scope, by the County and issuance of the TIF Bonds. The Developer and the County shall each confirm in writing to the other Party and the Witnesses to this MOU prior to the start of the legislative session at which the County Council will give final consideration to the Downtown Legislation any modifications proposed to the Downtown Legislation that would constitute an unacceptable material change.
- B. Representations and Warranties. Each of the parties represents and warrants that (a) it has authority to enter into this Memorandum and carry out the actions and responsibilities contemplated hereunder; and (b) the execution, delivery, and performance by such party of this Memorandum has been duly authorized by all necessary corporate or other action, and this Memorandum is valid and binding upon, and enforceable against the party in accordance with the applicable terms hereof.
- C. Developer Commitments. Any of the Developer commitments, whether monetary or nonmonetary, may be fulfilled by the Developer directly, or by other parties acting at the direction or request of the Developer. Funds may be contributed directly by the Developer, its affiliates, or other parties, or raised from philanthropic organizations, affiliates and other outside sources.
- D. Governing Law. This Memorandum and the rights and obligations of the parties hereunder shall be governed by, and construed, interpreted and enforced in all respects in accordance with the laws of the State of Maryland, without giving effect to its principles relating to conflicts of law.
- E. Waiver of Jury Trial. The Developer and the County hereby voluntarily and intentionally waive any rights they may have to trial by jury in any action or proceeding to which the Developer and the County may be parties, arising out of, under or in any way

pertaining to this MOU or any course of conduct, course of dealing, statements (whether written or verbal) or actions of the Developer or the County. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this MOU.

- F. Entire Agreement. This Memorandum contains the entire agreement of the parties with respect to the subject matter hereof, and any representation, inducement, promise or understanding between the parties with respect to the subject matter of this Memorandum that is not embodied herein shall be null and void and of no further force or effect.
- G. Amendment. This Memorandum may not be modified, amended or otherwise altered except by written amendment executed by the Parties.
- H. Successors and Assigns. All terms of this MOU shall be binding on all successors and assigns of the Developer.
- I. Recording. This Memorandum shall not be recorded among the land records of Howard County.
- J. Effect of Breach. Any breach of this MOU shall not be deemed a default under the TIF Bonds or result in the County causing any failure to fund draw requests for proceeds of the TIF Bonds.
- K. Severability. If any provision of this Memorandum or its application is held invalid, the invalidity shall not affect other provisions or applications of the Memorandum that can be given effect without such invalid provision or application.

[signatures appear on the following page]

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Understanding as of the date first written above.

ATTEST:

THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION:

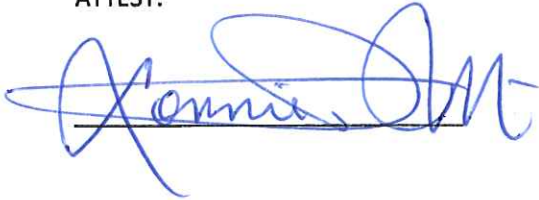
By: _____

Name: Grant Herlitz

Title: President

ATTEST:

HOWARD COUNTY, MARYLAND



By: _____

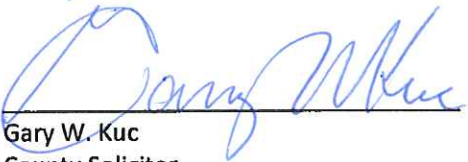
Name: Allan Kittleman

Title: Howard County Executive

11-9-16


APPROVED AS TO FORM AND LEGAL SUFFICIENCY

THIS 9th DAY OF November, 2016



Gary W. Kuc
County Solicitor

The County Councilmembers of the Howard County Council are witnessing this Memorandum to confirm their support for the undertakings set forth ("Witnesses").



Marilyn Siefert
Greg Fox

EXHIBIT A

PERMANENT OPEN SPACE TO BE PROVIDED

[Exhibit A attached, MOU Exhibit A_10_20.pdf]

EXHIBIT B

PARKING TERM SHEET

[Exhibit B Attached, Ownership and Operation of TIF Garage.pdf]

DOWNTOWN COLUMBIA TIF

Ownership and Operation of TIF Garage

This summary is intended to reflect the understanding of The Howard Research and Development Corporation (“HRD”) and the Howard County administration as to the primary terms relating to the ownership and operation of the TIF Garage (hereinafter defined).

- HRD will ground lease to Howard County, Maryland (the “County”) the approximately 2 acres of land (the “TIF Garage Parcel”) on which the approximately 2500-space garage to be financed with a portion of the Downtown Columbia Development District TIF Bonds (the “TIF Garage”) will be built.
- The TIF Garage and the TIF Garage Parcel will be subject to a reciprocal easement agreement (REA) for ingress, egress, utilities, etc. (not as to use regarding the TIF Garage Parcel) with other parcels in the Crescent owned by HRD. The REA, which must be reviewed and approved by the County, is not intended in any way to limit the police power of the County.
- HRD will build the TIF Garage to specifications agreed to by the County and in accordance with all County Code requirements, and dedicate it to the County upon completion. The County will be the owner of the TIF Garage.
- The initial term (the “Initial Term”) of the ground lease will be the estimated useful life of the TIF Garage (which is currently estimated to be approximately 50 years). The ground rent under the ground lease will be \$1 per year.
- The TIF Garage will be a public garage which will be available for the general public, including without limitation to visitors and employees of the retail/restaurant businesses and employees and patrons of office tenants in the area commonly referred to as Merriweather District Area 3 in Downtown Columbia (the “Area”) being developed by HRD, along with patrons of Merriweather Post Pavilion events.
- While the TIF Bonds are outstanding, the County will covenant with the trustee (the “Bond Trustee”) for the benefit of the holders of the TIF Bonds to operate, maintain, repair and, with insurance proceeds, if needed (to the extent the County receives such insurance proceeds), restore the TIF Garage as a parking garage available for use by the general public and subject to the conditions described herein. The County will covenant in the ground lease to maintain casualty insurance on the TIF Garage in the amount of its full replacement value through the County’s insurance program with the Local Government Insurance Trust. The TIF Garage will be a separately scheduled property under such insurance. “TIF Bonds” shall mean TIF Bonds issued by the County to finance the construction of the TIF Garage, any subsequent series of TIF Bonds issued by

the County to refinance the TIF Garage and any refunding bonds issued by the County as additional bonds under the bond indenture for the initial TIF Bonds.

- The ground lease will contain an agreement by the County that it shall record, after the TIF Bonds are no longer outstanding, an amendment to the REA or a separate covenant, revocable as described below, with respect to the TIF Garage requiring the County to continue to operate, maintain, repair and, with insurance proceeds, if needed (to the extent the County receives such insurance proceeds), restore the TIF Garage as a parking garage available for use by the general public and subject to the conditions outlined herein until the earlier of the date on which (i) a parking garage is no longer required for use by the general public, including without limitation tenants in, or patrons of, any buildings in the Area, or (ii) the County determines that termination of such use covenant is necessary to protect or promote the public health, safety or welfare of the County. In the event of (ii) above, the County may terminate such covenant after ninety (90) days' notice to HRD and a public hearing and seek to sell or sublet the TIF Garage as hereinafter provided without any damages being required to be paid by the County to HRD, its affiliates or its successors and assigns. If the County determines to so terminate such use covenant, (a) the ground lease shall end at the end of the initial term and the County shall have no options to renew the ground lease, and (b) the County shall not use the TIF Garage Parcel for any purpose other than parking.
- After the TIF Bonds are no longer outstanding, if after complying with the County Code requirements with respect to disposition of County property (including any County Council approvals, the County determines that the TIF Garage is no longer needed for a public purpose, the County shall provide ninety (90) days' notice to HRD of its intent to sell the TIF Garage and provide information to HRD regarding the process for the sale of the TIF Garage. Any proposed purchaser of the TIF Garage shall have a book value of equity, as determined by GAAP, of not less than \$100,000,000, and the proposed purchaser shall agree to (i) to continue to use the TIF Garage as a parking garage available for use by the general public, and (ii) not to charge for parking for office tenants unless a majority of other available parking for office users in Downtown Columbia charge for use of their parking spaces and any parking charges by such proposed purchaser are consistent with the charges for such other parking spaces.
- If after the TIF Bonds are no longer outstanding, the County wants to sublet the TIF Garage before the end of the Initial Term of the ground lease, the County shall provide ninety (90) days' notice to HRD prior to the sublet and HRD shall have the right to approve any proposed sublessee unless the proposed sublessee has a book value of equity, as determined by GAAP, of not less than \$100,000,000, and the proposed sublessee agrees (i) to continue to use the TIF Garage as a parking garage available for use by the general public, and (ii) not to charge for parking for office tenants unless a majority of other available parking for office users in Downtown Columbia charge for use of their parking spaces and any parking charges by such proposed sublessee are consistent with the charges for such other parking spaces. If the County sublets the TIF Garage in accordance with the foregoing provisions, the ground lease shall end at the end of the Initial Term and the sublessee shall have no options to renew the ground lease.

- At least 450 days prior to the last day of the initial term, and any renewal term, of the ground lease, HRD will notify the County that the term of the ground lease will expire unless renewed by the County. At least 360 days prior to the last day of the initial term, and any renewal term, of the ground lease, the County will notify HRD in writing if the County intends to extend the initial term, and any renewal term, of the ground lease. Any renewal term shall be for a period of 10 years. The maximum term of the ground lease shall be 99 years. Upon the County Executive's determination that it will not seek to renew the Ground Lease after the Initial Term or any renewal term or the 99-year limit is set to end, the County shall follow the County's requirements for disposition of property as outlined in the County Code and transfer the TIF Garage to HRD for \$1.00.
- In recognition of the critical aspect that a comprehensive parking operations program for Downtown Columbia and Merriweather Post Pavilion will have on the success of the redevelopment of Downtown Columbia, the TIF Garage shall be operated by the County in accordance with this agreement.
- The essential elements of the agreement will be as follows:
 - The TIF Garage will be owned and controlled by the County.
 - The County will make all decisions with respect to the operation of the TIF Garage; however, the County will consider the advantages of having the TIF Garage managed by the same parking management firm (the "Parking Manager") and the same security services firm (the "Security Firm") that manage and provide security for the parking assets in Downtown Columbia owned by HRD.
 - The contracts between the County and the Parking Manager and the Security Firm for the TIF Garage will be "qualified management contracts" under IRS guidelines.
 - The County will determine how and when to control access to the TIF Garage, which may include entry stations and/or access arms.
 - The TIF Garage shall be subject to the following two conditions applicable to the general public, including without limitation tenants, employees and customers in buildings in the Area:
 - While the TIF Bonds are outstanding, the County will, subject to the conditions hereinafter described, covenant with the Bond Trustee for the benefit of the holders of the TIF Bonds that parking shall be available to the general public, including without limitation office tenants and their visitors and employees without charge. If the County determines that the termination of such covenant is necessary to protect or promote the public health, safety or welfare of the County, the County may terminate such covenant after ninety (90) days' notice to HRD and a public hearing. In making such determination, the County shall consider all relevant factors, including but not limited to: (i) the effect that charging for parking at the TIF Garage would have on regulating traffic on roads, including but not limited to (1) control of traffic in any congested areas; (2) the regulation of parking in congested areas during business hours, to insure that the general public may have parking privileges for reasonable periods; and (3) the

control of traffic into and out of the congested areas; (ii) the effect that the charging for parking at the TIF Garage would have on the use and availability of other public or private parking facilities and any street parking in Downtown Columbia; (iii) whether other available parking for office users in Downtown Columbia charge for use of their parking, (iv) the effect such a termination would have on the ability to retain existing tenants and attract new tenants to the office buildings in the Area after such a termination, (v) the impact such a termination may have on the net operating income and corresponding taxable property value of such office buildings, and (vi) the impact of any additional costs the owners of such office buildings would have to absorb to lease such office buildings as a result of such termination.

- The TIF Garage will include spaces (as determined by the Downtown Revitalization Shared Parking Methodology during the SDP process) available to the general public and serving retail and restaurant uses which benefit from higher rates of turnover. The County will employ operational measures to encourage turnover (including time-limits), to insure they are available for customers and employees of these businesses, especially during Merriweather Post Pavilion events.
- To the extent the County's operating expenses for the TIF Garage are in excess of operating revenue from the TIF Garage, HRD or its successors or assigns will agree to contribute to the County an amount to be mutually agreed to by the County and HRD or its successors or assigns to reimburse the County for a portion of such operating expenses. An amount equal to parking charges collected by the County from the operation of the TIF Garage (the "operating revenues") shall be deemed to be applied against the operating expenses of the TIF Garage. If the County determines to terminate the "no parking charge" covenant as described above, any contributions to be made by HRD or its successors or assigns shall be reduced proportionately by the ratio of (i) the prior amount of such contribution to (ii) the prior excess of operating expenses over operating revenue from the TIF Garage or a similar arrangement mutually agreed to by the parties.

EXHIBIT C

PERMANENT PARKING SOLUTION

[Exhibit C Attached, SIGNED Letter Agreement re Permanent Parking Solution.pdf]



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013

Allan H. Kittleman
Howard County Executive
akittleman@howardcountymd.gov

www.howardcountymd.gov
FAX 410-313-3051
TDD 410-313-2323

May 26, 2016

Merriweather Post Business Trust
c/o The Howard Research and Development
Corporation
10480 Little Patuxent Parkway, Suite 400
Columbia, Maryland 21044
Attention: John DeWolf

The Howard Research and Development
Corporation
10480 Little Patuxent Parkway, Suite 400
Columbia, Maryland 21044
Attention: John DeWolf

The Downtown Columbia Arts and Culture
Commission, Inc.
10630 Little Patuxent Parkway, Suite 315
Columbia, Maryland 21044
Attention: Ian Kennedy

It's My Amphitheatre, Inc.
6112 Lenox Road
Bethesda, Maryland 20817
Attention: Seth Hurwitz

Re: Permanent Parking Solution

Dear Parties:

This letter agreement (the "Letter Agreement") describes the Permanent Parking Solution approved by and binding on the parties hereto and their affiliates, and their successors or assigns in interest:

Merriweather Post Business Trust, a Maryland business trust ("MPBT"), is the current fee simple owner of a 19,418-seat capacity outdoor amphitheater known as Merriweather Post Pavilion ("MPP") which is located on Lot 13, improved with and comprised of approximately 10.1984 acres of real property located at 10475 Little Patuxent Parkway, Columbia, Maryland 21044.

The Howard Hughes Corporation, a Texas corporation duly authorized to conduct business in Maryland, with Maryland offices at 10480 Little Patuxent Parkway, Suite 400, Columbia, Maryland 21044 ("Howard Hughes") through its affiliate, The Howard Research And Development Corporation ("HRD"), is the designated Community Developer of Downtown Columbia and it, or its affiliates, owns and/or controls various properties in Downtown Columbia, Maryland. HRD is the sole Managing Trustee of MPBT.

The Downtown Columbia Arts and Culture Commission, Inc., a Maryland not-for-profit corporation with offices at 10630 Little Patuxent Parkway, Suite 315, Columbia, Maryland 21044 ("DCACC") was created, on February 6, 2013, as an independent nonprofit organization to promote and support the revitalization of MPP and ultimately assume ownership of MPP pursuant to the Howard County General Plan (the "Plan").

Consistent with the Plan, on June 6, 2014, DCACC, MPBT, and HRD executed a Joint Development Agreement, as amended (the "JDA"), granting certain rights to DCACC, including the right to have MPBT transfer ownership of MPP to DCACC upon the occurrence of certain events. Specifically, the JDA requires MPBT, and its affiliates, DCACC, and the County to agree to a Permanent Parking Solution for MPP parking. Under the JDA, a "Permanent Parking Solution" means an agreement acceptable to MPBT, and its affiliates, DCACC and the County pursuant to which such parties have agreed to an overall plan to provide parking to serve the [MPP] Property and the surrounding real property commonly referred to as the Crescent."

MPBT, HRD, and DCACC have entered into a Transfer Agreement (the "Transfer Agreement") and Parking Easement Agreement (the "Easement Agreement"), each dated May 31, 2016, which address the contingencies to an early transfer of fee simple title of MPP from MPBT to DCACC, including the provision of parking for MPP Events.

The parties to this Letter Agreement have agreed to the following requirements, which together shall be considered the "**Permanent Parking Solution**":

1. MPBT, HRD, and their affiliates (collectively referred to as the "HH Parties"), shall provide a minimum of 5,000 parking spaces provided within existing or proposed parking areas located on the MPP property, within the Crescent Neighborhood (via the Easement Agreement recorded in the Land Records) and within any public garage(s) within the Crescent Neighborhood, and on other Downtown properties (via a temporary easement recorded in the Land Records for Howard County, Maryland), to serve MPP events between April 1 and October 31 each year (the "Operating Season"). The 5,000 parking spaces shall be non-exclusive, and the availability thereof shall be determined by evaluating non-MPP parking demand in accordance with the Downtown Revitalization Shared Parking Methodology, codified in Section 133.0.F.3 of the Zoning Regulations of Howard County, Maryland.

If and when such surface spaces are displaced by development activities or construction staging, parking shall be provided in other Downtown properties, via the temporary easement recorded in the Land Records for Howard County, so as to maintain the minimum 5,000 total required spaces during each Operating Season. Specifically, for each SDP or Final Road Plan proposing displacement or demolition of existing MPP parking spaces in the Crescent Neighborhood, the Petitioner must submit a parking analysis in accordance with the Downtown Revitalization shared parking methodology to demonstrate where the displaced spaces will be relocated pursuant to the permanent and/or temporary parking easement(s) referred to above.

As public and private parking spaces are made available within the Crescent Neighborhood to serve MPP events, the number of parking spaces that were temporarily required in other Downtown properties in order to provide the total required, calculated in accordance with the Downtown Revitalization shared parking methodology, shall be correspondingly reduced. In addition, the HH Parties may record a corresponding release of the temporary easement from one or more of such other Downtown properties that are no longer necessary to provide the required total.

When at least 5,000 parking spaces are available within the Crescent Neighborhood to serve Merriweather Post Pavilion events, calculated in accordance with the Downtown Revitalization shared parking methodology, the HH Parties may record a full release of the temporary easement from all of the other Downtown properties.

The Easement Agreement establishes and grants a (i) perpetual, general, non-exclusive, irrevocable, transferable easement to DCACC, and its successors and assigns, for access and parking by patrons of MPP events to parking facilities owned by HRD, or its affiliate or successor, located in The Crescent and (ii) a temporary, general, non-exclusive, revocable, transferable easement to DCACC, and its successors and assigns, for access and parking by patrons of MPP events to certain parking facilities located elsewhere in Downtown Columbia outside of The Crescent.

2. DCACC, or its MPP Operator, currently It's My Amphitheater Inc. ("IMA"), are required to secure the use of additional parking spaces for any given MPP event, as is required by County statutes, rules, regulations and ordinances, including but not limited to satisfying all concert permit requirements, from other third party property owners (the "Overflow Parking Facilities") to ensure that there is sufficient parking spaces available for MPP patrons. Further, all parking at the Overflow Parking Facilities must include the required handicap accessible spaces required by law, and such determination as to the number of handicap spaces required is based on the total number of spaces being provided. For MPP Events, DCACC and/or IMA must provide either a reasonable, proper accessible route from the Overflow Parking Facilities to MPP or a shuttle service from the Overflow Parking Facilities to MPP as needed to comply with the Americans with Disabilities Act. The County shall further require any and all agreements with the Overflow Parking Facilities to be memorialized in writing and copies of such agreements shall be provided by DCACC and/or IMA to the County, through the Department of Planning and Zoning, on a yearly basis and through individual concert permit requests.

The agreements regarding the Overflow Parking Facilities may be updated and should a new Overflow Parking Facility be utilized, DCACC and/or IMA shall provide the County with a copy of such agreement.

By signing below, you indicate that you have the requisite authority to sign this Letter Agreement on behalf of all necessary parties and that such signature binds the signing parties and their successors and assigns to the agreements as described herein. This Letter Agreement shall be effective as of the date signed by the County Executive for Howard County, Maryland and shall provide evidence that the Permanent Parking Solution contingency set forth in the JDA has been satisfied. This Letter Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed to be a single instrument.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION

By: _____

Name: Grant Herlitz
President

Its: _____

STATE OF TEXAS)

COUNTY OF DAWES)

BEFORE ME, the undersigned authority, personally appeared GRANT HERLITZ known to me to be the individual who executed the foregoing instrument as PRESIDENT of The Howard Research and Development Corporation, and acknowledged to and before me that he/she executed such instrument as such PRESIDENT of said company and that said instrument is the free act and deed of said company.

WITNESS my hand and official seal this 20TH day of MAY, 2016.

Terri Zrebiec
Notary Public
TERRI ZREBIEC
(Notary's Printed Name)

My Commission Expires: 07/29/2019



DOWNTOWN COLUMBIA ARTS AND CULTURE COMMISSION, INC.,
a Maryland corporation

By: JMK

Name: Ian M. Kennedy

Its: Executive Director

STATE OF MARYLAND)

COUNTY OF HOWARD)

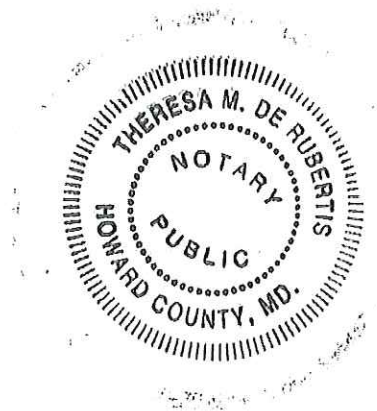
BEFORE ME, the undersigned authority, personally appeared Ian M. Kennedy known to me to be the individual who executed the foregoing instrument as Exec. Director of Downtown Columbia Arts and Culture Commission, Inc., and acknowledged to and before me that he/she executed such instrument as such Exec. Director of said company and that said instrument is the free act and deed of said company.

WITNESS my hand and official seal this 21st day of May, 2016.

Theresa M. de Rubertis
Notary Public
Theresa M. de Rubertis

(Notary's Printed Name)

My Commission Expires: 6/7/2020



Howard County, Maryland

ATTEST:

APPROVED:

Howard County, Maryland

[Signature]
Lonnie R. Robbins
Chief Administrative Officer

By: [Signature]
Allan H. Kittleman
County Executive

Date: 6/3/16

Approved for Form and Legal
Sufficiency

Approved for Sufficiency of Funds

[Signature]
Gary W. Kuc
Howard County Solicitor

[Signature]
Stanley J. Milesky
Director of Finance

Reviewing Attorney

[Signature]
Kristen Perry
Assistant County Solicitor

STATE OF Maryland)
)
COUNTY OF Baltimore)

BEFORE ME, the undersigned authority, personally appeared Allan Kittleman known to me to be the individual who executed the foregoing instrument as the County Executive for Howard County, Maryland, and acknowledged to and before me that he/she executed such instrument as such County Executive and that said instrument is the free act and deed of said company.

WITNESS my hand and official seal this 3rd day of June, 2016.

[Signature]
Notary Public
Diane L. Wilson
(Notary's Printed Name)

My Commission Expires: December 19, 2019

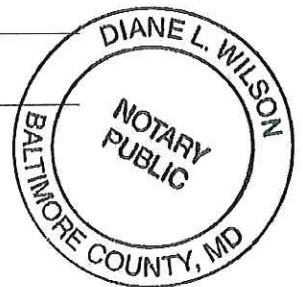


EXHIBIT D

FORM OF LOOK BACK AGREEMENT

[Exhibit D Attached, Annapolis Junction Profit Sharing Agreement_Redacted (8-11-15).pdf]

PROFIT SHARING AGREEMENT

This Profit Sharing Agreement, dated [REDACTED] (“Agreement”), is made by and between Howard County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland (the “County”) and [REDACTED] [REDACTED] (“Developer”) for the [REDACTED] [REDACTED] (the “TOD Development”), as more particularly defined herein.

RECITALS

1. Pursuant to the Memorandum of Understanding approved by Howard County Council Bill No. [REDACTED] (the “MOU”), the County and the Developer agreed that the Developer is entitled to receive a reasonable profit from the development of the TOD Development equal to an unleveraged internal rate of return of [REDACTED] measured on cash flow before interest and income taxes compared to total capital investment excluding financing costs related to the Public Improvement and the TOD Development and costs associated with the Tax Increment Financing and Special Tax Districts but including payment of Special Taxes (the “Reasonable Profit”).

2. Pursuant to the MOU, the County is entitled to [REDACTED] of any profits in excess of the Reasonable Profit.

3. In accordance with the MOU’s requirement, a “true up” mechanism is to be established.

4. The County and the Developer agree to the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Developer agree as follows:

ARTICLE I

DEFINITION OF TERMS

“Affiliate” means only an entity in which the Developer or the principals of Developer, [REDACTED], have a direct ownership interest and which entity has a direct or indirect ownership interest in a Parcel, including a direct or indirect ownership interest in an entity that at some future date acquires an ownership interest in a Parcel. Affiliate presently includes: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] It is the parties’ intention to only capture the Developer’s and/or its principals’ interest in the entities affiliated with the TOD Development in the definition of Affiliates.

“Developer” means [REDACTED]

“GAAP” means Generally Accepted Accounting Principles, where applicable.

“Internal Rate of Return” means [REDACTED]
[REDACTED]

“Net Cash Flow” shall be determined on a pre-tax basis and means, for the period in question, the amount, if any, by which the Total Revenue exceeds the Total Expenditures.

“PPP Agreement” [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

“Parcel” means each of the subdivided lots of the TOD Development. It is anticipated that the TOD Development will be comprised of a State-owned parcel on which the State Public

Improvement will be built by Developer and six (6) separate parcels owned by Developer which are slated for private development (Apartment, Office, Retail, Bank/Restaurant, Hotel, and Kiosk).

“Parcel Sale” means any of the six (6) separate Developer-owned parcels of the TOD Development that are sold or transferred.

“Public Improvement” has the meaning set forth in the MOU.

“Reasonable Overhead” means [REDACTED] of Total Expenditures excluding land acquisition costs.

“Special Taxes” means the special taxes defined in Section 11.3 of the MOU.

“TIF Bonds” has the meaning set forth in the MOU.

“TOD Development” has the meaning set forth in the MOU.

“Total Expenditures” means all costs incurred by the Developer or any Affiliate relating to the acquisition, development, construction, operation and sale of the TOD Development or any part thereof, excluding financing costs related to the Public Improvement and the TOD Development and costs associated with the Tax Increment Financing and Special Tax Districts and proceeds of the TIF Bonds but including any Special Taxes. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Total Expenditures shall not include any central office overhead, Developer’s staff/management expenses, or administrative expenses of or due to the Developer but shall include the Reasonable Overhead.

“Total Revenue” means all revenue received by Developer or any Affiliate from the TOD Development or any part thereof, excluding proceeds from financing, but such revenue

shall only be counted once on the date it is first received by either the Developer or an Affiliate. For example, if an Affiliate receives revenue from a portion of the TOD Development and distributes that money to the Developer, such revenue shall only be counted toward Total Revenue on the date it is received by the Affiliate.

ARTICLE II

PROFIT SHARING

A. Measurement of Internal Rate of Return

1. From and after the Effective Date of the PPP Agreement through the date on which the [REDACTED] Bonds have been paid, redeemed or defeased in their entirety (the "TIF Term"), the County agrees that the Developer and all Affiliates shall be entitled to all Net Cash Flow from the TOD Development until such time as the Developer, in combination with all Affiliates, has achieved an Internal Rate of Return of [REDACTED], with the excess Net Cash Flow over the Internal Rate of Return of [REDACTED], if any, being shared [REDACTED] [REDACTED] to the Developer and any Affiliate, and [REDACTED] [REDACTED] to the County. Total Revenue and Total Expenditures shall be reported in accordance with this Agreement. The obligation of the Developer to pay any Net Cash Flow to the County shall terminate upon the termination or expiration of the TIF Term.

2. Reporting Requirements and Time for Payment of Net Cash Flow

(a) The Developer must provide the County with audited financial statements prepared by an independent certified public accountant within one hundred twenty (120) days after each fiscal year-end for the Developer and any Affiliate, but only if audited financial statements are available; otherwise, unaudited financial statements must be provided within such 180-day period and audited financial statements shall be provided promptly if they

become available after such 180-day period. The annual financial statements shall provide a detailed report of all calculations required under this Agreement for the TOD Development on a cumulative basis. With regard to Affiliates, Developer is only obligated to provide financial statements relating to the TOD Development. The Developer's obligations under this Agreement to provide the County financial statements shall cease with the expiration of the TIF Term.

(b) The County's share of Net Cash Flow under this Agreement shall be paid in full on the earlier of [REDACTED] after closing on the TIF Bonds or within [REDACTED] of the fiscal year-end following the sale of the last Parcel, except for the Kiosk in the TOD Development, and thereafter, shall be paid in full each year [REDACTED] of the fiscal year-end. All payments are to be made payable to Howard County, Director of Finance ("Director of Finance").

(c) The County may at any time but not more frequently than once a year, and after providing [REDACTED] days written notice to the Developer, inspect, copy and audit, at the County's expense, all financial records of the Developer and Affiliates, but only financial records relating to the TOD Development for the current operating year and the prior [REDACTED] years.

(d) If the County's audit discloses that the County's share of Net Cash Flow stated in the financial statement was underpaid, the Developer shall pay any additional amount due to the County within [REDACTED] days of the receipt of the audit. If the County's audit discloses that the County's share of Net Cash Flow stated in the financial statements was overpaid, the County shall pay the amount of the overpayment to the Developer within [REDACTED] of the receipt of the audit.

(e) The Developer may contest the County's audit results by giving the County notice within thirty (30) days of the receipt of the audit. Payment of the amount in dispute will be suspended until the issue is resolved as set forth below. If the Developer and the County cannot mutually resolve the dispute within thirty (30) days of the County's receipt of the notice of protest, the Developer and the County shall jointly choose an third independent certified public accountant whose determination shall be binding upon the County and Developer. The County and Developer shall each bear their own costs, [REDACTED]

(f) The County cannot require an appraisal in connection with any annual measurement of the Internal Rate of Return under this Section A.

B. Parcel Sales. The revenue achieved from Parcel Sales shall be included in Total Revenue as and when the funds are received by the Developer or an Affiliate.

C. Estoppel Certificates. The County shall execute and provide to the Developer such estoppel certificates and subordination agreements as may be reasonably required from time to time in connection with the TOD Development, including those as may be required by any lender for the TOD Development. The Director of Finance shall have the authority to issue such estoppel certificates. The County shall not have the right to control any sale, financing or the operation of the TOD Development or any portion thereof, other than as provided for in this Agreement or the Funding Agreement.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

A. Events of Default. The following shall be "Events of Default" under this Agreement, and the term "Event of Default" means, whenever used in this Agreement, any one or more of the following events:

1. Failure by the Developer to pay when due any payment required to be paid under Article II and such default is not rectified, within thirty (30) days after written notice thereof from the County to the Developer; provided however, should any dispute arise between the County and the Developer as to any amount due to the County hereunder, so long as such dispute is raised in good faith by either party, the pendency of such dispute shall extend the period for performance as to any disputed items until after resolution of such dispute but in no event longer than [REDACTED] unless the resolution is dependent upon an administrative or court process in which event the period for performance shall be extended; or

2. Failure by the Developer to perform, observe, or comply with any other of the terms, covenants, conditions, or provisions contained in this Agreement which failure shall continue for a period of thirty (30) days after written notice thereof shall have been given to the Developer by the County.

B. Remedies. If an Event of Default occurs:

1. The County shall be entitled to the benefit of any remedies available to it in law or in equity on account of the Event of Default, including suit for specific performance, injunctive relief, or damages, with or without terminating this Agreement.

2. Remedies Cumulative. All rights remedies, powers, and privileges herein given or granted to the County are cumulative, non-exclusive, and in addition to any and all rights, remedies, powers, and privileges that the County may have or be given by reason of any law, statute, ordinance, or otherwise, at law or in equity.

ARTICLE IV

MISCELLANEOUS

A. Third Party Beneficiary. Nothing contained in this Agreement shall be construed to confer upon any other party the rights of a third party beneficiary.

B. Disclaimer of Partnership Status. Nothing in the provisions of this Agreement shall be deemed in any way to create between any Obligor and the County any relationship of partnership, joint venture, or association and the parties to this Agreement hereby disclaim the existence of any such relationship.

C. Giving of Notice. Except as otherwise provided herein, all notices required to be given or authorized to be given pursuant to this Agreement shall be in writing and shall be delivered or sent by registered or certified mail, postage prepaid, or by commercial messenger to:

In the case of the County:

Howard County, Maryland
George Howard Building
3430 Courthouse Drive
Ellicott City, Maryland 21043

Attention: [REDACTED]

Email: [REDACTED]

Fax: [REDACTED]

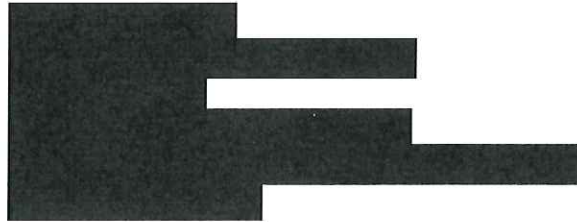
With a copy to:

[REDACTED]

In the case of the Developer:

[REDACTED]

With a copy to:



The County and the Developer, by notice given hereunder, may designate any further or different persons or addresses to which subsequent notices shall be sent.

D. Representatives Not Individually Liable. No member, official, representative, or employee of the County shall be personally liable to the Developer or its successors in interest in the event of any default or breach by the County for any amount which may become due to the Developer or its successors or on any obligations under the terms of the Agreement. No member, partner, director, representative, employee or agent of the Developer or its affiliates or successors in interest shall be personally liable to the County or any agency thereof in the event of any default or breach by the Developer for any amount which may become due to the County on any obligations under the terms of this Agreement unless such person is guilty of fraud.

E. Amendment of Agreement. Any amendment to this Agreement must be by the mutual written agreement of the County and the Developer with the same formality as this Agreement, provided that consents, waivers and modifications of a non-substantive nature may be negotiated and granted by action of the Director of Finance.

F. Payment or Performance on Saturday, Sunday, or Holiday. Whenever the provisions of this Agreement call for any payment or the performance of any act on, or by a date that is not a business day, including the expiration date of any cure periods provided herein,

then such payment or such performance shall be required on or by the immediately succeeding business day.

G. Section and Paragraph Headings. The section and paragraph headings have been prepared for convenience only and are not part of this Agreement and shall not be taken as an interpretation of any provision of this Agreement.

H. Severability. If any clause provision or section of this Agreement be held illegal or invalid by any court, the invalidity of such clause, provision, or section shall not affect any of the remaining clauses, provisions, or sections hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or section had not been contained herein. If any agreement or obligation contained in this Agreement be held to be in violation of law, then such agreement or obligation shall be determined to be the agreement or obligation of the County and the Developer, as the case may be, to the full extent by law.

I. Maryland Law. The laws of the State of Maryland shall govern the construction of this Agreement.

J. Binding Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the Developer, and any assignee, successor, or transferee of Developer's interest in all or any portion of the TOD Development, except for the purchaser of a Parcel which shall not be subject to this Agreement.

K. Entire Agreement. This Agreement sets forth the entire understanding and agreement of the parties with respect to the subject matter hereunder and supersedes any other prior agreements or understanding, written or oral, between the parties with respect to the subject matter thereof.

L. Recitals. The Recitals are hereby incorporated and made a part of this Agreement.

M. Non-Recordation. This Agreement shall not be recorded.

IN WITNESS WHEREOF, the parties hereto have caused this Profit Sharing Agreement to be duly executed, sealed, and delivered as of the date set forth above.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

[SEAL]



ATTEST:

HOWARD COUNTY, MARYLAND



APPROVED FOR SUFFICIENCY OF FUNDS:



APPROVED FOR LEGAL SUFFICIENCY:

this 10 day of March, 2014.



Reviewing Attorney:



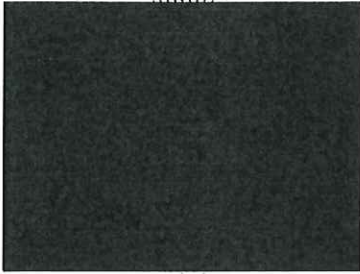
[County Signature page to Profit Sharing Agreement]

STATE OF MARYLAND, COUNTY OF HOWARD, TO WIT:

I HEREBY CERTIFY, that on this 10th day of March, 2014, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared [REDACTED] of Howard County, Maryland, and on behalf of such County acknowledged the foregoing Profit Sharing Agreement to be the act and deed of Howard County, Maryland.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 10th day of March, 2014.

[notary seal]



STATE OF MARYLAND, CITY/COUNTY OF Montgomery, TO WIT:

I HEREBY CERTIFY, that on this 7th day of March, 2014, before the subscriber, a Notary Public in and for the State of Maryland, personally appeared _____

_____ acknowledged the foregoing Profit Sharing Agreement to be the act and deed of said _____

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

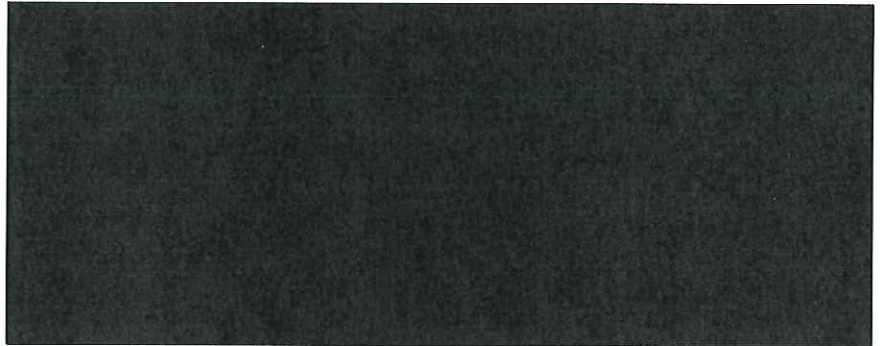
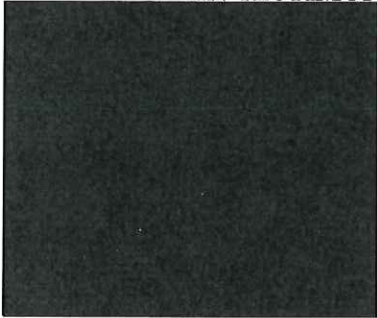


EXHIBIT E

MUNICIPAL TIF PROJECTIONS – SCHEDULE XVIII

SCHEDULE XVIII: PROJECTED REAL PROPERTY TAX INCREMENT REVENUES – SPECIAL TAXING DISTRICT #1
(CRESCENT AREA 1 / METROPOLITAN)
DATED NOVEMBER 5, 2016

[Exhibit E Attached, \$15 Million GO First Set Aside v2.pdf]

Downtown Columbia
Howard County, Maryland

Schedule XVIII: Projected Real Property Tax Increment Revenues – Special Taxing District #1 (Crescent Area I)/Metropolitan

Tax Year	Bond Year	Inflation Factor	Total Projected Incremental Tax Revenues (A) (Schedule XVII-A)	First Set Aside for Debt Service			Allocation of Incremental Value				Projected Increment Available for Debt Service
				Total Debt Service (Schedules II-A/II-B)	General Obligation Set Aside	First Set Aside For Debt Service (B)	First Available to Debt Service ¹	Second Available to Howard County ²	Third Available to Debt Service	Total	
1-Jul-16	15-Feb-17	100%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
1-Jul-17	15-Feb-18	103%	\$1,160,055	\$0	\$0	\$0	\$0	\$1,160,055	\$0	\$1,160,055	\$0
1-Jul-18	15-Feb-19	106%	\$2,233,028	\$869,532	(\$1,000,000)	\$0	\$0	\$2,233,028	\$0	\$2,233,028	\$0
1-Jul-19	15-Feb-20	109%	\$5,129,025	\$4,949,044	(\$1,000,000)	\$3,949,044	\$3,949,044	\$1,179,980	\$0	\$5,129,025	\$3,949,044
1-Jul-20	15-Feb-21	113%	\$6,142,228	\$5,048,897	(\$1,000,000)	\$4,048,897	\$4,048,897	\$2,093,331	\$0	\$6,142,228	\$4,048,897
1-Jul-21	15-Feb-22	116%	\$7,394,261	\$5,149,591	(\$1,000,000)	\$4,149,591	\$4,149,591	\$3,244,670	\$0	\$7,394,261	\$4,149,591
1-Jul-22	15-Feb-23	119%	\$7,957,803	\$5,252,706	(\$1,000,000)	\$4,252,706	\$4,252,706	\$3,705,097	\$0	\$7,957,803	\$4,252,706
1-Jul-23	15-Feb-24	123%	\$8,301,051	\$5,356,704	(\$1,000,000)	\$4,356,704	\$4,356,704	\$3,944,347	\$0	\$8,301,051	\$4,356,704
1-Jul-24	15-Feb-25	127%	\$8,616,786	\$5,465,103	(\$1,000,000)	\$4,465,103	\$4,465,103	\$4,151,682	\$0	\$8,616,786	\$4,465,103
1-Jul-25	15-Feb-26	130%	\$8,877,537	\$5,574,186	(\$1,000,000)	\$4,574,186	\$4,574,186	\$4,303,351	\$0	\$8,877,537	\$4,574,186
1-Jul-26	15-Feb-27	134%	\$9,146,110	\$5,685,412	(\$1,000,000)	\$4,685,412	\$4,685,412	\$4,460,699	\$0	\$9,146,110	\$4,685,412
1-Jul-27	15-Feb-28	138%	\$9,422,741	\$5,799,121	(\$1,000,000)	\$4,799,121	\$4,799,121	\$4,623,620	\$0	\$9,422,741	\$4,799,121
1-Jul-28	15-Feb-29	143%	\$9,707,671	\$5,914,595	(\$1,000,000)	\$4,914,595	\$4,914,595	\$4,793,076	\$0	\$9,707,671	\$4,914,595
1-Jul-29	15-Feb-30	147%	\$10,001,149	\$6,033,113	(\$1,000,000)	\$5,033,113	\$5,033,113	\$4,968,036	\$0	\$10,001,149	\$5,033,113
1-Jul-30	15-Feb-31	151%	\$10,303,430	\$6,153,836	(\$1,000,000)	\$5,153,836	\$5,153,836	\$5,149,594	\$0	\$10,303,430	\$5,153,836
1-Jul-31	15-Feb-32	156%	\$10,614,781	\$6,276,926	(\$1,000,000)	\$5,276,926	\$5,276,926	\$5,337,855	\$0	\$10,614,781	\$5,276,926
1-Jul-32	15-Feb-33	160%	\$10,935,472	\$6,402,481	(\$1,000,000)	\$5,402,481	\$5,402,481	\$5,532,991	\$0	\$10,935,472	\$5,402,481
1-Jul-33	15-Feb-34	165%	\$11,265,783	\$6,530,543	(\$1,000,000)	\$5,530,543	\$5,530,543	\$5,735,240	\$0	\$11,265,783	\$5,530,543
1-Jul-34	15-Feb-35	170%	\$11,606,004	\$6,662,092	(\$1,000,000)	\$5,662,092	\$5,662,092	\$5,943,912	\$0	\$11,606,004	\$5,662,092
1-Jul-35	15-Feb-36	175%	\$11,956,432	\$6,793,989	(\$1,000,000)	\$5,793,989	\$5,793,989	\$6,162,443	\$0	\$11,956,432	\$5,793,989
1-Jul-36	15-Feb-37	181%	\$12,317,372	\$6,931,215	(\$1,000,000)	\$5,931,215	\$5,931,215	\$6,386,158	\$0	\$12,317,372	\$5,931,215
1-Jul-37	15-Feb-38	186%	\$12,689,141	\$7,069,389	(\$1,000,000)	\$6,069,389	\$6,069,389	\$6,619,752	\$0	\$12,689,141	\$6,069,389
1-Jul-38	15-Feb-39	192%	\$13,072,063	\$7,210,313	\$0	\$7,210,313	\$7,210,313	\$5,861,750	\$0	\$13,072,063	\$7,210,313
1-Jul-39	15-Feb-40	197%	\$13,466,472	\$7,354,607	\$0	\$7,354,607	\$7,354,607	\$6,111,865	\$0	\$13,466,472	\$7,354,607
1-Jul-40	15-Feb-41	203%	\$13,872,714	\$7,502,771	\$0	\$7,502,771	\$7,502,771	\$6,369,942	\$0	\$13,872,714	\$7,502,771
1-Jul-41	15-Feb-42	209%	\$14,291,142	\$7,652,187	\$0	\$7,652,187	\$7,652,187	\$6,638,956	\$0	\$14,291,142	\$7,652,187
1-Jul-42	15-Feb-43	216%	\$14,722,124	\$7,805,295	\$0	\$7,805,295	\$7,805,295	\$6,916,830	\$0	\$14,722,124	\$7,805,295
1-Jul-43	15-Feb-44	222%	\$15,166,035	\$7,961,295	\$0	\$7,961,295	\$7,961,295	\$7,204,740	\$0	\$15,166,035	\$7,961,295
1-Jul-44	15-Feb-45	229%	\$15,623,264	\$8,120,328	\$0	\$8,120,328	\$8,120,328	\$7,502,935	\$0	\$15,623,264	\$8,120,328
1-Jul-45	15-Feb-46	236%	\$16,094,209	\$6,919,852	\$0	\$6,919,852	\$6,919,852	\$9,174,358	\$0	\$16,094,209	\$6,919,852
1-Jul-46	15-Feb-47	243%	\$16,579,283	\$362,362	\$0	\$362,362	\$362,362	\$16,216,921	\$0	\$16,579,283	\$362,362
1-Jul-47	15-Feb-48	250%	\$17,078,909	\$0	\$0	\$0	\$0	\$17,078,909	\$0	\$17,078,909	\$0
1-Jul-48	15-Feb-49	258%	\$17,593,524	\$0	\$0	\$0	\$0	\$17,593,524	\$0	\$17,593,524	\$0
1-Jul-49	15-Feb-50	265%	\$18,123,577	\$0	\$0	\$0	\$0	\$18,123,577	\$0	\$18,123,577	\$0
1-Jul-50	15-Feb-51	273%	\$18,669,532	\$0	\$0	\$0	\$0	\$18,669,532	\$0	\$18,669,532	\$0
Total			\$390,130,708	\$174,807,485	(\$20,000,000)	\$154,937,953	\$154,937,953	\$235,192,755	\$0	\$390,130,708	\$154,937,953

MJM/CP, Inc.

S:\CONSULTING\Howard County\Columbia Town Center\2015\Council Response Items\(\$15 Million GO First Set Aside.xlsx\XVIII

5-Nov-16

¹Represents baseline debt service calculated on Schedules II-A and II-B after reducing for phased-in general obligation debt of \$15 million.

²Represents the baseline surplus projected to be available to Howard County to pay for capital expenditures.