
EMT/Quick Strike Facility Agreement

by and between

HOWARD COUNTY, MARYLAND

and

THE HOWARD RESEARCH AND DEVELOPMENT CORPORATION

Dated October __, 2017

This EMT/Quick Strike Facility Agreement, dated October __, 2017 (this “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 The Howard Research and Development Corporation, a Maryland corporation (the “Developer”).

WHEREAS, in connection with the adoption of Resolution No. 105-2016 and Council Bill No. 56-2016 (“CB-56”), the County and the Developer entered into a Downtown Development Memorandum of Understanding dated November 9, 2016 (the “MOU”).

WHEREAS, Bill-56-2016, which *inter alia*, authorizes the issuance of one or more series or issues of special obligation bonds to finance improvements in the Downtown Columbia Development District (the “TIF Bonds”), states that no bonds shall be issued thereunder unless an enforceable agreement between the County and the Developer provides for a EMT/ Quick Strike Facility and appropriate facilities (“the Crescent Station”) within the parking garage. (the “Area 3 Garage”) to be located in Area 3 of the Crescent. The Area 3 Garage will be available to the general public as hereinafter provided.

WHEREAS, the MOU sets forth certain requirements of the Developer which must be met in connection with the issuance of the bonds as authorized by CB-56.

WHEREAS, the purpose of this Agreement is to satisfy the requirements referred to above with the understanding that the County and the Developer (collectively referred to as the “Parties”) expect to enter into an amendment to this Agreement or additional agreements concerning the financing and operation of the Crescent Station.

WHEREAS, the Developer’s commitments under the MOU are contingent upon the issuance of the TIF Bonds.

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 Parties agree as follows:

Section 1. Recitals. The Recitals are hereby incorporated and made a part of this Agreement.

Section 2. Area 3 Garage. The Parties agree that the Area 3 Garage, with the exception of the costs associated with the Crescent Station as outlined herein, shall be developed and financed by the Developer. The Developer shall own and maintain the Area 3 Garage, which shall supply parking for visitors to and employees of the retail/restaurant businesses, employees and patrons of office tenants, patrons of Merriweather Post Pavilion, and other members of the general public, subject to the rules and regulations of Developer as the owner and operator of the Area 3 Garage. In addition, the Area 3 Garage shall provide parking for Merriweather Post Pavilion events beginning at 5:00 p.m. on any weekday and beginning at 8:00 a.m. on Saturdays, Sundays and legal holidays, consistent with the Parking Easement Agreement dated May 31, 2016 and recorded in the Land Records of Howard County in Book 17281, Page 131 attached hereto as Exhibit A (the “Parking Easement Agreement”) and the Downtown Columbia, Crescent

Neighborhood, Phase I, Amended Final Development Plan, recorded as Plat Numbers 24101 – 24110 in the Land Records of Howard County, Maryland (the “Amended FDP”).

Section 3. Construction, Plans & Specification. The Parties agree that, to the extent that TIF Bonds are issued to finance the cost of constructing the Crescent Station, the Developer shall construct the Crescent Station contemporaneously with the construction of the first phase of the Area 3 Garage. The Crescent Station will be a permanent centralized emergency facility located in, or adjacent to, the Area 3 Garage. The Crescent Station will be designed by the Developer, in consultation with the Department of Fire & Rescue Services (“DFRS”) and the County, constructed by the Developer pursuant to the terms outlined herein and in the Special Tax Report, attached as Exhibit C to CB-56, and dedicated by the Developer to the County upon completion. Specifically, the Crescent Station shall have on-grade access for the emergency vehicles with an apparatus bay of approximately 2700 square feet and consist of a working / living space equivalent of an approximate 3500 square foot apartment with a work area suitable for up to 6 firefighters/EMTs to staff a 24-hour pumper apparatus and an ambulance/EMT vehicle, bathrooms, and a kitchen. The Crescent Station shall be built exterior or interior to the Area 3 Garage, but adjacent to the location of the emergency vehicles. A copy of the current plans for the Crescent Station are attached hereto as **Exhibit B** and incorporated herein. In the Area 3 Garage, the first 4 or 5 parking spots shall be reserved for the EMT vehicle, an all-purpose vehicle or equivalent, and a mini-pumper or equivalent (the “Apparatus”) capable of operating within standard parking garages with a capacity of 300 to 500 gallons. At least six (6) additional parking spaces within the Area 3 Garage and near the location of the Crescent Station shall be reserved to allow for personal vehicles of firefighters who are assigned to operate the facility. The staff assigned to the Crescent Station shall have access to the Area 3 Garage to accommodate their schedules, including staff changes from approximately 6:00 a.m. to 8:00 a.m. The specific plans for the Area 3 Garage shall be reviewed and approved by the County.

Section 4. Apparatus & Payment Obligation. The Parties agree that the Apparatus will not be financed with the proceeds of the TIF Bonds. The Developer agrees that it will contribute \$100,000 to County to provide for the payment of a portion of the costs of the Apparatus and any related equipment. The contribution to costs of the Apparatus will be paid by the Developer in a timely fashion. The County’s current estimated cost of the Apparatus is \$500,000.

Section 5. Property Rights. The Developer agrees, for no additional consideration, to (i) convey in fee simple to the County the property in which the Crescent Station will be built pursuant to a condominium regime, as evidenced by associated documents, or (ii) provide access and use rights to the County with respect to the Crescent Station pursuant to an exclusive perpetual easement or right-of-way, or a long-term ground lease, as determined by the County in its sole discretion.

Section 6. Operation of the Area 3 Garage. The Area 3 Garage shall be owned and operated by the Developer and available to the general public as provided in Section 2 above in a manner which is consistent with the provisions outlined herein, the Parking Easement Agreement and the Amended FDP.

Section 7. Expenses. The Developer shall be responsible for the payment of all operation and maintenance costs (“O&M Costs”) associated with the Area 3 Garage.

Notwithstanding the Developer's payment obligation hereunder, expenses directly related to the operation and maintenance of the Crescent Station shall be paid by the County and shall be excluded from any Developer obligations to pay O&M Costs contemplated by the MOU and this Agreement.

Section 8. 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 the County and the Developer 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. Any notice 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: Director of Finance
Email: smilesky@howardcountymd.gov

With a copy to:

Howard County Office of Law
Carroll Building
3450 Courthouse Drive
Ellicott City, Maryland 21043
Attention: County Solicitor
Email: gkuc@howardcountymd.gov

In the case of the Developer:

The Howard Research and Development Corporation
One Galleria Tower, 22nd Floor
13355 Noel Road
Dallas, Texas 75240
Attention: General Counsel
Email: Peter.Riley@howardhughes.com

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 County.

F. 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.

G. 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.

H. Maryland Law. This Agreement shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State without regard to principles of conflicts-of-laws.

I. Consent to Jurisdiction; Venue. Each party hereto consents to venue in and the exclusive jurisdiction of the Circuit Court for Howard County if suit is filed to enforce, interpret, or construe this Agreement, and waives any jurisdiction, venue or inconvenient forum objections to such court.

J. Binding Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the Developer and any of its successors and assigns.

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 EMT/Quick Strike Facility Agreement to be duly executed, sealed, and delivered as of the date set forth above.

**THE HOWARD RESEARCH AND
DEVELOPMENT CORPORATION**

_____ By: _____
Name:
Title:

[COUNTY SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

[SEAL]

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie R. Robbins
Chief Administrative Officer

By: _____
Allan H. Kittleman
County Executive

Date: _____

APPROVED FOR SUFFICIENCY OF FUNDS:

Stanley J. Milesky
Director of Finance

APPROVED FOR FORM AND LEGAL SUFFICIENCY
THIS ____ DAY OF _____, 2017.

Gary W. Kuc
County Solicitor

Reviewing Attorney:

Kristen Bowen Perry
Assistant County Solicitor

EXHIBIT A
Parking Easement Agreement

EXHIBIT B

Plans for the Crescent Station

