

**Downtown Columbia Development Memorandum of Understanding
Checklist**

Agreement		Revised TIF Program's Impact on Agreement
I.	Downtown Columbia Development Diversity and Inclusion Program	
A.	MWDVOLBE Program	No impact as the amount of net bond proceeds going to infrastructure projects and subject to this provision remains unchanged
	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”). <u>In furtherance of this effort:</u>	
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	

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	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 met 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. <u>MWDVOLBE Post-Construction Program</u> . 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. <u>General Statement</u> . 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	No impact as the amount of net bond proceeds going to infrastructure projects and subject to this provision remains unchanged
	i. <u>Local Hire Program</u> . 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. <u>Apprenticeship and Workforce Development Opportunities</u> . 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. <u>Reporting</u> . 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. <u>General Statement</u> . 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:	No impact. The Developer continues to pursue LEED certification on all buildings, has already committed the Open Space acreage, and is currently implementing a multi-year plan with Howard Community College, Department of Public Works, and Department of
	i. <u>Green Building Initiative</u> . The Developer is committed to the robust environmental initiatives set forth in the Downtown Columbia Plan, and the Developer commits to the following:	

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		a.	to achieve LEED Certification status or better on all buildings constructed by the Developer in Downtown Columbia;	Recreation and Parks to plant 10,000 trees
		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.	<u>Open Space Initiative.</u> 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 <u>Exhibit A ("Permanent Open Space to be Provided")</u> , 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.	<u>General Statement.</u> 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:		No impact.
	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		
	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:		

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	<p>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.</p>	
	<p>B. <u>Developer Intent.</u> 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.</p>	
V. Columbia Covenant Modernization and Improvement		
	<p>A. <u>General Statement.</u> 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</p>	No impact.
	<p>i. <u>Deed Covenant Modernization and Improvement Initiative.</u> 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.</p>	
VI. Downtown Columbia Development - Transit-Oriented Development		
	<p>A. <u>General Statement.</u> 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:</p>	<p>No impact. The County's Office of Transportation continues to pursue TOD designation, and transfer of the Transit Center Site is also memorialized in the</p>

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	<p>i. <u>Transit-Oriented Development.</u> 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</p>	DRRA
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:	This provision would be replaced by the Garage Agreement that the County is entering into with HRD ensuring that the parking garage in Area 3 of the Crescent is subject to the Merriweather easement,

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	<p>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 those from time to time.</p>	<p>contains the EMT Quick Strike Facility, and is available to the public</p>
	<p>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.</p>	
	<p>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.</p>	
	<p>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.</p>	
VIII.	Look-Back Agreement	
	<p>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 <u>Exhibit D</u> [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.</p>	<p>No impact. A look-back agreement is still required</p>
IX.	"Set Aside" For Elementary School	

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<p>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.</p>	<p>No impact as the waterfall structure detailing the flow of tax increment remains unchanged</p>
<p>X. Excess TIF Increment for Fire Station, Library, Arts Center, Transit Center, Transportation Improvements and Schools</p>	
<p>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 <u>Special Tax Requirement or debt service on the TIF Bonds.</u></p>	<p>No impact as the waterfall structure detailing the flow of tax increment remains unchanged</p>
<p>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.</p>	
<p>XI. Term</p>	
<p>A. <u>Term of this Memorandum.</u> 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.</p>	<p>No impact</p>
<p>XII. Live Where You Work</p>	
<p>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</p>	<p>No impact as this program is memorialized in DRRA</p>
<p align="center">End of Document</p>	