



October 31, 2023

**FISCAL AND POLICY NOTE**

TO: Jennifer A. Jenkins  
Council Administrator

William M. Hunt  
Deputy Council Administrator

FROM: Josh Hamlin   
Director of Budget and Policy Analysis

Lavinia A. Baxter   
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CR-105-2023 The Promise Project – Payment In Lieu of Taxes

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**CR-105-2023** (*Proposed and introduced by:* The Chair of the Council at the request of the County Executive)

Assigned to the Government Operations and Fiscal Policy (GOFP) Committee

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A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES (“PILOT”) AGREEMENT FOR THE PROMISE PROJECT for the purpose of approving the terms and conditions of a Payments in Lieu of Taxes (“PILOT”) Agreement between Prince George’s County, Maryland (“County”) and A Determined Seed I LLC (“Developer”) for the Promise Project.

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**Fiscal Summary**

**Direct Impact**

*Expenditures:* No anticipated additional expenditures.

*Revenues:* Forgone property tax revenues in the near term more than offset by additional property tax and income tax revenues in the long term. Net favorable revenue impact (FY 2024 – FY 2050) over undeveloped property of approximately \$9.84 million.

**Indirect Impact:**

Likely favorable.

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**Legislative Summary:**

CR-105-2023,<sup>1</sup> proposed by Council Chair Dernoga by request of the County Executive and sponsored by Council Members Ivey, Fisher, and Franklin, was introduced on October 23, 2023, and referred to the Government Operations and Fiscal Policy Committee. CR-105-2022 would approve the terms and conditions of a Payments in Lieu of Taxes (“PILOT”) Agreement between Prince George’s County, Maryland (the “County”) and Determined Seed I LLC 4 (“Developer”) for the Promise Project, a proposed 808,000 square foot transit-oriented, mixed-use development near the Southern Avenue Green Line Metro station in Oxon Hill.

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**Current Law/Background:**

Section 7-516<sup>2</sup> of the Tax-Property Article of the Annotated Code of Maryland, as amended (the “Act”) authorizes the County to exempt or partially exempt an Economic Development Project within the meaning of the Act from County real property taxes under certain conditions. The Act also permits the County to enter into a PILOT agreement or multiple PILOT agreements for different phases of the Economic Development project. Specifically, the law permits such exemptions if:

- the owner or owners of the economic development project demonstrate to the satisfaction of the County Executive and County Council of Prince George's County:
  - that the county or its designated agency has conducted an economic analysis of the project, including:
    - a detailed description of the project and the development budget, including the identification of all sources of debt and equity financing;
    - a multiyear cash flow pro forma of the project detailing all incoming and outgoing cash flow revenues, operating expenses, debt service, taxes, capital expenditures, and any other cash outlays;
    - the projected return on investment for the owner or owners;
    - a determination that the project is an economic development project that meets the requirements of this section; and
    - any other relevant analysis;
  - the public benefit that the project will provide, including:

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<sup>1</sup> [CR-105-2023](#)

<sup>2</sup>Prince George’s County Code, [§ 7-516. Prince George’s County](#)

- the number of jobs expected to be created, directly or indirectly, as a result of the project and the percentage of those jobs expected to be held by Prince George's County residents;
    - the wage rates and benefit packages for the jobs expected to be created;
    - other Prince George's County tax revenues, exclusive of real property taxes, that the project is expected to generate during the term of the payment in lieu of taxes agreement, including income, admissions and amusement, personal property, hotel, parking, energy, and other taxes;
    - the encouragement of economic development;
    - the general promotion and improvement of Prince George's County and its facilities;
    - any other relevant benefits;
  - the financial necessity for an exemption authorized under this section; and
  - that the private capital being invested in the economic development project includes an equity investment that is:
    - commensurate with the overall undertaking; and
    - for a hotel or an office building, an amount greater than or equal to 10% of the combined equity and debt investment; or
    - for an off-street parking facility, an amount greater than or equal to \$250,000;
  - the owner or owners of the economic development project and the governing body of Prince George's County enter into a payment in lieu of taxes agreement or multiple payment in lieu of taxes agreements for different phases of the economic development project that specify:
    - an amount that the owner or owners shall pay to the County each year in lieu of the payment of county real property taxes during the term of the agreement that is not less than the sum of:
      - the taxes on the property before the construction or rehabilitation of the project; and
      - 25% of the County real property taxes related to the economic development project that would have otherwise been due absent the agreement;
    - the term of the agreement, not to exceed 15 years from the date a certificate of occupancy is first issued for the project or the date a certificate of occupancy is first issued for any phase of the project that is covered by the agreement; and
    - that each year after the expiration of the agreement, full property taxes shall be payable on the property;
  - prior to or no later than 18 months from the date of entering into the payment in lieu of taxes agreement, construction of the project or any phase of the project that is covered by the agreement has commenced and all conditions for the financing required for the construction of the project or phase of the project that is covered by the agreement have been satisfied or waived; and
  - the authorizing resolution states that the project may not involve gambling activities.
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## Resource Personnel:

- Chris Ahn - Assistant DCAO, Economic Development

## Discussion/Policy Analysis:

### *The Project*

The Promise (the “Project”), located at 1501 Southern Avenue Oxon Hill, MD 20745, is a proposed mixed-income development project that will have a total of 841 units, over 100 of which will be affordable and priced at affordable for residents earning 65% of the Area Median Income for the Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area.<sup>3</sup> It is within Transportation Service Area 1, within the Southern Green Line Station Area Sector Plan.<sup>4</sup> The development is within .25 miles of the Southern Avenue Metro station and within 0.2 miles of 14 Washington Metropolitan Area Transit Authority (WMATA) bus stops. The Project is expected to have a combined capital investment of equity and debt of approximately \$362,875,114.<sup>5</sup>

The Developer has proposed to develop the Project into a mixed-use development, totaling roughly 810,000 gross square feet, over the course of four (4) separate phases expected to be substantially completed in 2030. The completed Project would consist of approximately 841 residential units of all types (including 134 senior living units, at least 100 affordable units, and 533 market rate units), a 12,000 square-foot grocery store, a childcare facility, over 9,000 square feet of retail space, and 133 surface and 627 structured parking spaces. The phasing of the Project is illustrated below:

| PHASE | SUBSTANTIAL COMPLETION | DEVELOPMENT COMPOSITION |       |               |       |         |         |     |
|-------|------------------------|-------------------------|-------|---------------|-------|---------|---------|-----|
|       |                        | TOTAL SF                | ACRES | TYPE          | UNITS | GSF     | PARKING | AMI |
| 1     | 1/31/2027              | 156,948                 | 1.67  | MULTI-FAMILY  | 164   | 156,948 | 130     | 65% |
| 2     | 1/31/2027              | 254,291                 | 2.62  | MULTI-FAMILY  | 283   | 240,053 | 283     |     |
|       |                        |                         |       | GROCERY       |       | 12,000  |         |     |
|       |                        |                         |       | RETAIL        |       | 2,238   |         |     |
| 3     | 1/31/2029              | 136,459                 | 1.11  | SENIOR LIVING | 134   | 127,006 | 113     |     |
|       |                        |                         |       | DAY CARE      |       | 9,453   |         |     |
| 4     | 1/31/2030              | 260,187                 | 1.63  | MULTI-FAMILY  | 260   | 253,336 | 210     |     |
|       |                        |                         |       | RETAIL        |       | 6,851   |         |     |
|       |                        | 807,885                 | 7.03  |               | 841   |         | 736     |     |

<sup>3</sup> [HUD Income Limits](#)

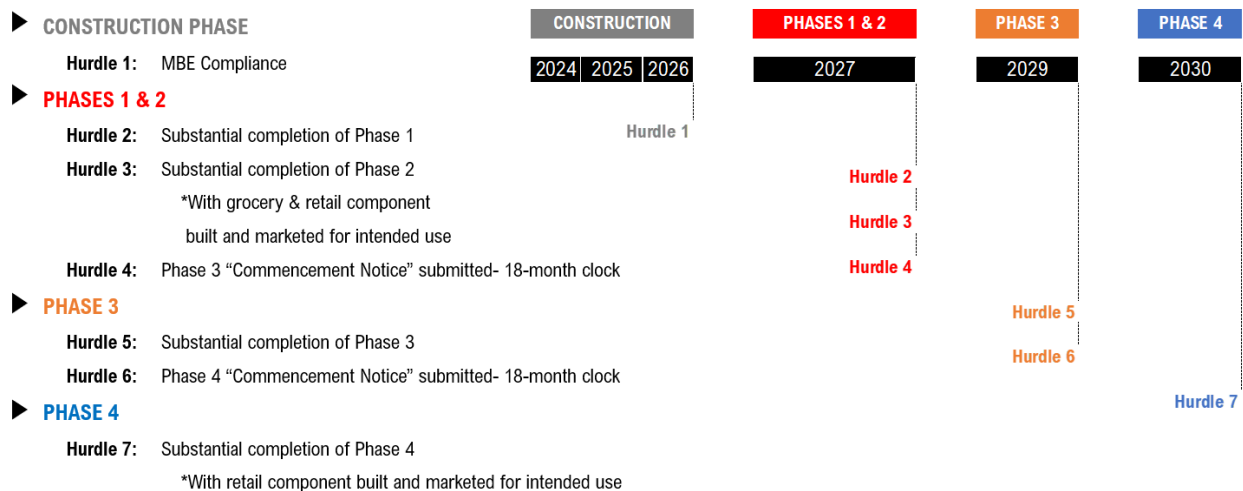
<sup>4</sup> Prince George’s County Planning Department: [Southern Green Line Station Area Sector Plan](#)

<sup>5</sup> [CR-105-2023, Attachment A](#), page 1

Under the Master Payment In Lieu of Taxes Agreement,<sup>6</sup> CR-105-2023 would authorize the County to accept a PILOT equal to the sum of the Pre-Use and Occupancy Taxes<sup>7</sup> plus the Incremental Tax<sup>8</sup> for each Phase. Key requirements of the Agreement include:

- deadlines to secure PILOT:
  - Phases 1 and 2: 2027;
  - Phase 3: 2029;
  - Phase 4: 2030; and
- no substantial deviation (change by more than 10% in product types or square footages) without prior written approval of the County;
- substantial ongoing commitment prior to release of PILOT refunds;
- MBE plan compliance; and
- maximum number of phases is limited to four.

The proposed phasing of the Project, with “hurdles” for PILOT eligibility, is illustrated below:



The Supplier Development Diversity and Equity Plan was certified by MBE Compliance Manager Mirinda Jackson on October 10, 2023 for compliance with County Code §10-335, *Supplier Diversity and Equity Policy for Publicly Subsidized Development Projects Established*<sup>9</sup> (“Hurdle 1” in the illustration above).

<sup>6</sup> CR-105-2023, [Attachment A](#)

<sup>7</sup> “Pre-Use and Occupancy Taxes” means, with respect to a Phase, the real property taxes assessed on all of the Parcels in such Phase, as of July 1, 20[REDACTED]. For the purposes of this Agreement, the Pre-Use and Occupancy Taxes for any Phase shall be calculated for such Phase by multiplying (a) the applicable rate of the “Base Assessment/Land per Square Foot” as specified in Exhibit A-3 by (b) the gross square footage of such Phase as of the date of a Phase Commencement Notice.

<sup>8</sup> “Incremental Taxes” means, with respect to a Phase, for each County Tax Year of a PILOT Term, twenty-five percent (25%) of the difference between (a) the Taxes for a Phase less (b) the Pre-Use and Occupancy Taxes for such Phase.

<sup>9</sup> [County Code §10-335](#)

Each phase of development will have a separate PILOT agreement and a 15-year term, with payments under the PILOT agreement calculated by adding the baseline (pre-use and occupancy) assessment plus twenty-five percent (25%) of the incremental increase in assessment. The PILOT phases are illustrated below:

| Phase                 | Project Start | Substantial Completion | PILOT Start | PILOT End |
|-----------------------|---------------|------------------------|-------------|-----------|
| Phase 1 – Lot 4       | 8/31/2025     | 1/31/2027              | 1/31/2027   | 1/31/2042 |
| Phase 2 – Lot 1, 2, 3 | 8/31/2025     | 1/31/2027              | 1/31/2027   | 1/31/2042 |
| Phase 3 – Lot 6       | 8/31/2027     | 1/31/2029              | 1/31/2029   | 1/31/2044 |
| Phase 4 – Lot 5       | 8/31/2027     | 1/31/2030              | 1/31/2030   | 1/31/2045 |

The cumulative net fiscal benefit of the project to the County through 2050, as calculated for the County’s economic analysis, is \$9.84 million. This figure is reached by adding the incremental real property tax revenue increases (including PILOT) and the incremental income tax revenue increases, and then netting out the incremental increases in County expenditures necessary to support the increased infrastructure demands of the Development. It is important to note that this \$9.84 million figure is exclusive of the potential waiver of Public Safety and Behavioral Health and School Facilities surcharges;<sup>10</sup> should the surcharges be waived as requested, the net benefit would be reduced by roughly \$7 million.

Also important to note are: (1) real property tax revenue and resident income tax revenue will continue beyond 2050; and (2) it is possible that this Project may serve as a catalyst for future development along the Southern Green Line corridor, leading to additional benefits to the County. As such, the potential benefits to the County of the Project extend beyond the specific terms and supporting information related to this proposal.

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### **Fiscal Impact:**

- *Direct Impact*

Based upon the tax assessment projections supplied by the Administration, and using a two percent (2%) annual escalator, the execution of the contemplated PILOT agreements subsequent to the adoption of CR-105-2023 will result in an estimated thirty-three million dollars (\$33M) in foregone real property tax revenue between 2027 and 2045 after accounting for the PILOT payments. However, the amount of the PILOT payments will substantially exceed the amount of real property tax revenue realized by the County should the property remain undeveloped. Thus, from a fiscal perspective, “foregone revenue” should more accurately be considered as the acceptance of a smaller return by the County in order to ensure that the Project is completed.

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<sup>10</sup> See [CR-097-2023](#) and [CR-098-2023](#)

As noted above, the cumulative net fiscal benefit of the project to the County through 2050, as calculated for the County's economic analysis, is \$9.84 million (without accounting for requested waivers of Public Safety and School Facilities Surcharges):

**Cumulative Net Fiscal Benefits, 2024 to 2050**

| Phase        | Incremental<br>Real Property Tax | Incremental<br>Resident Income Tax | Incremental<br>County Expenditures | Net Fiscal<br>Benefits/(Costs) |
|--------------|----------------------------------|------------------------------------|------------------------------------|--------------------------------|
| Phase 1      | \$8,800,000                      | \$7,480,000                        | (\$18,700,000)                     | (\$2,420,000)                  |
| Phase 2      | \$13,800,000                     | \$20,700,000                       | (\$31,000,000)                     | \$3,500,000                    |
| Phase 3      | \$7,600,000                      | \$9,760,000                        | (\$10,400,000)                     | \$6,960,000                    |
| Phase 4      | \$11,400,000                     | \$17,000,000                       | (\$26,600,000)                     | \$1,800,000                    |
| <b>Total</b> | <b>\$41,600,000</b>              | <b>\$54,940,000</b>                | <b>(\$86,700,000)</b>              | <b>\$9,840,000</b>             |

Further, should CR-105-2023 not be adopted the Developer may not be able to complete the Project on the projected timeline or at all. Given the modest rate of return on this Project absent this incentive, such an outcome is likely if the Resolution is not adopted.

- *Indirect Impact*

Adoption of CR-105-2023 is likely to have a significant positive indirect fiscal impact upon the County to the extent that the Project catalyzes additional development in the vicinity of the Southern Avenue Metro station. There is significant potential for additional development in the area consistent with the objectives of Plan Prince George's 2035.

- *Approved in the Current Fiscal Year Budget*

No.

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**Effective Date of Proposed Legislation:**

The proposed Resolution shall become effective as of the date of adoption.

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If you require additional information or have questions about this fiscal impact statement, please call me.