

**PAYMENT IN LIEU OF TAXES AGREEMENT (“PILOT”)**

**Project: College Park Southern Gateway Redevelopment**

This Payment in Lieu of Taxes Agreement (this “**Agreement**”), is made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and between COLLEGE PARK JV, LLC, a Maryland limited liability company, acting for itself and its Affiliates (as defined herein) (collectively the “**Developer**”), and PRINCE GEORGE'S COUNTY, MARYLAND, a body corporate and politic (the “**County**”).

WHEREAS, Section 7-516 of the Tax-Property Article of the Annotated Code of Maryland, as amended (the “**Act**”) provides that the County may exempt or partially exempt an “**Economic Development Project**” within the meaning of the Act from County real property taxes under certain conditions; and

WHEREAS, the Developer is proposing to develop approximately 5.745 acres of real property located in Prince George's County, Maryland as more particularly identified on Exhibits A-1 and A-2 both attached hereto and incorporated herein by reference (the “**Property**”); and

WHEREAS, the Property is currently owned by Terrapin Development Company and CPSC, LLC, an affiliate of Willard Retail, and Developer has entered into a contract with each owner for the Property to be transferred, assigned, and/or contributed to the Developer; and

WHEREAS, the Developer proposes to develop the Property into a mixed-use project consisting of retail/restaurant space totaling approximately 70,000 gross square feet, approximately 393 multi-family units, and structured parking (the “**Project**”) which is projected to add at least 100 full-time, permanent jobs upon its completion with 51% of such jobs expected to be held by County residents; and

WHEREAS, the Developer hereby represents that the Project will qualify under the provisions of said Act for an agreement for payments in lieu of County real property taxes upon the Property; and

WHEREAS, pursuant to Council Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 2018, the County Council approved the exemption of the Property from County real property taxes, and an agreement for payments in lieu of taxes for the Project, and authorized the County Executive to enter into such an agreement; and

WHEREAS, the County is entering into this Agreement for the payment of negotiated amounts in lieu of County real property taxes, provided that the Developer complies with the terms of this Agreement.

**NOW THEREFORE, THIS AGREEMENT WITNESSETH:**

In consideration of the mutual covenants, terms and agreements hereof and pursuant to the power and authority of the Act, it is hereby agreed as follows:

1. (a) The payments to be made by the Developer to the County, provided for herein with respect to the Property, shall be in lieu of all County real property taxes (except for the dedicated supplemental education property taxes) on the Property under the Tax-Property Article of the Annotated Code of Maryland, as amended. Such payments shall be made by the Developer and shall be accepted by the County only as long as the Developer shall comply with all of its obligations under this Agreement and the requirements of the Act.

(b) This Agreement shall not waive or defer the payment of other County taxes, assessments and fees, including but not limited to County real property and personal property supplemental education taxes, sanitation taxes, County solid waste service charges, or other taxes assessed by entities or jurisdictions other than the County, including but not limited to State of Maryland taxes, municipal taxes, the Washington Suburban Sanitary Commission, Washington Suburban Transit Commission and the Maryland-National Capital Park and Planning Commission by Developer.

2. The Property shall be exempt from County real property taxes commencing on the date a certificate of occupancy for the tenancy of the first building is issued and continuing each County tax year for fifteen (15) years thereafter (the “**Term**”).

3. The Parties agree that pursuant to the Act, the Payment in Lieu of Taxes (the “**PILOT Amount**”) during the Term due from the Developer shall, subject to Paragraph 9 hereof, be equal to the sum of (a) the real property taxes assessed on the Property as of July 1, [2018] (i.e., the July 1<sup>st</sup> date prior to the commencement of construction of the Project) (the “**Pre-Use & Occupancy Taxes**”), which the parties hereto agree is equal to [\$13,931,904.00], plus (b) for each County tax year of the Term, forty percent (40%) of the difference between (i) the Taxes (as defined in Paragraph 4 hereof) on the Property for such County tax year over (ii) the Pre-Use and Occupancy Taxes.

4. During the Term, the Developer will be obligated to pay an amount equal to 100% of the County real property taxes that would otherwise be due on or before September 30<sup>th</sup> of each year based on the assessed value of the Property (the “**Taxes**”).

5. During the Term, the County shall refund an amount equal to the Taxes paid by the Developer less the PILOT Amount (the “**Refund**”) to the Developer. The Refund shall be paid by the County to the Developer no later than sixty (60) days after receipt of 100% of the real property taxes. If the County is in default with respect to any payment required under this Agreement, the Developer may declare a default by providing written notice of such default to the County. If within 30 days of such notice the full Refund is not paid, then the Developer may (i) seek all available remedies in law and equity including, but not limited to, specific performance, and (ii) if so litigated, be entitled to all reasonable attorneys’ fees, litigation costs and expenses if so awarded by the Court after a determination that the County had no reasonable basis to withhold any portion or all of the Refund.

6. Each year after the expiration of the Term, the Developer shall pay all County real property taxes on the Property when due and the County's obligations hereunder with respect to the Refund shall terminate.

7. All payments due under this Agreement shall be subject to the same interest rate, collection, and tax sale provisions of the Prince George's County Code as for the collection of County real property taxes, except as otherwise expressly set forth in this Agreement.

8. If the Developer is in default for 60 days with respect to any payments or obligations required under this Agreement, the County may declare a default by providing written notice of such default to the Developer. If within 30 days of such notice, the payments have not been brought current, then the County may declare all taxes due as follows: a sum equal to the total current real property taxes which would have been due from the Developer based on the current assessed value of the Property, plus all interest, if any, which may be assessed pursuant to Paragraph 7, less all amounts actually paid by the Developer. If there is a default on the part of the Developer after giving notice and lapse of all applicable cure periods, the County may take any or all of the following actions: (i) terminate this Agreement if the Developer has failed to make a payment pursuant to Paragraph 4 of this Agreement; (ii) renegotiate this Agreement; or (iii) seek any other remedy available at law or in equity. All payments past due under this Agreement shall be considered a lien against the Property.

9. The payments in lieu of taxes shall at no time exceed the amount of County taxes otherwise payable on the Property based on the then-current assessment for County real property taxes.

10. During the Term, the Developer shall not take any action with respect to the Project which would change its use as an Economic Development Project within the meaning of the Act, except as expressly permitted in writing by the County.

11. The Developer has submitted a Minority Business Enterprise Plan (the "Plan") made a part hereof and incorporated herein by reference as Exhibit B, which includes a goal of thirty-five percent (35%) for County-based business enterprises (CBBs), County-based small business enterprise (CBSBs), minority business enterprise (MBEs) and County-based minority business enterprise (CMBEs), with a minimum CBE, CBSB, MBE and CMBE participation of twenty-five percent (25%) of the total building costs, site work costs, and related construction services, as depicted in the project pro forma. The Parties agree that no less than twenty percent (20%) of the total building costs, site work costs, and related construction services must be allocated to CMBEs. The goals and minimums set forth in the Plan shall be subject to exclusions agreed to by the County's Minority Business Compliance Officer. The Plan has also been approved by the County's Minority Business Compliance Officer.

12. Until the earlier of the end of the Term or ratification of any foreclosure sale, this Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns and shall bind and run with the Property.

13. On or before December 1<sup>st</sup> of each year, commencing in the year [201\_\_\_\_], the Developer agrees to supply such information as may be reasonably required by the County in order to comply with its reporting requirements under the Act.

14. The Developer agrees to provide the County with the right to access and inspect the employment information collected by the Developer during the term of the PILOT Agreement within thirty (30) days of notice by the County. A failure to do so by the Developer will be deemed a default under Paragraph 8 of this Agreement. In an effort to further the purposes of the Act, the Developer shall collect employment information from the employers located in the Project.

15. This Agreement shall not waive or defer the payment of other County taxes, assessments and fees, including but not limited to sanitation taxes, County solid waste service charges, or other taxes assessed by entities or jurisdictions other than the county, including but not limited to State of Maryland taxes, municipal taxes, the Washington Suburban Sanitary Commission, Washington Suburban Transit Commission and the Maryland-National Capital Park and Planning Commission by Developer.

16. All notices or other communication 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 hand delivery to:

County: Office of the County Executive  
1301 McCormick Drive, Suite 4000  
Largo, Maryland 20774  
Attention: Thomas Himler, Deputy Chief Administrative Officer  
for Budget, Finance and Administration

With a copy to: Prince George's County Office of Law  
1301 McCormick Drive, Suite 4100  
Largo, Maryland 20774  
Attention: County Attorney

Developer: College Park JV, LLC  
c/o Bozzuto Development Company  
6406 Ivy Lane, Suite 700  
Greenbelt, Maryland 20770  
Attention: Richard L. Mostyn

With a copy to: Gallagher, Evelius & Jones LLP  
218 N. Charles Street, Suite 400  
Baltimore, Maryland 21201  
Attention: Kirsten Andrews Woelper, Esquire

or at such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this Paragraph.

17. This Agreement shall be governed and construed in accordance with the laws of the State of Maryland, and any action for enforcement shall be brought in the Circuit Court for Prince George's County.

18. If any clause, covenant, paragraph or provision herein shall be declared fully or partially invalid or unenforceable, the remaining clauses, covenants, paragraphs and provisions shall remain enforceable and valid to the fullest extent permitted by law.

19. This Agreement constitutes the full and complete agreement between the parties, and no amendments thereto shall be valid, except in writing and dully approved and executed by the parties.

20. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Signatures to this Agreement may be delivered by facsimile, pdf or other electronic means, and each such signature shall be considered an original for all purposes of this Agreement.

21. All understandings and agreements, oral or written, previously made between the parties are merged into this Agreement and this Agreement fully and completely expresses the agreement between the parties with respect to the PILOT. This Agreement cannot be amended, modified or terminated except by a written instrument executed by both parties hereto.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and date first above written.

**WITNESS:**

**COLLEGE PARK JV, LLC**

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESS:**

**PRINCE GEORGE'S COUNTY, MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_  
Thomas Himler, Deputy Chief  
Administrative Officer for Budget, Finance,  
and Administration

**REVIEWED FOR LEGAL SUFFICIENCY:**

\_\_\_\_\_  
OFFICE OF THE COUNTY ATTORNEY

## EXHIBIT A-1

### PROPERTY DESCRIPTION

Address: 7200 Baltimore Avenue, College Park, Maryland  
7150 Baltimore Avenue, College Park, Maryland  
4401 Hartwick Drive  
4417 Hartwick Drive (consisting of only 0.93 acres  
of this parcel)  
Guilford Drive (2 parcels, no address)

Tax ID: 21-2420057  
21-2420065  
21-2343101  
21-2741965 (consisting of only 0.93 acres of this  
parcel)  
21-2420073  
21-2420081

Property Land Area: 5.745 acres (approximately)

Primary Structure Built: approximately 393 residential units, 70,000 sf retail  
space, and structured parking

Assessed Value – Base: \$[13,931,904.00, as of July 1, 2018]

**EXHIBIT A-2**

**DRAWING OF PROPERTY BOUNDARIES**



**EXHIBIT B**

**MINORITY BUSINESS ENTERPRISE PLAN**