THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

October 18, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin
Director of Budget and Policy Analysis

FROM: Malcolm Moody - *MM*
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CR-084-2022, Payment in Lieu of Taxes ("PILOT") – Agreement for the Bedford Station and Victoria Station Project

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CR-084-2022 (*Proposed by:* The Chair of the Council at the request of the County Executive; *Introduced by:* Council Members Hawkins, Taveras, Medlock, Glaros, and Turner)

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 Bedford Station and Victoria Station project for the purpose of approving the terms and conditions of a Payment in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and the LDP Acquisitions, LLC (the "Owner).

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures

Revenues: Forgone tax revenues totaling approximately $11,252,161.

Indirect Impact:

Potentially favorable.

Legislative Summary:

CR-084-2022, proposed by the Chair at the request of the County Executive and sponsored by Council Chair Hawkins and Council Members Taveras, Medlock, Glaros, and Turner, was introduced on July 5, 2022, and referred to the Government Operations and Fiscal Policy Committee (GOFP). CR-084-2022 would approve the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and LDP Acquisitions, LLC ("Owner") for the Victoria Station project ("Project").

Current Law/Background:

Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland authorizes the County to exempt certain real property from County property taxes in certain circumstances. Specifically, the law permits such exemptions if:

- the real property is owned by a person engaged in constructing or operating housing structures or projects.
- the real property is used for a housing structure or project that is constructed or substantially rehabilitated under a federal, state, or local government program that:
  - ✓ funds construction, or insures its financing in whole or in part, or
  - ✓ provides interest subsidy, rent subsidy, or rent supplements.
- the owner thereof enters into an agreement with the governing body of the county and, where applicable, the municipal corporation where the real property is located, wherein such parties agree that the owner shall pay a negotiated amount in lieu of the applicable county or municipal corporation tax.
- the owner of the real property:
  - ✓ agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the governmental programs described in (a)(2)(ii) of this paragraph and
  - ✓ agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement, OR
  - ✓ enters into an agreement with the governing body of the county or municipal corporation to allow the entire property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five (5) years.

Resource Personnel:

- Aspasia Xypolia, Director Department of Housing and Community Development

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Discussion/Policy Analysis:

The Bedford Station and Victoria Station (the "Project")[1] is located at 1400 University Boulevard East, Hyattsville, Maryland, and is a five hundred and eight-seven-unit garden-style community housing. Under the proposed agreement, the terms as outlined in the Project Facts & Terms[2] are up to fifteen (15) years after the commencement of the Affordability Compliance Period, as defined in the Rental Housing Agreement. The Affordability Compliance Period is expected to begin within approximately two years of the execution of the Rental Housing Agreement. Jair Lynch Real Estate Partners, (the "Owner") will reserve four hundred and forty (440) units for households whose incomes are at or below eighty percent (60%) of the Area Median Income ("AMI")[3]. The remaining one hundred forty-seven (147) units will be rented at market rate. The unit mix will consist of two-hundred eighty-eight (288) one-bedroom units and two hundred ninety-nine (299) two-bedroom units. CR-084-2022 would authorize the County to accept a payment in lieu of taxes equal to a zero-dollar ($0) payment per affordable unit during the term of the PILOT agreement.

The Project is expected to cost one hundred seventeen million, nine hundred thirty-four thousand, seven hundred sixteen dollars ($117,934,716), including acquisition, infrastructure development and rehabilitation. Financing includes a private loan ("First Loan"); totaling approximately seventy million, four hundred seventy-two thousand dollars ($70,462,000) made by the Fannie Mae, approximately forty-seven million, four hundred seventy-two thousand, seven hundred sixteen dollars ($47,472,716) from an equity investor; and approximately seven million dollars ($7,000,000) from a Prince George's County Right of First Refusal ("ROFR") Preservation Fund Loan. The 15-year value of the County PILOT is approximately one hundred seventeen million, nine hundred and thirty-four thousand, seven hundred and sixteen dollars ($117,934,716).

The Project was acquired by LDP Acquisitions, LLC, which was doing business as Jair Lynch Real Estate Partners ("Jair Lynch", or the "Developer"), through the Right of First Refusal ("ROFR") program in order to construct or rehabilitate the Project to provide housing to Eligible Households as described in the details of the PILOT, and is subject to rent restrictions on four hundred forty (440) units for up to fifteen (15) years, the remaining one hundred forty-seven (147) units are priced at levels at the market rate. The Developer for the Project expects to spend approximately two million dollars ($2,000,000) to four million dollars ($4,000,000) in the first 12 to 24 months for immediate repairs for the Project, two million dollars ($2,000,000) to four million dollars ($4,000,000) for in-unit renovations costs, and six million ($6,000,000) to eight million dollars ($8,000,000) in reserves (for landscaping, upkeep, replacement of appliances and interior

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[1] Bedford Station and Victoria Station

[2] CR-084-2022 Attachment B - Pg. 2

[3] 2022 Maryland Income and Rent Limits (Pg. 6), 60% limit would equate to $76,842 income limit for a three-person household and a max gross rent of $1,921

finishes) over ten (10) years. The PILOT will remain in effect for fifteen (15) years which includes the affordability period.

According to staff in the Department of Housing and Community Development, the Project's annual real property assessed value is approximately $46,310,200, and the County real property tax that will be due on the Project is an estimated $463,102 ($788.93/unit) in the first year. The PILOT reduces the aggregate tax burden on the entire five hundred and eighty-seven (587) unit Project this is equal to a zero dollar ($0) per unit tax burden on the four hundred and forty (440) affordable units. Under the agreement, the County would be forgoing real property tax revenue of approximately $463,102, or $788.93 per affordable unit, in year one.

Increasing the availability of affordable housing, both through construction of new housing and the rehabilitation of existing housing, is a stated objective of the Council, and a key component of the Comprehensive Housing Strategy[4]. According to the Project Information Sheet (Attachment A-2), "current, in-place rents are at levels affordable to households earning approximately 53% of Area Median Income." However, the Project Description goes on to note that "market rents at nearby comparable properties are approaching $1,600 per unit per month, a $200 per month and more than 15% premium above Bedford Station and Victoria Station." As such, this project will not increase the availability of affordable housing, *per se*, but instead will ensure that existing naturally occurring affordable housing remains affordable for the term of the PILOT agreement.

Fiscal Impact:

Direct Impact

Adoption of CR-084-2022 will have an adverse fiscal impact in the form of forgone tax revenue. As described above, accepting the PILOT on the entire Project of $0.00 will result in a loss of approximately $463,102 in the first year of the term. Factoring in the 2% estimated average annual increase in the property tax assessment, the total impact is estimated at $11,252,161.00 over the period that the PILOT agreement remains in effect.[5]

However, should CR-084-2022 not be adopted the Owner may not be able to complete the necessary renovations that will negatively impact current County residents. Alternatively, the Owner may raise rents, making the units unaffordable to tenants at 60% AMI. Additionally, due to the appeal of renovation and fixed rent, the property may attract new residents.

Indirect Impact

[4] Draft Comprehensive Housing Strategy Report

[5] In the PILOT agreement (Attachment B), the term of the agreement is expressed as "Up to 15 years after the commencement of the Affordability Compliance Period, as defined in the Rental Housing Agreement. The Affordability Compliance Period is expected to begin within approximately two years of the execution of the Rental Housing Agreement." The PILOT analysis provided by the administration shows an impact of deferred property tax over a 20-year period.

Adoption of CR-084-2022 may have a positive indirect fiscal impact upon the County to the extent that new residents generate additional economic activity, though the exact impact is unknown.

Items for Committee Consideration:

- Is the acceptance of the PILOT agreement a condition precedent of the completion of the development as proposed (*i.e.*, does it pass the "but-for" test)?
- Does encouraging this type of development provide a reasonable return, economic or otherwise, to the County for the forgone tax revenue?

Effective Date of Proposed Legislation:

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

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