

THE EFFECTIVE DATE OF THIS RESOLUTION IS May 7, 2024

RESOLUTION NO. 24-19

Re: Junction Frederick, LLC

A RESOLUTION to authorize Frederick County, Maryland (the "County") to enter into an agreement with Junction Frederick, LLC, a North Carolina limited liability company (the "Owner") whereby the Owner will pay a stipulated amount of money in lieu of regularly assessed property taxes in order to facilitate the development of income restricted rental housing for residents of Frederick County, Maryland.

WHEREAS, it is in the best interests of the County to encourage and facilitate the development of affordable rental housing for age restricted and low to moderate income residents of Frederick County, Maryland; and

WHEREAS, Owner proposes to develop certain property located at 511 and 524 West South Street, Frederick, Maryland (the "Property"), and to construct thereon an apartment development consisting of 179 rental housing units to provide income-restricted rental housing units to individuals or families whose income is at or below 60% of the Area Median Income ("AMI") as calculated and established each Fiscal Year by the Secretary of the U.S. Department of Housing and Urban Development (the "Project"); and

WHEREAS, in order to maintain affordable levels of rents and still be financially feasible, the Project, which will obtain partial financing from the Community Development Administration ("CDA") of Maryland's Department of Housing & Community Development, will require additional financial assistance in the form of relief from the full payment of otherwise due Frederick County real property taxes; and

WHEREAS, Section 7-506.1, Tax-Property Article, of the Annotated Code of Maryland allows the County and Owner to enter into an agreement for the payment of a negotiated amount in lieu of Frederick County real property taxes (a "PILOT Agreement"); and

WHEREAS, it has been Frederick County's practice to recognize by Resolution the County's willingness to accept a mutually agreeable sum of money in lieu of otherwise due Frederick County real property taxes pursuant to a PILOT Agreement for a specific property and project, in addition to the execution of the PILOT Agreement itself; and

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") and the CDA may require certain revisions to the PILOT Agreement as part of the loan approval process by these agencies.

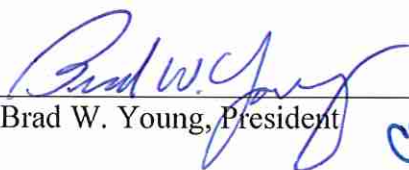

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that pursuant to the authority granted to the County by the Annotated Code of Maryland, Tax-Property Article, Section 7-506.1, the County Council has determined that the Property and Project to be developed thereon shall not be subject to the otherwise due full amount of Frederick County real property taxes if Owner enters into and thereafter complies

with all provisions of the PILOT Agreement, a copy of which is attached as Exhibit A, and incorporated herein by reference.

AND BE IT FURTHER RESOLVED, that the County Executive of Frederick County, Maryland is authorized and empowered to execute the PILOT Agreement attached as Exhibit A hereto (including any changes to the PILOT Agreement that may be required by HUD and CDA), and any and all documents required in connection therewith.

The undersigned certifies that this Resolution was approved and adopted on the 7th day of May, 2024.

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

By: 
Brad W. Young, President 

PAYMENT IN LIEU OF TAX AGREEMENT

(JUNCTION FREDERICK, LLC)

This Payment In Lieu Of Tax Agreement (the "PILOT Agreement"), made and entered into as of the 24th day of June, 2024 (the "Agreement Date"), is by and between Junction Frederick, LLC, a North Carolina limited liability company (the "Owner"), Frederick County, Maryland, a body corporate and politic of the State of Maryland (the "County"), and The City of Frederick, a municipal corporation of the State of Maryland (the "City").

WITNESSETH

WHEREAS, Owner plans to construct 179 rental housing units (the "Project") at a property located in the City of Frederick, Maryland at 511 and 524 West South Street (the "Property"), all of which will be income-restricted rental housing units to individuals or families whose income is at or below 60% of the Area Median Income ("AMI") as calculated and established each Fiscal Year by the Secretary of the U.S. Department of Housing and Urban Development; and

WHEREAS, Owner intends to thereafter preserve the Property and Project as income-restricted rental housing; and

WHEREAS, Owner has received a bond inducement letter for financing from the Community Development Administration, a unit in the Division of Development Finance of the Department of Housing and Community Development, a principal department of the State of Maryland ("CDA") and is eligible under Section 42(m) of the Internal Revenue Code of 1986 for Low Income Housing Tax Credits, has applied to CDA for a Rental

Housing Works loan (the “RHW Loan”), and other subordinate loans, and has received a letter of intent for tax credit investor equity from the allocation of Federal Low Income Housing Tax Credits (the “Tax Credits”), all of which Owner anticipates will be funded in the amounts requested but not all of which will necessarily be closed, completed, or funded by the Effective Date of this PILOT Agreement; and

WHEREAS, the Owner will continue to operate the Property as income restricted rental units for eligible persons pursuant to one or more regulatory agreements between the Owner and CDA (the “Regulatory Agreement”), executed in connection with the above described financing of the Project; and

WHEREAS, the County and the City each maintain their respective tax codes regarding real property taxes which apply to the Property as described herein; and

WHEREAS, Owner represents that the Project will qualify in all respects with the requirements of Tax-Property Article, Section 7-506.1, and for an agreement for negotiated payments in lieu of the otherwise full amount of County and City real property taxes that would be imposed upon the Property and Project; and

WHEREAS, Owner seeks to enter into this PILOT Agreement in order to establish general stability and predictability for its real property tax exposure as Owner secures Tax Credit investors; and

WHEREAS, Owner, County, and City jointly agree to enter into a single, comprehensive PILOT Agreement; and

WHEREAS, County and City shall only enter into this PILOT Agreement and accept payment of a reduced sum of money in lieu of Frederick County and The City of

Frederick real property taxes, if the Owner at all times conducts its operations in accordance with the requirements of this PILOT Agreement and the Tax-Property Article, Section 7-506.1.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants, terms and agreements hereof and pursuant to the authority granted by the Annotated Code of Maryland, Tax-Property Article, Section 7-506.1, the parties agree as follows:

1. Term.

(a) This PILOT Agreement shall become effective as of the date that Owner completes the Project and obtains a certificate of occupancy for the entire Project (the "Effective Date"), which, subject to the provisions of Section 7 hereof, must occur within thirty (30) months after the Agreement Date as indicated above. This PILOT Agreement shall remain effective, unless otherwise terminated pursuant to the terms herein, until 40 years from the Effective Date of this PILOT Agreement, as may be extended by mutual agreement of the parties, (the "Term"); provided however, that this PILOT Agreement will remain in place so long as HUD holds or insures a mortgage loan on the Property.

(b) Subject to Section 5 below, in no event shall the Term continue beyond such time that (i) unless otherwise excused herein, any of the housing units in the Project are not used for housing of income-restricted persons pursuant to the Regulatory Agreement; (ii) the Property and Project cease to be owned and used for provision of rental housing and related service facilities (including parking facilities) pursuant to the Regulatory Agreement; (iii) the Property and Project fail to comply in all material respects

with Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland pursuant to which the County and the City are authorized to enter into an agreement for the payment of a negotiated sum in lieu of taxes; or (iv) the Property and Project fail to comply with the obligations under this PILOT Agreement.

(c) Additionally, the Term may not extend beyond the effective date of a repeal or amendment of the applicable enabling tax and PILOT provisions of the Annotated Code of Maryland unless such legislation provides a grandfathering provision for those PILOT Agreements already in existence prior to the effective date of the repeal or amendment.

2. Payment In Lieu of Taxes.

(a) Beginning with the County's first full fiscal year after the Effective Date of this PILOT Agreement and for each fiscal year thereafter during the Term of this PILOT Agreement, the County shall credit Ninety-Three Thousand, Eighty and 00/100 Dollars (\$93,080) (the "County PILOT Credit") to the real property taxes due for the Property. Prior to the first full fiscal year after this PILOT Agreement becomes effective the Owner shall pay the County the normal taxes that are imposed on the Property without any portion of the County PILOT Credit. In no fiscal year shall the amount of the County PILOT Credit exceed the amount of County taxes due.

(b) Beginning with the City's first full fiscal year after the Effective Date of this PILOT Agreement and for each fiscal year thereafter during the Term of this PILOT Agreement, the City shall credit One Hundred Forty Two Thousand One Hundred Seventy Three and 00/100 Dollars (\$142,173) (the "City PILOT Credit" and, together with

the County PILOT Credit, the "PILOT Credit") to the real property taxes due for the Property. Prior to the first full fiscal year after this PILOT Agreement becomes effective the Owner shall pay the City the normal taxes that are imposed on the Property without any portion of the City PILOT Credit. In no fiscal year shall the amount of the City PILOT Credit exceed the amount of City taxes due.

(c) Nothing in this PILOT Agreement shall be construed to apply to any other City or County taxes and charges, including but not limited to applicable fire and rescue tax, sewer and water charges, system benefit charges, and building excise tax that Owner is or may in the future be required to pay to the City or the County. The PILOT Credit provided for herein shall not apply to any non-residential portion of the Project, and shall not affect any other applicable municipal or state tax or charge of any kind unrelated to real property taxes, for which the Owner shall continue to be responsible.

3. Taxes Upon Expiration or Termination. Upon expiration or termination of this PILOT Agreement for any reason, full County and City real property taxes shall be paid from the point of expiration or termination forward, based on the assessed value of the Property and the applicable real property tax rates in effect at such time.

4. Requirements For Continued PILOT. The continued right of the Owner to enjoy the benefits of this PILOT Agreement and to make property tax payments in accordance with Paragraph 2 above is conditioned upon compliance at all times during the Term of this PILOT Agreement with the following conditions. The failure to comply with any of these conditions shall cause an immediate termination of this PILOT Agreement without further notice being required to be given to Owner, provided that the City or the

County, as applicable, shall notify the Owner at the address set forth in Section 17 hereof of any such noncompliance, and the Owner shall have 180 days from the date of such notice to cure the noncompliance, or, in the event that Owner cannot cure within such 180-day period then such period of time as is reasonably necessary to cure the noncompliance:

(a) The Owner must comply in all material respects with the applicable provisions of the Tax-Property Article and other provisions of the Annotated Code of Maryland, with the Frederick County Code, with The City of Frederick Code, and with their respective rules and regulations, as they relate to the Property;

(b) The Owner shall not transfer, sell, or exchange the Property if that transfer, sale, or exchange would change the Property's use as income-restricted rental housing as permitted by the Regulatory Agreement.

(c) Except in connection with the financing expressly disclosed herein and the initial refinancing of same for the permanent conversion of the Project (the "Pre-Approved Financing Transactions"), for which no additional notice is required, nor shall any of the below provisions of this clause (c) apply in connection therewith, in the event of an anticipated refinancing, transfer, sale, or exchange of the Property that will not change the Property's use as income-restricted rental housing, the Owner shall provide at least ninety (90) days' prior written notice to the City and the County. The Owner's notice of refinancing, transfer, sale, or exchange of the Property must include documentation that proves, to the County and the City's satisfaction, the need for the Project to continue to receive the annual PILOT Credit.

(i) If the County or the City reasonably determines that the Project does not have a continuing need for the annual PILOT Credit, then the County or the City shall notify the Owner in writing of this determination and this PILOT Agreement shall be terminated as of the date of the written notice.

(ii) If the County and the City reasonably determine that the Project has a continuing need for the annual PILOT Credit, then the County and the City will provide written notice of their consent to or disapproval of the refinancing, transfer, sale, or exchange of the Property. The County's and City's consent may be withheld in their sole discretion in the event the refinancing, transfer, sale or exchange is to an unaffiliated third-party. If the refinancing, transfer, sale, or exchange of the Property is to a party affiliated with the Owner, the County and City's consent shall not be unreasonably withheld, conditioned or delayed.

(iii) Notwithstanding the foregoing or anything herein to the contrary, no notice or consent shall be required in connection with (A) any transfer of the Property pursuant to foreclosure, deed-in-lieu of foreclosure or other similar disposition under any mortgage or other security instrument securing the financing expressly disclosed herein, or (B) any refinancing of the financing expressly disclosed herein; provided that the Property continues to be used as income-restricted rental housing as permitted by the Regulatory Agreement and otherwise remains in compliance with the terms and provisions of this PILOT Agreement.

(d) The Owner shall provide, on an annual basis, and otherwise upon request, to the County's and the City's chief financial officers (each a "Finance Director")

an annual financial report audited by an independent Certified Public Accountant in accordance with Generally Accepted Accounting Principles. Furthermore, a Finance Director shall have the ability upon reasonable advance written notice to the Owner, to examine the Owner's and Project's books and records during normal business hours. Such books and records must be sufficient to verify that the units have been rented exclusively to income-qualified persons. The Owner shall submit the audit to the County and the City within ninety (90) days after December 31 of the year in which the Owner receives a certificate of occupancy for the entire Project, and within 90 days of each subsequent December 31 thereafter;

(e) The Owner shall certify in writing to the respective Finance Directors, on an annual basis or otherwise upon request of a Finance Director, the continued compliance with the terms and conditions of this PILOT Agreement, with the applicable provisions of the Tax-Property Article and other sections of the Annotated Code of Maryland, with the Frederick County Code, with The City of Frederick Code, and with their respective rules and regulations;

(f) The Owner shall provide written certification of the continuing need for the Project to receive the annual PILOT Credit to the Finance Director, within 30 days after the 15th anniversary of the Effective Date of this PILOT Agreement, and on an annual basis thereafter.

(g) PILOT payments as required hereunder and payment of all other taxes and charges (including interest) applicable to the Property must be timely paid. Interest on overdue payments, in the same amount as charged to other delinquent County and City

taxpayers, shall be added to the amount due and collected by the County and the City in the same manner that real property taxes are collected.

(h) For the avoidance of doubt, the County and the City acknowledge and agree that any mortgagee and/or investor member of the Owner may, but shall have no obligation to, cure any non-compliance on behalf of the Owner hereunder and the City and the County will accept any such cure and performance as if the same had been done by the Owner.

5. Tax Implications for Noncompliance.

(a) If any portion of the Property or Project is determined to have been taken out of service and is not available for income-qualified persons during the Term of this PILOT Agreement, by virtue of sale, refinancing, or other action of the Owner including, but not limited to, renting a unit to someone who at the start of that resident's occupancy is not a qualified person, then the following shall apply: At such time as Owner becomes aware that a unit is taken out of service as described above, the Owner shall have 180 days from that date to remedy the noncompliance, or, in the event that Owner cannot cure within such 180 day period, then the Owner shall have such period of time as is reasonably necessary to return the unit to housing available for income-restricted persons as permitted under all loan, equity and regulatory restrictions placed on Owner and/or the Property. If the Owner fails to return the unit to compliance within the period of time required hereunder, then all County and City real property taxes for the out of service unit going forward will become due and payable to the County and the City, less any already paid County PILOT Credit or City PILOT Credit for the out-of-service unit.

(b) If, at any time, an otherwise qualified occupant's income increases above the limits established to qualify for the income-restricted housing, the PILOT Agreement terms shall remain in effect unless the Owner fails to comply with applicable laws, rules or regulations including but not limited to Internal Revenue Code Section 42(g)(2)(D).

(c) An unoccupied or empty unit is deemed a unit that is in compliance, and is therefore not subject to the tax implications of this section, which apply only to those units which are taken out of service as housing available for income-restricted housing.

6. Residential Use. The Owner shall not in any manner or to any extent transfer or exchange the Property in a way that would change its use as a residential rental project for income-qualified persons without risking immediate termination of this PILOT Agreement. In the event, however, the Owner wishes to transfer or exchange the Property at any time during the Term of this PILOT Agreement, and the transferee expresses the desire to maintain the Property as a residential rental project for income-qualified persons and in the PILOT Program, the Owner must notify the County and the City as described in Paragraph 4(c) herein.

7. Completion of Project. The Owner anticipates that the Project will be complete, as evidenced by the issuance of certificates of occupancy for the entire Project, no later than thirty (30) months from the Agreement Date (subject to extension due to force majeure or as otherwise agreed to by parties). If the Project is not complete within this time period, the Owner will have ninety (90) days to complete the Project or to commence and diligently pursue completion of the Project if the Project cannot reasonably be

completed within the ninety (90) day period. If the Owner will fail to complete the Project as required under this Section, then the Owner must notify the County/City as soon as possible with the reasons for the delay and an estimated time for completion. Upon review of the notice, the County/City may extend the time for completion in a written amendment to this PILOT Agreement. If the Project completion continues to be delayed beyond the time period in any amendment, the County/City shall have the right to declare this PILOT Agreement null and void by providing written notice to the Owner.

8. Referenced Documents. Any document, or amendments thereto, referenced in this PILOT Agreement shall be provided to the City and County, with appropriate recording references, by the Owner when executed.

9. Amendment. This PILOT Agreement may not be amended, altered or modified except by a written amendment executed by all parties.

10. Governing Law and Dispute Resolution. This PILOT Agreement and the rights and obligations of the parties hereto and any claims or disputes thereto shall be governed by and construed in accordance with the laws of the State of Maryland. The exclusive venue for litigation shall be Frederick County, Maryland. If parties are not able to resolve disputes directly with each other, the parties may, prior to litigation, attempt to resolve any disputes that arise out of this PILOT Agreement through mediation before a mutually acceptable mediator.

11. Right of First Refusal

(a) The Owner hereby grants to the County and the City the Right of First Refusal to purchase the Property during the Term and any extensions of this PILOT

Agreement. If the Owner desires to sell the Property (subject to the terms of this PILOT Agreement), and receives a bona fide offer to purchase, the Owner shall give the County and the City at least ninety (90) days' prior written notice of its intention to sell the Property. The Owner's notice shall state the terms and conditions proposed to, and accepted by, an interested third party.

(b) The County and the City will have thirty (30) days after receipt of Owner's written notice in which to exercise or not exercise the Right of First Refusal. If the County or the City fails to provide written notice of its intent to exercise this Right of First Refusal within the thirty (30) day period, then the County or the City will be deemed to have refused the Right of First Refusal. If the County or the City elects to exercise the option, it shall do so in writing during the thirty (30) day period, and the Owner and County or City shall enter into an agreement of sale for the Property on the same terms and conditions as included in the Owner's notice. Any such sale shall be subject to approval of any mortgagees, if applicable, including HUD approval under applicable Transfer of Physical Assets (TPA) procedures should the Project and Property remain subject to any HUD-insured loan upon the completion of such sale. For the avoidance of doubt, no transfer of the Property pursuant to foreclosure, deed-in-lieu of foreclosure or other similar disposition under any mortgage or other security instrument securing the financing expressly disclosed herein shall be subject to the terms of this Section 11.

12. Agreement to Run With Land. The parties acknowledge and agree that this PILOT Agreement shall be recorded in the land records of Frederick County, Maryland and shall be appurtenant to and run with the Property.

13. Other Taxes and Fees. Nothing herein shall be deemed or construed to be a reduction or waiver by the County or the City of any other tax or fee of any kind whatsoever, including but not limited to any development impact fee, building excise tax, recordation tax, fire or rescue tax, or income tax except as provided for above in Paragraph 2.

14. Assignment of PILOT Agreement. This PILOT Agreement may not be assigned or transferred, in whole or in part, in any manner without the prior written consent of the County and the City, which consent may be withheld in the sole discretion of the City and the County in the event the assignment or transfer is to an unaffiliated third-party. If this PILOT Agreement is assigned or transferred, in whole or part, to an entity that is affiliated with the Owner then consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, this PILOT Agreement may be assumed by a mortgagee or its designee that acquires title to the Property by foreclosure, deed-in-lieu of foreclosure or similar disposition pursuant to any mortgage or other security instrument securing the financing expressly disclosed herein, together with any initial mortgagee that refinances any such indebtedness (each, a "Successor Owner") at its election without the prior written consent of the City and County; in which case the rights and obligations of Owner under this PILOT Agreement shall be binding upon, and shall inure to the benefit of, such Successor Owner; provided that in no event shall the Successor Owner be liable for the acts and omissions of the prior Owner.

15. Counterparts. This PILOT Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which together

shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

16. County and City PILOT Policies. The County's PILOT Policy in effect as of the date of this PILOT Agreement and attached hereto as Exhibit A, is incorporated by reference and made a part of this PILOT Agreement with Owner responsible for all obligations thereunder. Further, the City's PILOT Policy in effect as of the date of this PILOT Agreement and attached hereto as Exhibit B, is incorporated by reference and made a part of this PILOT Agreement with Owner responsible for all obligations thereunder.

17. Notices. All notices shall be in writing and either hand delivered or sent by United States certified or registered mail, postage prepaid, return receipt requested. Notices shall be given to the parties as follows:

If to the County, then to: Frederick County, Maryland
ATTN: Director – Division of Housing
401 Sagner Avenue
Frederick, Maryland 21701

Copy to: Frederick County Attorney
Winchester Hall
12 East Church Street
Frederick, Maryland 21701

If to the City, then to: Frederick City Hall
ATTN: City Attorney
101 North Court Street
Frederick, Maryland 21701

Copy to: ATTN: Director of Housing and Human Services
The Department of Housing and Human Services
100 South Market Street
Frederick, Maryland 21701

If to the Owner, then to: Junction Frederick, LLC
c/o Taft Mills Group

631 Dickinson Avenue
Greenville, North Carolina 27834

Copy to: Reno & Cavanaugh, PLLC
455 Massachusetts Avenue, NW, Suite 400
Washington, D.C. 20001
Attention: Efreem Levy, Esq.

Copy to: Wells Fargo Bank, N.A.
550 S. Tryon Street
23rd Floor, MAC D1086-239
Charlotte, North Carolina 28202-4200
Attn: Director of Tax Credit Asset Management

Any party may modify the address to which notice to it shall be sent, by delivery of notice to the other parties in accordance with the foregoing. Each notice that is sent in accordance with the foregoing shall be presumed to have been received on the business day it is personally delivered or three (3) business days after the date of mailing, as applicable.

18. Entire Agreement; Recitals; Headings. This PILOT Agreement contains the entire agreement of the parties with respect to the matters herein set forth. All other agreements and understandings of the parties relating to the subject matter of this PILOT Agreement, written or oral, if any, are merged into this PILOT Agreement. The recitals set forth at the beginning of this PILOT Agreement shall be deemed to be a part of this PILOT Agreement. The headings set forth at the beginning of each section or subsection of this PILOT Agreement are for convenience of reference only and do not have any independent legal significance.

IN WITNESS WHEREOF, Junction Frederick, LLC, a North Carolina limited liability company, Frederick County, Maryland, a body corporate and politic of the State of Maryland, and The City of Frederick, a municipal corporation of the State of Maryland have caused this PILOT Agreement to be signed by duly authorized individuals, as duly attested, as of the day and year first hereinabove written.

[Signatures start on the next page]

JUNCTION FREDERICK, LLC,
a North Carolina limited liability company

By: Junction Frederick MM, LLC,
a North Carolina limited liability company
Its: Managing Member

By: Taft-Mills Group, LLC,
a North Carolina limited liability
company
Its: Managing Member

By: Frankie Cash-Langley
Name: Frankie Cash-Langley
Title: Authorized Signatory

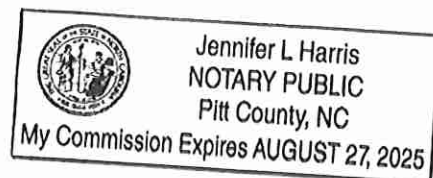
STATE OF NC, COUNTY OF Pitt, TO WIT:

I HEREBY CERTIFY, that on this 16 day of May, 2024, before me, the subscriber, a Notary Public in and for the State of ~~Maryland~~ and County of ~~Frederick~~ Pitt, personally appeared Frankie Cash-Langley, Authorized Signatory of Taft-Mills Group, LLC, a North Carolina limited liability company, managing member of Junction Frederick MM, LLC, a North Carolina limited liability company, managing member of Junction Frederick, LLC, a North Carolina limited liability company, and acknowledged the foregoing PILOT Agreement to be the act of said Junction Frederick, LLC, and at the same time, he made oath in due form of law that he is the Member of Taft-Mills Group, LLC, a North Carolina limited liability company, managing member of Junction Frederick MM, LLC, a North Carolina limited liability company, the managing member of Junction Frederick, LLC, and is duly authorized to make this acknowledgement on its behalf. North Carolina

WITNESS my hand and Notarial Seal.

Jennifer L Harris
Notary Public

My Commission expires: August 27, 2025



WITNESS:

THE CITY OF FREDERICK

By: Phyllis M. Hane

By: Michael O'Connor
Michael O'Connor, Mayor

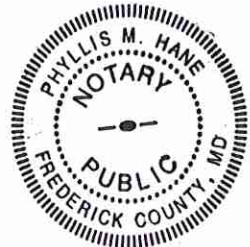
STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 24th day of May, 2024, before me, the Subscriber, a Notary Public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared Michael O'Connor, who acknowledged himself to be the Mayor of The City of Frederick, a body corporate and politic, and that he, as Mayor, being authorized so to do, executed the foregoing PILOT Agreement for the purposes therein contained, by signing the name of the body corporate and politic by himself as Mayor.

WITNESS my hand and Notarial Seal.

Phyllis M. Hane
Notary Public

My Commission Expires: 11/2/24



WITNESS:

FREDERICK COUNTY, MARYLAND

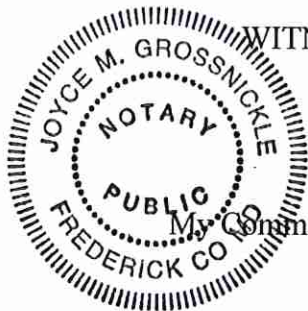
By: Joyce M. Grossnickle

By: Jessica Fitzwater
Jessica Fitzwater, County Executive
KMS

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 24th day of June, 2024, before me, the Subscriber, a Notary Public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared Jessica Fitzwater, who acknowledged herself to be the County Executive of Frederick County, Maryland a body corporate and politic, and that she, as County Executive, being authorized so to do, executed the foregoing PILOT Agreement for the purposes therein contained, by signing the name of the body corporate and politic by herself as County Executive.

WITNESS my hand and Notarial Seal.



Joyce M. Grossnickle
Notary Public

My Commission Expires: 12/17/2024

EXHIBIT A

County's PILOT Policy

[See Attached]

**PAYMENT IN LIEU OF TAX POLICY FOR
LOW AND MODERATE INCOME RENTAL HOUSING PROGRAMS
(UPDATED 10-24-22)**

Frederick County, Maryland, a body corporate and politic of the State of Maryland ("County") hereby revises its policy for Payment in Lieu of Tax ("PILOT") agreements required to support housing Projects located within Frederick County (both within and outside of municipalities) that provide decent, safe, and sanitary housing to low or moderate income citizens when that housing cannot be provided without waiving a portion of real property taxes.

Nothing herein shall be deemed to require the County to enter into a PILOT Agreement in support of an eligible housing Project. The decision as to whether or not to enter into any particular PILOT Agreement is completely at the discretion of the County Executive and the County Council.

This revised policy replaces the "Policy for Frederick County for Payment in Lieu of Taxes in Support of Low/Moderate Income Housing" adopted by the County on June 24, 2008.

1. Definitions

a. *Project* - A housing development complying with the requirements and intent of this Policy, which, by virtue of a County Council resolution and a PILOT Agreement by and between the County and the Project owner, is authorized to pay a negotiated or discounted amount in lieu of Frederick County real property tax.

b. *Frederick County Real Property Tax* - That real property tax which would normally be collected by Frederick County Government based on the full-assessed value of a property and its improvements at the tax rate in effect at the time of collection. State of Maryland and municipal real property taxes, County fire and rescue tax, other special taxing district and community development agreement taxes and assessments, and other fees or charges from government entities shall not be subject to a PILOT Agreement and shall be paid by the Project or property owner.

c. *Payment in Lieu of Tax ("PILOT") Agreement* - An agreement between the County and Project owner for the payment of a negotiated or discounted amount in lieu of full payment of Frederick County real property tax for an approved housing development, either new construction or rehabilitation, that provides rental housing for low or moderate income County residents.

d. *Low to Moderate Income Household* - A household whose gross income is at or below the income limit established by the U.S. Department of Housing and Urban Development (HUD), the Maryland Community Development Administration (CDA), or other funding agency, at the time of PILOT Agreement. Unless otherwise required or appropriate, HUD limits will be used rather than those of another agency.

e. *Regulatory Agreement* - A recorded agreement between a public agency

lender and the Project owner covering administrative, occupancy, and financial requirements of the loan from the public agency.

2. Procedures Required for PILOT Agreement

a. The applicant shall submit a request to enter into a PILOT Agreement to the County Executive, with a copy to the Department of Housing and Community Development (DHCD). The DHCD, in consultation with staff from Treasury, Finance, and the County Attorney's Office (and the municipality if a joint County-municipality PILOT Agreement is requested), will draft a PILOT Agreement for approval by the County Executive.

b. After receiving approval from the County Executive, the DHCD will present the draft PILOT Agreement to the County Council at a public meeting.

c. The County Council may, by resolution, authorize the County Executive to enter into a PILOT Agreement if permitted by Maryland law, and if one or more of the following applies:

- The proposed housing Project will serve the public purpose of providing decent, safe, and sanitary housing for low to moderate income citizens, at rents that are not attainable on the open market, and where the granting of tax relief through the PILOT program is essential to the attainment of those rents;
- A principal funding agency, such as HUD or CDA, requires a significant local contribution from the County before it will finance a qualifying Project, and the PILOT program will be acceptable as that contribution;
- The PILOT Agreement is essential to the success of a County funded Project, such as one funded with Community Development Block Grant funds; or
- The PILOT Agreement will provide sufficient savings to a Project to permit qualifying housing to be created without the utilization of HUD, CDA, or other public agency's financing.

3. Project Eligibility

Any Project that the County determines facilitates or fulfills the public purpose of providing low to moderate income housing may be eligible for a PILOT Agreement. Eligible Projects may be located anywhere within Frederick County, within or outside of municipalities, on Property that is properly zoned and served, or eligible to be served, by public water and sewer.

4. Approval by Municipality

For projects located within a Frederick County municipality, the County will not authorize

a PILOT Agreement unless there is approval of the Project by the municipality within which the Project is located.

5. Annual Audit Required

Within ninety (90) days after December 31 of the year in which a PILOT Agreement is entered into, and within 90 days of each subsequent December 31 thereafter, the Project owner shall submit to the Frederick County Division of Finance and to the Frederick County Department of Housing and Community Development a complete operating financial report in such detail as may be required by the Division of Finance. This financial report shall be based on an examination of the Project's and Project owner's books and records, prepared in accordance with generally accepted accounting principles, and shall be prepared and certified to by a Certified Public Accountant registered to practice in the State of Maryland. The Project Owner shall also submit to the County within the time period noted above and as further specified in the PILOT Agreement, the following: Certification of Continued Need, and copies of Year End LIHTC Reporting provided to Maryland CDA.

6. Cash Distributions Limited

The Project owner shall not be entitled to any cash distribution except as permitted in accordance with the Regulatory Agreement and the PILOT Agreement.

7. Transfer or Exchange of the Property

a. The Project owner shall not transfer or exchange ownership of the Project or property or otherwise change the use of the Project from a residential low or moderate income rental Project while the Project is subject to a PILOT Agreement, except as permitted by the Regulatory Agreement and with the advance written consent of the County.

b. In the event the Project owner wishes to transfer or exchange ownership of the property or Project or change the use of the Project while the Project is subject to a PILOT Agreement, the owner shall notify the County (and the municipality if applicable), in writing, at least ninety (90) days prior to undertaking any such action, and must obtain advance written consent of the County (and the municipality if applicable) for such transfer, exchange or change in the nature of the Project. Absent such advance written consent, the Project owner shall be deemed to be in material default under the Project PILOT Agreement and the County may exercise all rights under the PILOT Agreement, at law and in equity.

8. PILOT Payments

a. In the case of Projects involving the County and any Frederick County municipality, since both County and municipality real property taxes would otherwise be collected, the Applicant must negotiate the required payments in lieu of taxes (if any) with the municipality separately.

b. Payments in lieu of tax for rehabilitation Projects shall be determined

considering a Project's assessed value and the tax rate in effect immediately after rehabilitation, so that no rehabilitation Project shall pay less in taxes after entering into a PILOT Agreement with the County than were paid before entering into the PILOT Agreement.

9. Term of PILOT Agreement

Each PILOT Agreement shall remain in effect for a predetermined number of years; "evergreen" agreements are not permitted. The term of a PILOT Agreement may, with the County's consent, coincide with the term(s) set by another agreement, including but not limited to Frederick County Deferred Loan Program documents, Internal Revenue Service low income housing tax credit agreements, or CDA regulatory agreements.

10. Termination Prior to Expiration of the Term

If, during the term of a PILOT Agreement, the Project owner removes any or all of the qualifying housing units from service as low to moderate income rental housing, and does not return the unit to service within a reasonable time period (as further detailed in the PILOT Agreement), then all Frederick County real property tax that would have been imposed for the unit(s) as of the date the unit is taken out of service, less any payments previously made, will be immediately due and payable to the County.

11. Recordation of Agreement

PILOT Agreements shall be recorded in the Frederick County land records and shall constitute a lien on the Project and real property.

12. Payment in Lieu Amount

The maximum amount of property taxes waived under each PILOT Agreement shall not exceed Five Hundred and Twenty Dollars (\$520.00) per unit, per fiscal year.

13. Notification Requirement

While the Project is subject to a PILOT Agreement, written notification from the Project owner must be given to the County in writing at least eighteen (18) months, but no more than twenty-four (24) months, prior to the termination of any agreement that requires the Project to remain as low or moderate income rental housing.

14. Right of First Refusal

If the PILOT Agreement is coterminous with a Regulatory Agreement, the County must have the right of first refusal to purchase a PILOT Agreement Project at the end of the service period at a cost reflecting the value established by the primary lender, Regulatory Agreement, or Project fair market rate, or the minimum purchase price provided in Section 42(i)(7) of the Internal Revenue Code of 1986, as amended, whichever is lowest. The County shall have ninety (90) days from receipt of notification from the Project owner of the owner's intention to sell and presentation

of a bona fide offer to decide.

15. Incorporation into PILOT Agreements

All PILOT Agreements must incorporate this Payment In Lieu of Tax Policy for Low and Moderate Income Rental Housing Programs as part of its terms and conditions.

Approved on this 24 day of October, 2022.

ATTEST:

DocuSigned by:
Rick Harcum
820E502B0989047C...
Rick Harcum
Chief Administrative Officer

FREDERICK COUNTY, MARYLAND

DocuSigned by:
Jan Gardner
D0882CAD87AF435...
By: Jan H. Gardner
County Executive

Title: Resolution to Adopt a Program for Payments in Lieu of Taxes in Support of Low and Moderate Income Housing

Introduced by: Mayor Michael O'Connor

Date: May 2, 2024

Action: Approved

Summary: The City has adopted a policy under which it may enter into agreements with the owners of certain properties that provide rental housing for persons with limited incomes. Those agreements allow for the payment of a negotiated amount instead of property taxes. The policy says that the agreements must include the same terms as analogous agreements with Frederick County. This resolution eliminates that requirement to provide more flexibility, and also makes further updates.

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN**

RESOLUTION NO: 24-05

A RESOLUTION concerning

A Policy for the Program for Payments in Lieu of Taxes in Support of Low and Moderate Income Housing

BACKGROUND

The Maryland Annotated Code, Tax-Property Article, § 7-506.1 authorizes exemptions from real property taxes imposed by The City of Frederick (the "City") for certain properties that provide rental housing for persons with limited incomes, provided that the City and the property owner enter into an agreement for the payment of a negotiated amount in lieu of the City real property taxes.

On September 18, 2014, the City adopted Resolution No. 14-16, establishing a new policy for the Payment in Lieu of Taxes (PILOT) Program (the "2014 Policy"), which revised and replaced a prior policy adopted on April 18, 1991. The 2014 Policy requires joint participation between the City and Frederick County – i.e., that the City will not authorize a PILOT Agreement unless there are assurances that the County will enter into a similar agreement with essentially identical terms - and the division of payments between the City and the County in accordance with the ratio each tax rate bears to the total rate.

The Board of Aldermen wish to obtain more flexibility in supporting the goals of the PILOT Program. Specifically, the Board desires to eliminate the requirement that PILOT agreements contain essentially identical terms as corresponding County agreements. The Board finds that it is necessary and in the best interests of the residents of the City of Frederick to revise the 2014 Policy accordingly.

EXHIBIT B


City's PILOT Policy


[See Attached]

NOW THEREFORE BE IT RESOLVED that the Board of Aldermen hereby adopts the Policy for the Program for Payments in Lieu of Taxes in Support of Low and Moderate Income Housing attached hereto as Exhibit A; and

AND BE IT FURTHER RESOLVED that Resolution No.14-16, adopting a Policy for the Program for Payments in Lieu of Taxes in Support of Low/Moderate Income Housing as adopted on September 18, 2014, is hereby void and of no further force or effect.

ADOPTED AND APPROVED THIS 2ND DAY OF MAY. 2024.


Witness


Michael C. O'Connor, Mayor

Approved for legal sufficiency:



Rachel S. Nessen, City Attorney

THE CITY OF FREDERICK
POLICY FOR THE PROGRAM FOR
PAYMENTS IN LIEU OF TAXES IN SUPPORT OF
LOW AND MODERATE INCOME HOUSING

It shall be the policy of The City of Frederick (City) that the Mayor and Board of Aldermen may consider, upon application, negotiating agreed upon payments in lieu of applicable real estate property taxes with owners of certain housing projects for low- and moderate-income persons within the City. The projects must be for the public purpose of providing decent, safe, and sanitary housing for low- and moderate-income persons and comply with the definitions and criteria as set forth below.

1. Definitions

- a. Applicable Real Estate Property Taxes - Those taxes which would normally be collected by the City based on the full assessed value of a property and its improvements at the tax rate in effect at the time of collection.
- b. Low to Moderate Income Household - A household whose gross income is at or below the income limit set by the U.S. Department of Housing and Urban Development (HUD), the Maryland Community Development Administration (CDA), or other funding agency, at the time of agreement. The HUD limits will be used if there is no overriding reason to use those of another agency.
- c. Project - A housing development (real property and improvements), created either through new construction or rehabilitation, that provides housing for low to moderate income residents, and which, by virtue of resolution and agreement by and between the Mayor and Board of Aldermen and the Project Owner, is authorized to pay a negotiated payment in lieu of Applicable Real Estate Property Taxes.
- d. "Payment in Lieu of Taxes" (PILOT) Agreement – is an agreement between the City and Project Owner for the payment.
- e. Regulatory Agreement – A recorded agreement between the public agency lender

and the Project Owner recovering administrative, occupancy, and financial requirements of the loan.

2. Pilot Agreement Conditions

The Mayor and Board of Aldermen may enter into a PILOT Agreement under one or more of the following circumstances:

- a. It has been determined that the Project will serve the public purpose of providing decent, safe, and sanitary housing for low to moderate income persons, at rents that are not attainable on the open market, and where the granting of tax relief through the PILOT program is essential to the attainment of those rents; or
- b. A principal funding agency, such as HUD or CDA, requires a significant local contribution from the City before it will finance a qualifying project, and the PILOT program will be acceptable as that contribution; or
- c. A PILOT Agreement is essential to the success of a City funded project, such as one funded with Community Development Block Grant funds; or
- d. A PILOT Agreement may be implemented as a "stand alone" when such an agreement will provide sufficient savings to a Project that qualifying housing can be created without the utilization of HUD, CDA, or another public agency's financing.

3. Project Eligibility

Any Project that is determined by the Mayor and Board of Aldermen to meet a public purpose by virtue of its providing low to moderate income housing is eligible. Projects may be located anywhere in the City on properly zoned and serviced sites.

4. Enhanced PILOT Amount

Projects that address certain basic necessities of City residents or those projects owned by a nonprofit organization, or a housing authority may receive an enhanced abatement of real property taxes. The City will prioritize enhanced abatement projects that meet the

following criteria:

- a. Provide deeply affordable rental units (<30-50%AMI);
- b. Provide rental units restricted to low-income seniors;
- c. Promote redevelopment of low valued areas, brownfields or blighted areas; or
- d. Promote job creation in the surrounding area;

5. Joint City-County Participation

The Mayor and Board of Aldermen may authorize a Joint PILOT Agreement with Frederick County, Maryland (the "County").

6. Annual Audit Required

As soon as they are prepared and available, but in any event not later than March 31 of the first year following the year in which a PILOT Agreement is entered into, and not later than March 31 of each year thereafter, the Project Owner shall submit to the City of Frederick Department of Finance a complete audited operating financial report, in such detail as may be required by the Department of Finance to administer the PILOT Agreement. Said financial statement shall be based on an examination of the books and records of the Project, prepared in accordance with generally accepted accounting principles, and shall be certified and audited by a Certified Public Accountant registered to practice in the State of Maryland or with the registration authority of any other State.

7. Cash Distribution Limited

The Project Owner shall not be entitled to any cash distribution except as permitted in accordance with the Regulatory Agreement and the PILOT Agreement.

8. Transfer or Exchange of the Project

- a. The Project Owner shall not make any transfer or exchange of the Project which would change its use as a low to moderate income residential rental project except as permitted by the Regulatory Agreement.

- b. In the event the Project Owner wishes to transfer or exchange the Project at any time within the term of the PILOT Agreement (Term) to a transferee that will maintain a use consistent with this Policy and the terms of the PILOT Agreement, the Project Owner must notify the City and the County, in writing, at least ninety (90) days prior to undertaking any such action, and must obtain written consent of the City and County for such transfer or exchange. Absent such consent, which shall not be unreasonably withheld, the full penalties as set forth herein shall apply.

9. Payments

- a. Except as set forth below, negotiated payments under PILOT Agreements may be established in such manner as the Mayor and Board of Aldermen believe necessary to support a Project and carry out the intent of this PILOT Policy. For example, negotiated payments in lieu of the City's real property tax might be structured so as to include, but not be limited to: an amount certain (set dollar amount) per eligible unit of the Project or for the overall Project as a whole; an amount certain based on the assessment value of the Project from a specified date, with some associated calculation for annual increases; a percentage reduction in the annual Applicable Real Estate Property Tax rate; or any number of other potential models.
- b. In no event shall a Project's Payments in Lieu of Taxes be less than \$100 dollars per qualifying rental unit, subject to such annual increase as the Board of Aldermen may determine to be appropriate.
- c. The basis of Payments in Lieu of Taxes for rehabilitation Projects shall be the assessed value and the tax rate in effect immediately prior to rehabilitation, so that no rehabilitation project shall pay less in taxes after a PILOT Agreement than it was paying before the PILOT Agreement.

10. Term of PILOT Agreement

Each Agreement shall remain in effect for a predetermined number of years. The Term may, by approval of the Mayor and Board of Aldermen, coincide with the Term or duration set by another agreement, such as an IRS Low Income Housing Tax Credit or CDA Regulatory Agreement.

11. Penalties for Termination Prior to Expiration of the Term

If the Project Owner takes any or all of the qualifying units out of service as low to moderate income housing before the earlier of the expiration of the Term for any related Regulatory Agreement or the Term for the PILOT Agreement, by virtue of sale, refinancing, or other action of the Owner such as, but not limited to, renting a unit to someone who at the start of that resident's occupancy is other than a qualified low or moderate income person, then it shall be as though there never was a PILOT Agreement on the units taken out of service. At such time as a unit is taken out of service as described above, however, the Owner shall have 180 days from the date any PILOT Agreement party identifies that the unit is not in compliance to remedy the noncompliance and to return the unit to housing available for qualified low- or moderate- income persons. If the Owner fails to return the unit to compliance within the 180-day cure period, then all Applicable Real Estate Property Taxes that would have been imposed from the initial Effective Date of the PILOT Agreement for the out of service unit, less any already paid PILOT for the out of service unit, will be immediately due and payable to the City.

12. Recordation of Agreement

The PILOT Agreement shall be recorded and will therefore serve as a lien on the Property.