

THE EFFECTIVE DATE OF THIS RESOLUTION IS DECEMBER 15, 2015

RESOLUTION NO. 15-29

RE: SALE OF SURPLUS REAL PROPERTY

The Annotated Code of Maryland, Education Article, Section 4-115, provides that legal title to real property acquired by Frederick County from the Frederick County Board of Education ("BOE") may be transferred by the County Council if it is determined, after public hearing, to be surplus to County needs and transferred upon acceptable terms and conditions; and

By a Memorandum of Understanding dated November 20, 2014, between Oakdale Properties, LLC ("OAKDALE"), the BOE, and Frederick County, (the "MOU"), the parties recognize that there would be a mutual benefit if the BOE's access road from Maryland Route 144 to the Oakdale Middle and Elementary Schools ("School Access Road") was upgraded to County standards, dedicated to Frederick County, and thereafter maintained by Frederick County (rather than by the BOE) as a County road; and

Oakdale, which is developing real property adjacent to the BOE's Oakdale Middle and Elementary Schools, is willing to bear the cost of upgrading the School Access Road to County standards, dedicate the School Access Road to Frederick County, and make certain other improvements to adjacent BOE property all as agreed to in the MOU; and

The transfer of legal title to the BOE's School Access Road and adjacent property, collectively identified as Outlot A in the MOU, from the BOE to Frederick County and then from Frederick County to Oakdale, as contemplated by the MOU, must first be approved by Maryland's Board of Public Works, which approval occurred on August 26, 2015; and

The transfer of Outlot A, including School Access Road, from Frederick County to Oakdale further requires the County Council's approval after public hearing.

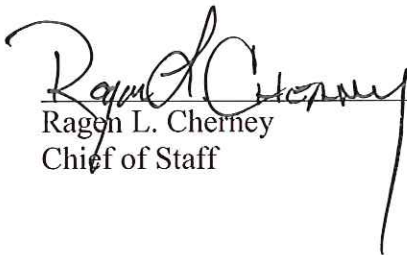
NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND, that the real property identified as Outlot A in that
Memorandum of Understanding dated November 20, 2014 between Frederick County, the
Frederick County Board of Education ("BOE") and Oakdale Properties, LLC, ("Oakdale"),
attached as Attachment I to this Resolution, comprising the therein described Oakdale Middle
and Elementary Schools' Access Road and certain adjacent property, is surplus to present
County needs and when title is received from the BOE shall then be transferred to Oakdale
pursuant to the terms of the attached Memorandum of Understanding; and

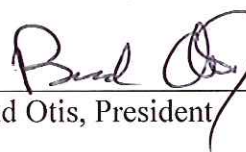
BE IT FURTHER RESOLVED that the County Executive and such other officers,
officials and employees of the County as the County Executive may designate are authorized and
empowered to execute all documents, instruments and certificates and otherwise to take all
actions necessary to consummate the transfer of Outlot A to Oakdale Properties, LLC.

The undersigned certifies that this Resolution was approved and adopted on the 15th day
of December, 2015.

ATTEST:

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND


Ragen L. Cherney
Chief of Staff

By: 
Bud Otis, President

R.P.M.
12.15.15

OAKDALE VILLAGE
OAKDALE SCHOOLS ACCESS ROAD AND ADDITION
MEMORANDUM OF UNDERSTANDING

THIS OAKDALE VILLAGE, OAKDALE SCHOOLS ACCESS ROAD AND ADDITION MEMORANDUM OF UNDERSTANDING (this "Memorandum of Understanding" or "MOU") is entered into this 20th day of ~~November~~ December 2014 (herein the "Effective Date"), by and between OAKDALE PROPERTIES, LLC, a Maryland limited liability company ("Developer"), the BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (the "County"), and the BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND a body corporate and politic of the State of Maryland ("BOE") (Developer, County and the BOE being sometimes hereinafter referred to, collectively, as the "Parties").

RECITALS

WHEREAS, Developer is the fee simple owner of all of those lots or parcels of land located on the north side of Old National Pike, Frederick County, Maryland that were conveyed unto Developer by a Deed from Hutzell Family Properties, LLC, a Maryland limited liability company, dated December 21, 2012, and recorded among the Land Records of Frederick County, Maryland (the "Land Records") in Liber 9296, folio 292; a Deed from E. Carlton Carey, Jr. and Gladys L. Carey, dated January 30, 2013, and recorded among the Land Records in Liber 9371, folio 323; and a Confirmatory and Quitclaim Deed from E. Carlton Carey, Jr. and Gladys L. Carey, dated April 26, 2013, and recorded among the Land Records in Liber 9563, folio 129 (the "Developer's Property"); and

WHEREAS, Developer intends to develop a Mixed Use development known as "Oakdale Village" on Developer's Property, pursuant to the applicable provisions of the Frederick County Code (the "Project"), which Project has combined preliminary plan and site plan conditional approval from the Frederick County Planning Commission (the "Planning Commission") for 316 residential dwelling units (including an existing house) and one (1) commercial/institutional lot, Frederick County File No. S-1163, AP 13853, which is incorporated herein by this reference (the "Site Plan"); and

WHEREAS, BOE is the fee simple owner of a certain portion of real estate, north of Old National Pike, east of Oakdale Middle School and west of the Developer's Property, shown and described as "OUTLOT A, 160,850 SQ. FT. OR 3.69260 ACRES" on "Final Plat Outlot A Property of Board of Education of Frederick County, Maryland" attached hereto and incorporated herein as EXHIBIT A ("Outlot A"), that is part of the same real property conveyed unto BOE by Deed from Roger U. DeLauter Jr. and Sharon DeLauter Michael and Patricia DeLauter O'Toole, dated December 17, 1999, and recorded among the Land Records in Liber 2665, folio 78 ("BOE's West Property"); and

WHEREAS, there is a paved access roadway from Old National Pike to Oakdale Middle School and Oakdale Elementary School (collectively, the "Schools") located on and within the westernmost portion of Outlot A, said westernmost portion of Outlot A, being shown and

described as the "Oakdale School Road, R/W Width Varies" on "Addition and Dedication Plat Part of the Lands of OAKDALE PROPERTIES, LLC TO OAKDALE PROPERTIES, LLC" attached hereto and incorporated herein as EXHIBIT B (the "Oakdale Schools Road ROW") (EXHIBIT B being defined herein as "Addition Plat"), such paved access roadway, together with signage, curb and gutter, bridge structures and associated storm drain system, all being referred to herein as the "Access Road"; and

WHEREAS, BOE is also the fee simple owner of all those lots or parcels of land located on the north side of Old National Pike, west of Eaglehead Drive, Frederick County, Maryland, being all and the same real property conveyed unto BOE by a Deed from Linganore Development Group, a Maryland general partnership, dated December 24, 2003 and recorded among the Land Records in Liber 4323, folio 357 (the "Oakdale High School Property", and together with BOE's West Property, the "BOE Property") and being the location of BOE's Oakdale High School and public school facilities; and

WHEREAS, Developer, as a condition of its Site Plan approval, is required by the Planning Commission (among other requirements and improvements hereinafter described) to construct certain public improvements to provide pedestrian and vehicular access, ingress, egress and connectivity throughout the Project, including, but not limited to, an extension of proposed "Oakdale Village Road Proposed", as a public County road as shown on the Site Plan and on "MOU EXHIBIT CONSTRUCTION EASEMENTS ON FCPS" attached hereto and incorporated herein as EXHIBIT E, to connect with the Access Road, at its northern terminus and to improve and incorporate the Access Road (including the Punch List Work) and the extension of Oakdale Village Road into the County's public road inventory (collectively the "Improvements"); and

WHEREAS, the Developer's construction of the Improvements will require, among other items: (i) the fee simple conveyance of Outlot A by BOE to the County (as school property that is no longer needed); (ii) the reservation of certain easement(s) over Outlot A for the benefit of BOE; (iii) the granting of certain temporary construction and grading easement(s), and a perpetual storm drainage easement over portions of the BOE's West Property adjacent to, and in the proximity of, the Oakdale Schools Road ROW, as generally shown on EXHIBIT E; (iv) the granting of certain temporary construction and grading easement(s) over portions of the Oakdale High School Property, as generally shown on EXHIBIT E; (v) the granting of such other ancillary easements as may be required (each easement area being no greater than one-half (1/2) acre), upon approval by the Executive Director of the Facilities Services Division of the BOE; (vi) the fee simple conveyance of Outlot A by the County to the Developer; and (vii) the Developer's dedication (upon completion of the applicable Improvements to County standards) of the Oakdale Schools Road ROW (including the Access Road) to and its acceptance by the County as part of the County's public road inventory; and

WHEREAS, pursuant to Section 23.03.02.23 of the Code of Maryland Regulations (COMAR), the conveyance of Outlot A by BOE to the County as school property that is no longer needed, is conditioned upon: (i) the BOE's determination that Outlot A is no longer needed for school purposes (with the approval of the State Superintendent of Schools of the Maryland State Department of Education); (ii) the County's concurrence with the BOE's

intention to transfer Outlot A to the County; (iii) the BOE's submission of a request to the Maryland Interagency Committee on School Construction ("IAC") for a recommendation to Maryland Board of Public Works ("BPW") to approve the transfer of Outlot A to the County as school property that is no longer needed (the "BOE Transfer Request"); and (iv) the approval of the BOE Transfer Request by BPW; and

WHEREAS, pursuant to the Annotated Code of Maryland, Local Government Article, Section 12-408 and pursuant to COMAR Section 23.03.02.24, the subsequent conveyance of Outlot A by the County to the Developer (or its designated homeowners' association for the Project, the "HOA") following the conveyance of Outlot A from BOE to the County as school property that is no longer needed, is conditioned upon: (i) the County's finding at a properly noticed public hearing that Outlot A is or would be surplus to County needs and that the terms of the transfer are acceptable (the "Public Hearing"); (ii) the County's submission of a request to the IAC for a recommendation to BPW to approve the transfer of Outlot A by the County to the Developer (the "County Transfer Request"); and (iii) the approval of the County Transfer Request by BPW (the County's approval of the sale at the Public Hearing and the BPW approval of the BOE Transfer Request and the County Transfer Request are hereinafter collectively referred to as the "State Contingency"); and

WHEREAS, the conveyance of Outlot A by the BOE to the County and subsequently by the County to the Developer is also conditioned upon the final approval by the Planning Commission and recording among the Land Records of the "Outlot Plat" and the "Addition Plat" (hereinafter described); and

WHEREAS, the Parties now desire to set forth, in writing, their agreements and understandings regarding the transfer of Outlot A from the BOE to the County, the subsequent transfer of Outlot A from the County to the Developer (or the HOA), the improvement of and dedication by Developer to the County of the Oakdale Schools Road ROW and the acceptance thereof by the County, the easement(s) to be granted herein, and the conditions for the contemplated dedications and/or conveyances thereof, as the case may be.

NOW, THEREFORE, THIS MOU, WITNESSETH: That for and in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **OUTLOT PLAT.** Developer shall be responsible, at its sole cost and expense, for preparing an outlot plat in accordance with all County standards and requirements for approval and recording among the Land Records, that precisely shows and describes Outlot A, to be determined "school property that is no longer needed" by the BOE with the approval of the State Superintendent of Schools, IAC and BPW, and the concurrence of the County with its transfer by BOE to the County (the "Outlot Plat"). The Outlot Plat shall conform to EXHIBIT A attached hereto and shall facilitate and allow the conveyance of Outlot A from BOE to County in fee simple and from County to Developer in fee simple. As of the Effective Date, the Developer has filed, and is processing, the Outlot Plat. Developer shall be responsible, at its expense, to diligently process the Outlot Plat with the Frederick County Community Development Division and Planning Commission. The County shall use commercially reasonable efforts to process the

Outlot Plat and the corresponding PIA (defined in paragraph 3 herein), such that the PIA is approved and the Outlot Plat is approved and record ready no later than the earlier of: (a) sixty (60) days after the Effective Date; or (b) the date of the State Contingency. The BOE agrees to execute or otherwise authorize its approved version of the Outlot Plat as necessary and in accordance with applicable County regulations and subject to the satisfaction of the State Contingency as to the BOE Transfer Request.

2. BOE DETERMINATION AND TRANSFER REQUEST. As part of this MOU, BOE acknowledges that it has been requested by Developer to: (i) determine that Outlot A is no longer needed for school purposes so that it can be conveyed in fee simple to the County; (ii) obtain the approval of the State Superintendent of Schools of such determination; (iii) obtain the concurrence of the County to the conveyance of Outlot A to the County; (iv) submit the BOE Transfer Request to IAC and BPW (such formal Transfer Request not to be submitted until Developer has provided written notice to BOE that Developer is ready for such Transfer Request to be made); and (v) satisfy the State Contingency all in accordance with the aforesaid sections of COMAR. BOE hereby determines that Outlot A is no longer needed for school purposes and that such determination and conveyance of Outlot A to the County (subject to the State Contingency) clearly serve a public purpose for the benefit of the Schools, for the following reasons:

- (a) It will provide secondary emergency access for the Schools,
- (b) it will result in cost savings to BOE by virtue of the transfer of maintenance responsibilities for Outlot A from BOE to the County,
- (c) it will result in County control and responsibility for the Access Road as a public right-of-way serving the Schools,
- (d) it will facilitate the construction by the Developer of a traffic signal at the intersection of the Access Road and Old National Pike that will improve function and safety of access to the Schools,
- (e) it will eliminate the existing condition of "Addition Parcel 1" (hereinafter described) not being practically useable for public school purposes, and the related maintenance concerns due to Addition Parcel 1 ultimately being separated from Oakdale Middle School by a public road (i.e., the Access Road),
- (f) it will facilitate the construction of multiple points of ingress and egress, and interconnectivity between the Project and the Schools, and
- (g) it will facilitate the establishment of a walkable community and enhanced pedestrian access to the Schools and other health, safety and welfare benefits arising from the Project.

3. **PUNCH LIST WORK.** Within forty-five (45) days of satisfaction of the State Contingency, and as part of the review and approval of the hereinafter described Addition Plat, the Developer shall enter into a public improvements/works agreement with the County for the Punch List Work described in the Addition Agreement (defined herein) (the "PIA") and shall post a letter of credit or cash with (and as required by Frederick County for the subdivision of property) to secure the Punch List Work defined and described in the Addition Agreement and in the PIA (the "Punch List Surety"). If the Punch List Surety is not posted by the Developer and the PIA is not entered into by the Developer with the County within the said forty-five (45) days, then this MOU and the related agreements shall be null and void and of no further force or effect, and the Parties shall be released and relieved of any further obligation or liability hereunder. If for any reason the Outlot Plat and PIA are not approved and the Outlot Plat is not record ready by the date of the State Contingency, then the said forty-five (45) day period shall be automatically extended for every day until the Outlot Plat and PIA are approved by the County and the Outlot Plat is record ready.

4. **BOE CONVEYANCE TO COUNTY.** Subject to the satisfaction of the State Contingency and the posting of the Punch List Surety and complete execution of the PIA, the BOE agrees to execute a special warranty deed substantially in the form attached as **EXHIBIT C** (prepared by Developer at its sole expense and approved by the Parties) (the "BOE Deed"), in proper form as reasonably necessary to convey to the County in "AS IS" condition all of its right, title and interest in and to Outlot A, at such time as the County requires, in its reasonable discretion, but no later than thirty (30) days after posting of the Punch List Surety and complete execution of the PIA following satisfaction of the State Contingency. The BOE Deed shall reserve easements for the benefit of BOE, BOE's West Property and the Oakdale High School Property, for the purposes of vehicular (including but not limited to school buses) and pedestrian access, ingress and egress, water, sewer and other utilities over, under, through and across the Oakdale Schools Road ROW (and elsewhere over Outlot A) and for BOE's temporary maintenance responsibility for the Oakdale Schools Road ROW (such temporary responsibility being further described herein) (collectively the "BOE Easements"). Except as otherwise required to maintain its access or utility services, the BOE Easements shall terminate upon the Developer's dedication and the County's acceptance of the Oakdale Schools Road ROW (including for all purposes under this MOU, the Access Road) into the County's public road inventory. Such other matters related to the Project, the Improvements, and other related improvements by Developer to the BOE Property (including without limitation, the Developer's obligation to pay all costs associated with the preparation, submission, execution, permitting and approval of this MOU, all other documents related hereto, the Outlot Plat and Addition Plat, and all costs associated with the Improvements) are further addressed and provided for in the Oakdale Schools-Oakdale Village Construction Agreement by and between the BOE and Developer, of even date herewith and executed simultaneously with this MOU (the "Construction Agreement").

5. **COUNTY CONVEYANCE TO DEVELOPER.** Subject to the satisfaction of the State Contingency, the posting of the Punch List Surety and the execution of the PIA, the County agrees to execute a special warranty deed substantially in the form attached as **EXHIBIT D** (prepared by Developer and approved by the Parties) (the "County Deed"), in proper form as reasonably necessary to convey to the Developer in "AS IS" condition all of its right, title and

interest in and to Outlot A, such transfer to be immediately following BOE's transfer of Outlot A to the County, all to be consistent with the Site Plan and the processing of related approvals. The County Deed shall be subject to the BOE Easements and any utility or other easements that may be reasonably required by the County.

6. DEDICATION OF ACCESS ROAD; ADDITION PARCEL 1. As further specified in the Access Road Dedication and Addition Agreement by and between County and Developer of even date herewith (the "Addition Agreement") executed simultaneously with this MOU and the Construction Agreement, Developer shall prepare the necessary addition plat, and/or such other instrument(s) of record in proper form as required under County standards and regulations and reasonably necessary to (A) dedicate the Oakdale Schools Road ROW to the County for public use and (B) add Addition Parcel 1 shown and described on EXHIBIT B attached hereto ("Addition Parcel 1"), to the Developer's Property (the "Addition Plat"). Developer shall file and process the record ready Addition Plat at its expense with the Frederick County Community Development Division and Planning Commission, which shall dedicate the Oakdale Schools Road ROW to public use. The Parties agree that within forty-five (45) days of the conveyance of Outlot A from the County to Developer, Developer shall dedicate the Oakdale Schools Road ROW to the County, all in accordance with the County's standard plat process. Contingent on the conveyances described herein, the satisfaction of the State Contingency as to the County Transfer Request, and the posting of the Punch List Surety, the County agrees to execute or otherwise authorize the Addition Plat as necessary and in accordance with applicable Frederick County regulations.

7. MAINTENANCE AND COORDINATION. Except as otherwise provided for in the Addition Agreement in the event the County utilizes the Punch List Surety, Maintenance of the Oakdale Schools Road ROW during the period starting from the Effective Date until the date of the County's acceptance (pursuant to Developer's dedication) of the Oakdale Schools Road ROW into the County's public road inventory shall be the temporary responsibility of BOE which shall cease and terminate and become the obligation of the County no later than four (4) years after the County's conveyance of Outlot A to the Developer (or the HOA). Upon the dedication by the Developer of the Oakdale Schools Road ROW and the County's acceptance of the Oakdale Schools Road ROW into the County's public road inventory, the County shall immediately thereafter be responsible for the maintenance of the Access Road as part of its maintenance of the County public rights-of-way and the BOE shall be relieved and released from such obligation. Subject to final confirmation by BOE that they are part of the BOE's existing parking lot lighting circuit, BOE shall remain responsible for maintenance and utility costs of those existing street lights that are a part of BOE's existing parking lot lighting circuit, following Developer's dedication and County's acceptance of the Oakdale Schools Road ROW. The Parties acknowledge and agree that under applicable Frederick County Code regulations, sidewalk maintenance and adjacent mowing to the curb line become the BOE's responsibility, as the adjacent property owner, upon Developer's dedication of the Oakdale Schools Road ROW to public use and its acceptance by the County. The Developer (or the HOA) shall be responsible for the maintenance of the median landscaping within the Oakdale Schools Road ROW. It is understood and agreed that as a basis for this MOU and for the public purpose benefit that must result to the Schools, it is contemplated that the conveyance of Outlot A by the BOE to the County and subsequently by the County to the Developer, the completion of the Improvements

by the Developer, the dedication of the Oakdale Schools Road ROW by the Developer and the acceptance thereof by the County shall occur promptly after the Effective Date so that BOE can be relieved of its maintenance obligations for the Oakdale Schools Road ROW as soon as possible and no later than four (4) years after the County's conveyance of Outlot A to the Developer (or the HOA), time being of the essence. It is also understood and agreed that the Access Road cannot and shall not be open to public use (except for the Schools) or construction and development traffic associated with the Project until such time as it is accepted into the County's public road inventory.

8. **GOVERNING LAW.** This MOU, having been executed, sealed and delivered in the State of Maryland, shall be interpreted and construed in accordance with and governed by the laws of the State of Maryland, without regard to principles of conflict of laws.

9. **ENTIRE AGREEMENT.** Except for the Construction Agreement and the Addition Agreement that are to be interpreted and applied wherever possible as consistent with the terms hereof and only to the extent of any inconsistency, the terms and conditions hereof shall control, this MOU constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between or among the Parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties shall at all times be bound by a warranty of good faith and fair dealing. The paragraph headings of this MOU are for convenience of reference only and will not be interpreted or construed to alter, amend, modify or supplement in any way the text of the paragraph(s) and/or the terms and conditions of this MOU.

10. **AMENDMENT AND ASSIGNMENT.** This MOU may not be amended, changed, modified or altered, except by an agreement in writing signed by the Parties. All covenants, promises and agreements contained herein shall be binding upon and inure to the benefit of the Parties, their successors and assigns. Upon written notice to BOE and to County, this MOU may be freely assigned by the Developer to its successors and assigns, including, but not limited to, the HOA; provided, however, upon any such assignment Developer shall remain obligated for the performance of this MOU until completion of the Punch List Work and approval thereof by the County.

11. **TERM.** This MOU shall remain in full force and effect, unless sooner terminated by agreement of the Parties, until the proper completion of the Improvements by the Developer, the County's acceptance of the Access Road, and all transactions contemplated by this MOU are complete, but in no event later than eight (8) years from the Effective Date, time being of the essence in the performance of all terms and provisions of this MOU.

12. **GENERAL.** The introductory Recitals and WHEREAS clauses set forth above are incorporated herein as a part hereof, with the same constituting an accurate account of the facts recited therein and the intention of the Parties. The Parties covenant and agree to execute any and all further documents as may be reasonably necessary to effectuate the purpose and intent of this MOU. It is agreed that all representations, statements, agreements, warranties and/or covenants of each party hereunder shall continue to bind the Parties and survive the

contemplated dedication and/or conveyance pursuant to this MOU, and therefore, in no event shall such representations, statements, agreements, warranties and/or covenants be merged into any deed of conveyance delivered by BOE to County or any deed of conveyance delivered by County to Developer. The benefits and obligations set forth in this MOU shall be binding on and inure to the benefit of the Parties and their respective successors and permitted assigns. To the extent permitted by law, County agrees that all obligations assumed by County under this MOU shall be binding on County, its agencies, governmental units, Planning Commission and its and their respective successors and assigns, including but not limited to the future County Council and County Executive, when Frederick County transitions to a charter form of government. Developer shall pay the cost of BOE's attorney's fees for the negotiation and preparation of this MOU. This MOU shall be read and construed wherever possible as consistent with the Construction Agreement and the Addition Agreement and in the event of conflict between this MOU and the Construction Agreement or the Addition Agreement the terms and conditions of this MOU shall control.

13. **DEVELOPER'S AUTHORITY AND OBLIGATION.** Developer represents and warrants unto BOE that it has the power and authority to enter into this MOU and to perform its obligations hereunder and that all persons or entities having an interest in the Developer's Property and/or the Project whether as an owner, trustee, or beneficiary has joined herein to evidence its consent hereto and the subordination of any lien or encumbrance on Developer's Property to the terms and conditions hereof. This MOU has been duly executed and delivered by Developer and constitutes a valid and binding obligation of Developer, enforceable in accordance with its terms.

14. **BREACH AND REMEDIES.**

A. *Breach-General.* If a party shall fail or refuse to perform its obligations as required hereunder, then either of the other parties shall provide written notice to the first party (the "Notified Party") indicating the nature of the default. The Notified Party shall have thirty (30) days following the receipt of such written notice to cure the default described in such notice; provided, however, if the Notified Party shall proceed with due diligence to cure said default after said notice, then such thirty (30) day period shall be extended to such a period of time as may reasonably be required to cure such default while proceeding with due diligence not to exceed ninety (90) days. If the Notified Party has not cured the default within the cure period, the other parties may seek and obtain equitable relief to enforce the terms and conditions of this MOU either through a decree for specific performance or an injunction. Should the remedies of specific performance or injunction not be available to the other parties because of actions of the Notified Party, then the other parties shall be entitled to bring a legal action for damages.

B. The parties hereby waive trial by jury in connection with any proceedings brought to enforce the terms of this MOU.

15. **BOE'S AUTHORITY AND OBLIGATION.** The BOE represents and warrants to Developer and County that it has the power and authority to enter into this MOU and to perform its obligations hereunder. This MOU has been duly executed and delivered by the BOE and constitutes a valid and binding obligation of the BOE, enforceable in accordance with its terms.

16. COUNTY'S AUTHORITY AND OBLIGATION. Subject to the State Contingency and County's obligation to hold a public hearing being satisfied, County represents and warrants to Developer that it has the power and authority to enter into this MOU and to perform its obligations hereunder. This MOU has been duly executed and delivered by the County and constitutes a valid and binding obligation of the County, enforceable in accordance with its terms.

17. NOTICES. All notices, demands, submissions or requests required or permitted to be given under the terms of this MOU shall be in writing, and said notices, demands or requests shall be delivered to the respective addresses of the Parties either by hand-delivery or by registered or certified mail, return receipt requested, deposited in the United States mail with postage thereon fully prepaid and addressed to the parties so to be served, which shall be, in the case of Developer:

Oakdale Properties, LLC
24012 Frederick Road
Clarksburg, Maryland 20871
ATTN: Mr. William D. Pleasants, Jr.

Oakdale Properties, LLC
c/o Pleasants Development, Inc.
24012 Frederick Road
Clarksburg, Maryland 20871
ATTN: Mr. Jerry Connelly

and in the case of the County :

Division Director
Frederick County Division of Public Works
355 Montevue Lane, Suite 200
Frederick, Maryland 21702

County Attorney
Frederick County, Maryland
12 East Church Street
Frederick, Maryland 21701

and in the case of the BOE:

Board of Education
191 South East Street
Frederick, Maryland 21701
ATTN: Ms. Beth Pasierb, or Facilities Planner

Service of any such notice or demand so made by mail shall be deemed complete on the day of actual delivery as shown by the addressee's registry or certification receipt or at the expiration of the third (3rd) business day after the date of mailing, if no date is shown on the receipt. Any of the Parties may from time to time, by notice in writing served upon the others, designate a different mailing address or a different or additional person to which all such notices or demands or copies thereof are thereafter to be addressed.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties hereto have executed this MOU under seal, as a specialty, on the date first above written.

OAKDALE PROPERTIES, LLC, a Maryland limited liability company

BY:  Pleasants Enterprises, Inc., Manager

BY: _____ (SEAL)
William D. Pleasants, Jr., President

Date: _____

STATE OF MARYLAND, COUNTY OF Montgomery TO WIT:

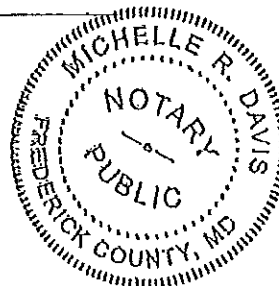
I HEREBY CERTIFY that on this 14th day of November, 2014, before me, the subscriber, a Notary Public of the State of Maryland, in and for Frederick County, personally appeared William D. Pleasants, Jr., President of Pleasants Enterprises, Inc., Manager of Oakdale Properties, LLC, a Maryland limited liability company, and he acknowledged the foregoing instrument to be the act and deed of Oakdale Properties, LLC, in such capacity; and he did further certify that he is duly authorized, as President of the Manager of Oakdale Properties, LLC, to make this acknowledgment on its behalf.

WITNESS my hand and Notarial Seal.


NOTARY PUBLIC

My Commission Expires:

MICHELLE R. DAVIS
NOTARY PUBLIC
FREDERICK COUNTY
MARYLAND
MY COMMISSION EXPIRES MARCH 15, 2017



THE BOARD OF COUNTY COMMISSIONERS OF
FREDERICK COUNTY, MARYLAND

Patti Morrow

BY: x

Blaine R. Young
Blaine R. Young, President

(SEAL)

R. P. M.
11.30.14

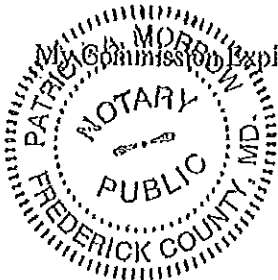
Date:

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 20th day of November, 2014, before me, the undersigned officer, personally appeared Blaine R. Young, President of the Board of County Commissioners of Frederick County, Maryland, who acknowledged the foregoing instrument to be his act and deed in such capacity, and that he is authorized to make this acknowledgment.

WITNESS my hand and Notarial Seal.

Patricia A. Morrow
NOTARY PUBLIC



Commission Expires: Jan. 2016

BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND, a body politic and corporate of the State of Maryland

Muala McCarthy

By: *Joy Schaefer* (SEAL)
Name: Joy Schaefer
Title: President

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 19th day of November, 2014, before me, the undersigned officer, personally appeared Joy Schaefer, President of the Board of Education of Frederick County, Maryland, a body politic and corporate of the State of Maryland, and she did acknowledge the foregoing instrument to be the act and deed of the Board of Education of Frederick County, Maryland, and that she is duly authorized to make this acknowledgment on its behalf.

WITNESS my hand and Notarial Seal

My Commission Expires: August 8, 2018

Judith A. Ricchetti
NOTARY PUBLIC *Judith A. Ricchetti*

EXHIBIT A
[OUTLOT PLAT]

EXHIBIT B
[ADDITION PLAT]

EXHIBIT C

[BOE DEED]

DRAFT

THIS DEED, is made this _____ day of _____, 20__, by the BOARD OF EDUCATION OF FREDERICK COUNTY, a body corporate and politic of the State of Maryland (hereinafter "Grantor"), and the BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (hereinafter, "Grantee").

RECITALS

WHEREAS, Grantor has determined that the hereinafter described real property (the "Property") is no longer needed for school purposes and that the conveyance of such Property to Grantee serves a public purpose for the benefit of Oakdale Middle School and Oakdale Elementary School and the State Superintendent of Schools has approved and confirmed the same; and

WHEREAS, as requested by Grantor, the Interagency Committee on School Construction of the Maryland State Department of Education (the "IAC") approved the conveyance of the Property from Grantor to Grantee and recommended the same to the State of Maryland Board of Public Works (the "BPW"); and

WHEREAS, on _____, the BPW accepted the recommendation of the IAC and approved the transfer and conveyance of the within real property from the Grantor to the Grantee.

WITNESSETH:

NOW, THEREFORE, That for no monetary consideration, but for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the said Grantor does hereby grant and convey, in fee simple, unto the said Grantee, and its successors and assigns, the following described parcel of real estate situate, lying and being in Frederick County, Maryland, and being more particularly described as follows:

Outlot A comprising 160,850 sq. ft. or 3.69260 acres of land, more or less, as shown on that certain plat entitled, "Final Plat, Outlot A, Property of The Board of Education of Frederick County, Maryland," as the same is duly platted and recorded among the Plat Records of Frederick County, Maryland in Plat Book _____ at page _____ (hereinafter referred to as the "Plat").

BEING part of that certain real estate conveyed unto Grantor by Deed from Roger U.

DeLauter Jr. and Sharon DeLauter Wichaël and Patricia DeLauter O'Toole, dated December 17, 1999, and recorded among the Land Records of Frederick County, Maryland in Liber 2666, folio 78.

TOGETHER with all and singular the buildings, improvements, rights, ways, waters, easements, privileges and appurtenances thereunto belonging or in anywise appertaining.

RESERVING unto the Grantor herein both as the owner of the parcel known as "Remainder Area of Outlot 1" as shown on the Plat and of certain real property commonly known as "Oakdale High School" as conveyed unto Grantor by Deed from Langanore Development Group, dated December 24, 2003, and recorded among the aforesaid Land Records in Liber 4323, folio 357, and its successors and assigns, the following temporary easements: (i) an easement for purposes of vehicular (including but not limited to school buses) and pedestrian access, ingress and egress, over, under, through and across a certain existing roadway constructed on that portion of the Property shown and labelled as the "B.O.E. Easement" on the Plat (hereinafter referred to as the "BOE Easement Area"), and over, under, through and across any other portions of the Property as deemed necessary by Grantor for the use and maintenance of such access easement; and (ii) an easement for purposes of constructing, installing, maintaining, repairing, replacing, altering and operating a water and/or sewer line or lines, service pipes, manholes, valves, fixtures and equipment or other utilities (all hereinafter called "Equipment"), over, under, through and across the BOE Easement Area and any other portions of the Property as deemed necessary by Grantor for its use and maintenance of the Equipment installed within such water/sewer/utility easement (collectively the "BOE Easements"). Except as otherwise required to maintain its access or utility services, the BOE Easements shall automatically terminate and shall revert to the Grantee, its successors and assigns, at such time as the roadway comprising the B.O.E. Easement and located within the BOE Easement Area is dedicated to and accepted by, Frederick County as a public road.

TO HAVE AND TO HOLD the above described real estate in AS IS condition unto the said Grantee, its successors and/or assigns, in fee simple, forever; SUBJECT, HOWEVER, to the reservations of the Grantor in and to the Property as hereinbefore set forth and the terms, provisions and easements as granted and set forth in that certain Deed of Easement for Water and Sanitary Sewer Lines Oakdale Elementary School and Oakdale Middle School dated December 21, 2000, by and between Grantor (as Grantor therein) and Grantee (as Grantee therein), and recorded among the aforesaid Land Records in Liber 2796, folio 1064 (the "County Water/Sewer Easement"), with it

DRAFT

being understood and agreed and Grantee acknowledges that its fee simple ownership of the Property as encumbered by County Water/Sewer Easement, shall not extinguish such County Water/Sewer Easement and/or any other easements encumbering or affecting the Property and granted to Grantee prior hereto and, Grantee specifically waives for itself and for any future owners of the Property, and their successors and assigns, the principles of common law merger with regard to the same.

And the said Grantor does hereby covenant that it will warrant specially the property hereby conveyed and that it will execute such further assurance of said land as may be requisite.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Deed to be properly executed and sealed as of the day and year first above written.

WITNESS:

FREDERICK COUNTY BOARD OF
EDUCATION, a body corporate and politic of the
State of Maryland

By: _____ (SEAL)

Name: _____

Title: _____

STATE OF MARYLAND, FREDERICK COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she is the _____ of the Frederick County Board of Education, a body corporate and politic of the State of Maryland, and being so authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of _____ by himself/herself as _____, and did further certify that this conveyance is not part of a transaction in which there is a sale, lease or exchange or other transfer of all, or substantially all, of the property and assets of the above-named corporation, giving oath under penalties of perjury that the consideration recited herein is correct.

WITNESS my hand and Notarial Seal.

Notary Public

My commission expires:

4810-4321-4878.KSH

DRAFT

DRAFT

WITNESS:

FREDERICK COUNTY BOARD OF COUNTY
COMMISSIONERS, a body corporate and politic of
the State of Maryland

By: _____ (SEAL)

Name: _____

Title: _____

STATE OF MARYLAND, FREDERICK COUNTY, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2014, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she is the _____ of the Frederick County Board of County Commissioners, a body corporate and politic of the State of Maryland, and being so authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of _____ by himself/herself as _____, and did further certify that this conveyance is not part of a transaction in which there is a sale, lease or exchange or other transfer of all, or substantially all, of the property and assets of the above-named corporation, giving oath under penalties of perjury that the consideration recited herein is correct.

WITNESS my hand and Notarial Seal.

Notary Public

My commission expires:

I hereby certify that the foregoing instrument was prepared under my supervision and that I am an attorney duly licensed to practice law in the State of Maryland.

Noel S. Mannlo, Esq.

After recording, please return to:

EXHIBIT D
[COUNTY DEED]

DRAFT

THIS DEED, is made this _____ day of _____, 20____, by the BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (hereinafter "Grantor"), and OAKDALE PROPERTIES, LLC, a Maryland limited liability company (hereinafter, "Grantee").

RECITALS

WHEREAS, Grantor's conveyance of the herein described property (the "Property") is subject to the provisions contained in Section §12-408(c) of the Local Government Article of the Annotated Code of Maryland and COMAR Section 23.03.02.24, and Grantor obtaining the approval of the sale and disposition of the Property from the Maryland Board of Public Works (the "BPW"); and

WHEREAS, as requested by Grantor, the Interagency Committee on School Construction of the Maryland State Department of Education (the "IAC"), approved the conveyance of the Property from Grantor to Grantee and recommended the same to the BPW; and

WHEREAS, on _____, the BPW accepted the recommendation of the IAC and approved the transfer and conveyance of the Property from the Grantor to the Grantee.

WITNESSETH:

NOW, THEREFORE, That for no monetary consideration, but for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the said Grantor does hereby grant and convey, in fee simple, unto the said Grantee, and its successors and assigns, the following described parcel of real estate situate, lying and being in Frederick County, Maryland, and being more particularly described as follows:

Outlot A comprising 160,850 sq. ft. or 3.69260 acres of land, more or less, as shown on that certain plat entitled, "Final Plat, Outlot A, Property of The Board of Education of Frederick County, Maryland," as the same is duly platted and recorded among the Plat Records of Frederick County, Maryland in Plat Book _____ at page _____ (hereinafter referred to as the "Plat").

BEING all of the same real estate conveyed unto Grantor by Deed from the Board of Education of Frederick County, Maryland (the "BOE"), dated _____, and recorded among the Land Records of Frederick County, Maryland in Liber _____, folio ____ (the "BOE Deed").

TOGETHER with all and singular the buildings, improvements, rights, ways, waters, easements, privileges and appurtenances thereunto belonging or in anywise appertaining.

DRAFT

TO HAVE AND TO HOLD the above described real estate in AS IS condition unto the said Grantee, its successors and/or assigns, in fee simple, forever; **SUBJECT, HOWEVER,** to the reservations of the BOE as set forth in the BOB Deed and the terms, provisions and easements as granted and set forth in that certain Deed of Easement for Water and Sanitary Sewer Lines Oakdale Elementary School and Oakdale Middle School dated December 21, 2000, by and between the BOB (as Grantor therein), and Grantor (as Grantee therein), and recorded among the aforesaid Land Records in Liber 2796, folio 1064.

And the said Grantor does hereby covenant that it will warrant specially the property hereby conveyed and that it will execute such further assurance of said land as may be requisite.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Deed to be properly executed and sealed as of the day and year first above written.

WITNESS:

FREDERICK COUNTY BOARD OF COUNTY
COMMISSIONERS, a body corporate and politic of
the State of Maryland

By: _____ (SEAL)

Name: _____

Title: _____

STATE OF MARYLAND, FREDERICK COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she is the _____ of the Frederick County Board of County Commissioners, a body corporate and politic of the State of Maryland, and being so authorized to do, executed the foregoing instrument for the purposes therein contained by signing the name of _____ by himself/herself as _____, and did further certify that this conveyance is not part of a transaction in which there is a sale, lease or exchange or other transfer of all, or substantially all, of the property and assets of the above-named corporation, giving oath under penalties of perjury that the consideration recited herein is correct.

WITNESS my hand and Notarial Seal.

Notary Public

My commission expires:

WITNESS:

OAKDALE PROPERTIES, LLC, a Maryland

DRAFT

limited liability company

BY: Pleasants Enterprises, Inc., Manager

BY: _____ (SEAL)
William D. Pleasants, Jr., President

Date: _____

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2014, before me, the subscriber, a Notary Public of the State of Maryland, in and for _____ County, personally appeared William D. Pleasants, Jr., President of Pleasants Enterprises, Inc., Manager of Oakdale Properties, LLC, a Maryland limited liability company, and he acknowledged the foregoing instrument to be the act and deed of Oakdale Properties, LLC, in such capacity; and he did further certify that he is duly authorized, as President of the Manager of Oakdale Properties, LLC, to make this acknowledgment on its behalf.

WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires:

I hereby certify that the foregoing instrument was prepared under my supervision and that I am an attorney duly licensed to practice law in the State of Maryland.

Noel S. Manalo, Esq.

After recording, please return to:

EXHIBIT E
[BOE EASEMENTS GRAPHIC]

