

**MODERATELY PRICED DWELLING UNITS  
PAYMENT IN LIEU AGREEMENT**

ADMINISTERED BY  
FREDERICK COUNTY, MARYLAND  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
401 Sagner Avenue, Frederick, Maryland 21701

THIS AGREEMENT dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between \_\_\_\_\_, a Maryland \_\_\_\_\_ (hereinafter referred to as "Applicant"), and FREDERICK COUNTY, MARYLAND ("County").

RECITALS

The Applicant has received Planning Commission approval to construct \_\_\_ residential dwelling units on \_\_\_ acres of land, more or less, owned or controlled by Applicant, in the development known as \_\_\_\_\_ (hereinafter "the Development"), located in Frederick County, Maryland, subject to the provisions of Chapter 1-6A of the Frederick County Code, as amended from time to time and regulations promulgated thereunder;

Section 1-6A-5.1 of the Frederick County Code allows a developer to choose a payment in lieu option (§1-6A-5.1) to satisfy the requirement to provide moderately priced dwelling units (MPDUs) as part of certain residential developments; and

This Agreement is intended to document the understanding of the parties with respect to the payment in lieu obligations of the Applicant consistent with the provisions of Chapter 1-6A of the Frederick County Code.

NOW, THEREFORE, in consideration of the mutual promises and benefits provided for herein, the parties hereto agree as follows:

1. Applicant has received Planning Commission approval to construct a total of \_\_\_ residential dwelling units in the Development, which, if the Applicant did not choose the payment in lieu option under §1-6A-5.1, would require the construction of \_\_\_\_\_ (\_\_\_) MPDUs.

2. In accordance with §1-6A-5.1, the Applicant shall pay to the County a Per Dwelling Unit Payment in Lieu of constructing MPDUs in the Development.

3. At this time, the Total Payment in Lieu for all approved dwelling units in the Development is \_\_\_\_\_ Dollars (\$\_\_\_\_\_), which is the product of \_\_\_ (\_\_\_) (12.5% of the total number of dwelling units approved in the Development) multiplied by \$26,500.00, which is the current Affordability Gap in accordance with §1-6A-5.1(C).

4. Based on the current Affordability Gap of \$26,500, the Per Dwelling Unit Fee is \_\_\_\_\_ Dollars (\$\_\_\_\_\_), which is the Total Payment in Lieu divided by the total number of dwelling units approved for the Development. The Applicant acknowledges that the Per Dwelling Unit Fee may be revised during the term of this Agreement, based on future adjustments to the Affordability Gap in accordance with §1-6A-5.1(H).

5. The Applicant hereby agrees to pay the Per Dwelling Unit Fee at submission of each building permit application for the dwelling units in the Development.

6. No failure on the part of the County to exercise, and no delay in exercising, any right or remedy permitted by law or pursuant to this Agreement will operate as a waiver thereof. A waiver by the County of a specific failure to comply with the terms of this Agreement, must be in writing signed by the County, and shall not be deemed a waiver of any other subsequent failure to comply of similar or different nature.

7. The County may suspend or revoke any or all building or occupancy permits issued to Applicant for the Development and/or to suspend or deny the issuance of all subsequent permit requests by Applicant for this Development, and/or invoke any other of the enforcement measures authorized by Chapter 1-6A of the Frederick County Code and Regulations adopted pursuant thereto, for failure to comply with the terms of this Agreement or any requirement of Chapter 1-6A of the Frederick County Code.

8. Any notices or documents sent pursuant to this Agreement must be in writing and delivered to:

Frederick County

Director  
Department of Housing and Community Development  
401 Sagner Avenue  
Frederick, Maryland 21701

Applicant

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. This Agreement is binding upon the agents, successors and assigns of the Applicant and shall inure to the benefit of and be enforceable by the County, its successors and assigns.

10. Applicant agrees to abide by and comply with all applicable laws and regulations regarding the subject matter of this Agreement, whether or not such laws or regulations are herein specifically enumerated or referred to, and Applicant agrees to sign such documents as may be required to effectuate the intent and purpose of this Agreement.

IN WITNESS WHEREOF, Applicant has caused these presents to be executed by authorized representative of each Applicant entity on the day and year first above written.

WITNESS: \_\_\_\_\_

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

WITNESS: FREDERICK COUNTY, MARYLAND

\_\_\_\_\_ By: \_\_\_\_\_  
Milton Bailey, Director  
Department of Housing and Community  
Development

REVIEWED BY \_\_\_\_\_  
Office of the County Attorney

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_ [name and title] of \_\_\_\_\_, a Maryland \_\_\_\_\_, and he/she acknowledged the foregoing instrument to be the act and deed of \_\_\_\_\_, in such capacity; and he/she did further certify that he/she is duly authorized, to make this acknowledgement on its behalf.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, the subscriber, a Notary Public for the State and County aforesaid, personally appeared Milton Bailey, Director, Housing and Community Development, Frederick County, Maryland, and did certify that as such officer, he did execute this instrument for the purposes stated herein, and did certify, under penalties of perjury, that he is authorized to execute this instrument on behalf of Frederick County, Maryland.

IN WITNESS WHEREOF, I set my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**ATTORNEY'S CERTIFICATION**

This is to certify that the undersigned is a member in good standing of the Bar of the Court of Appeals of Maryland, and that the within instruments was prepared by her or under her supervision.

\_\_\_\_\_