

MEMORANDUM OF UNDERSTANDING

Oakdale-Lake Linganore Community Development Authority and Oakdale-Lake Linganore Development District

This Memorandum of Understanding (this “Memorandum”) made this 19th day of June, 2018, by and between OAKDALE INFRASTRUCTURE DEVELOPMENT, INC., a Maryland corporation (“Oakdale Infrastructure”), and FREDERICK COUNTY, MARYLAND, a body politic and corporate of the State of Maryland (the “County”).

RECITALS

A. Pursuant to Sections 12-201 et seq. of the Economic Development Article of the Annotated Code of Maryland (as amended from time to time, the “Tax Increment Financing Act”) and Chapter 517 of the Laws of Maryland of 1997, codified as Section 2-7-125 of “Article. VI. Community Development Authorities” in Chapter 2-7 of the Public Local Laws of Frederick County (as amended from time to time, the “CDA Act” and, together with the Tax Increment Financing Act, the “Act”), Resolution No. 14-02 (the “TIF Resolution”) and Resolution No. 14-03 (the “CDA Resolution”) adopted by the County, and Ordinance No. 14-01-656 (the “Ordinance” and, collectively with the CDA Resolution and the TIF Resolution, the “Authorizing Legislation”) enacted by the County, the County, among other matters, created (a) an area known as the Oakdale-Lake Linganore Development District (the “Development District”) as a development district under the provisions of the Tax Increment Financing Act, and (b) an area known as the Oakdale-Lake Linganore Community Development Authority (the “CDA”; the Development District and the CDA, collectively, the “District”) as a community development authority under the provisions of the CDA Act, (c) authorized the issuance of bonds under the Act and the application of the proceeds thereof to provide improvements for the benefit of the property within the District, and (d) levied a special tax on all real and personal property within the CDA subject to tax at a rate or amount designed to provide adequate revenues to pay the principal of, interest on and redemption premium, if any, on the Series 2014A Bond and Series 2014B Bond (each as defined below and, collectively, the “Bonds”), to replenish any debt service reserve fund, and for any other purposes related to the ongoing expenses of or security, including debt service coverage requirements for, the Bonds.

B. Pursuant to the Authorizing Legislation, on November 14, 2014, the County issued its Frederick County, Maryland Special Tax A Limited Obligation Bonds (Oakdale-Lake Linganore Project), Series 2014A (Taxable) (the “Series 2014A Bond”) under that certain Indenture of Trust dated as of November 1, 2014, by and between the County Commissioners of Frederick County and Manufacturers and Traders Trust Company, as the trustee (the “Series 2014A Indenture”), to finance certain public infrastructure improvements benefitting the CDA.

C. Pursuant to the Authorizing Legislation, the County also issued on November 14, 2014, its Frederick County, Maryland, Tax Increment and Special Tax B Limited Obligation Bonds (Taxable) (Oakdale-Lake Linganore Project) Series 2014B (“Series 2014B Bond”) under that certain Indenture of Trust dated as of November 1, 2014, by and between the County Commissioners of Frederick County and Manufacturers and Traders Trust Company, as the trustee (the “Series 2014B Indenture”), to finance certain public infrastructure improvements

benefitting the Development District including the I-70/Meadow Road west bond ramp (“Ramp 1”) and I-70/Meadow Road east bond ramp (“Ramp 2”).

D. The Series 2014A Bond and the Series 2014B Bond were purchased and are held by Oakdale Infrastructure.

E. The County and Oakdale Infrastructure desire to memorialize certain understandings regarding the Series 2014A Bond and the Series 2014B Bond and the issuance of additional bonds under the Series 2014B Indenture to finance the Ramp 1 Costs and the Ramp 2 Costs (as defined below).

TERMS OF UNDERSTANDING

Now, therefore, the Recitals above being incorporated herein by reference and in consideration of the foregoing premises and the mutual covenants set forth herein, the parties hereto agree as follows:

1. Cancellation of Series 2014A Bond. The County (a) cancelled the Series 2014A Bond and (b) will take such legislative and administrative steps as are needed to ensure that Special Tax A (as defined in the Rate and Method (as defined in the Ordinance)) will not be collected from the property in the CDA following the date of this Memorandum.

2. Remarketing of Series 2014B Bond. The principal amount of the Series 2014B Bond will be drawn-down under the Series 2014B Indenture to finance the costs of engineering, design, planning and construction of Ramp 1 and costs and expenses related thereto including, without limitation, any related rights of way and other land use rights and any road and other improvements associated with the construction of Ramp 1 (collectively, the “Ramp 1 Costs”). The Series 2014B Bond will be remarketed by the County between September 1, 2018, and December 31, 2019, or at such other time as may be agreed to by the County and Oakdale Infrastructure considering development, market and other applicable factors. The accreted amount of the Series 2014B Bond shall equal: (i) an amount not to exceed \$5,000,000 for the Ramp 1 Costs, (ii) accrued interest on the Series 2014B Bonds, and (iii) any costs of issuance and administrative expenses drawn-down under the Series 2014B Indenture. The principal amount of the remarketed Series 2014B Bond shall equal: (i) the accreted amount of the Series 2014B Bond, (ii) the cost of issuance relating to remarketing the Series 2014B Bond, (iii) capitalized interest, if any, and (iv) a debt service reserve fund for the remarketed Series 2014B Bond. The proceeds of the remarketing of the Series 2014B Bond in the amount of not more than \$5,000,000 will be made available to Oakdale Infrastructure as reimbursement of the costs of the Ramp 1 Costs.

The Series 2014B Bonds may be remarketed as unrated obligations if the parties determine that is the preferred course of action considering the applicable factors. To the extent the Series 2014B Bond is to be remarketed as a tax-exemption obligation, such remarketing shall be subject to Bond Counsel providing an opinion that such bond is Tax-Exempt (each as defined in the Series 2014B Indenture).

3. Additional TIF Bonds. The County will issue additional bonds under the Series 2014B Indenture (the “Additional TIF Bonds”) to finance the costs of engineering, design, planning and construction of Ramp 2 and costs and expenses related thereto including, without limitation, any related rights of way and other land use rights and any road and other

improvements associated with the construction of Ramp 2 (collectively, the “Ramp 2 Costs”). The Additional TIF Bonds will be issued between January 1, 2020, and December 31, 2022, or at such other time as may be agreed to by the County and Oakdale Infrastructure considering development, market and other applicable factors. The Additional TIF Bonds will be underwritten by an underwriter acceptable to the County in a private negotiated deal. The principal amount of the Additional TIF Bonds shall equal: (i) an amount not to exceed \$10,000,000 for the Ramp 2 Costs, (ii) the costs of issuance of such Additional TIF Bonds, (iii) capitalized interest, if any, and (iv) a debt service reserve fund for such Additional TIF Bonds. The proceeds of the Additional TIF Bonds available to Oakdale Infrastructure for the Ramp 2 Costs shall be not more than \$10,000,000.

The Additional TIF Bonds may be marketed as unrated obligations if the parties determine that is the preferred course of action considering the applicable factors. To the extent the Additional TIF Bonds are to be issued as tax-exemption obligations, such issuance shall be subject to Bond Counsel providing an opinion that such bonds are Tax-Exempt.

4. Excess Costs and Costs Savings. The aggregate amounts of the Ramp 1 Costs and the Ramp 2 Costs exceeding \$15,000,000 shall be paid by Oakdale Infrastructure. Notwithstanding anything to the contrary herein, (a) the proceeds of the remarketing of the Series 2014B Bond not disbursed for Ramp 1 Costs because of any cost savings therein may be used to pay or reimburse the Ramp 2 Costs and (b) the proceeds of the Additional TIF Bonds not disbursed for Ramp 2 Costs because of any cost savings therein may be used to pay or reimburse the Ramp 1 Costs.

5. Miscellaneous.

a. This Memorandum is intended to benefit and burden the parties hereto and their respective successors and assigns.

b. This Memorandum may only be amended, modified or supplemented by an agreement in writing duly executed by all parties hereto.

c. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one in the same agreement. A signed copy of this Memorandum delivered by facsimile, email or other means of electronic transmission shall have the same legal effect as delivery of an original signed copy of this Memorandum.

d. This Memorandum and the rights and obligations of the parties hereunder shall be governed by, and construed, interpreted and enforced in all respects in accordance with the laws of the State of Maryland without giving effect to its principles relating to conflicts of law.

e. Any breach of this Memorandum shall not be deemed a default under the Bonds or result in the County causing any failure to fund draw requests for proceeds of the Bonds.

[signatures appear on following page]

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Understanding as of the date first written above.

[SEAL]

FREDERICK COUNTY, MARYLAND

Raymond V. Barnes, Jr.
Name: *Raymond V. Barnes, Jr.*
Title: *CAO*

By: *Jan H. Gardner*
Name: Jan H. Gardner
County Executive

Witness:

OAKDALE INFRASTRUCTURE DEVELOPMENT, INC.

By: _____ [SEAL]
Name:
Title:

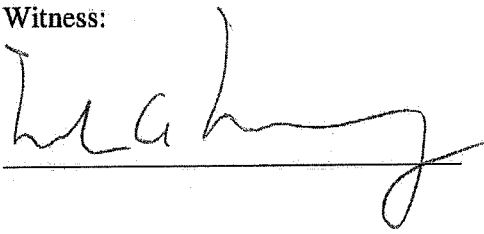
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[SEAL]

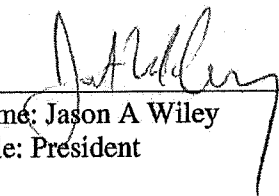
FREDERICK COUNTY, MARYLAND

Name:
Title:

By: _____
Jan H. Gardner
County Executive

Witness:


OAKDALE INFRASTRUCTURE DEVELOPMENT, INC.

By:  _____ [SEAL]
Name: Jason A Wiley
Title: President