MEMORANDUM

TO: City Council

FROM: Alfred D. Lott, ICMA-CM, CPM
City Manager

SUBJECT: ***Status Report*** DATE: October 15, 2020

Status Report

1. Economic Development Committee (EDC)
   The Bowie EDC met virtually Wednesday, October 14, 2020. They did not achieve quorum. The topic was 'datacenters'; two guest experts spoke, one from the County EDC and one from St John Properties. Information was provided and insight into datacenter location's needs, infrastructure, the components of an actual datacenter land deal, and a broad assessment of Maryland's competitiveness in attracting datacenters. The next EDC meeting is on Wednesday. November 18, 2020.

2. Bowie Marketplace Incentive Payments
   The fifth and final $50,000 grocery incentive payment has been made to Berman Enterprises. All agreed upon payments under the November 2014 agreement (copy attached) have been completed. In 2015, incentives of $700,000 was paid; beginning in 2016 and ending five years later; an annual incentive payment of $50,000 was made. The County provided $1 million of incentives. The total amount of City incentives paid for the redevelopment of the Bowie Marketplace was $950,000.

3. Information Technology – Replacement Firewalls
   The FY21 Budget contains funding to replace the current firewalls with upgraded models. After a careful analysis, it was determined that the City would utilize the State of Maryland Hardware 2012 Master Contract (060B2490022) to purchase the equipment. Requests for quotes were sent to the 16 authorized State of Maryland Dell vendors and 3 responses were received.

ePlus Technologies	$53,467.70
DISYS Solutions Inc	$58,975.74
Daly	$60,272.50

   As provided by Section 62 of the City Charter, this will serve as the required seven-day notice of intent to issue a purchase order to ePlus in the amount of $53,467.70.

ADL: lfr
Attachment

Agreement
Regarding Incentives for the Redevelopment of the Bowie Marketplace Shopping Center

This Agreement is entered into this 20th day of November, 2014 by and between the City of Bowie (hereinafter, "the City"), a Maryland municipal corporation, with offices located at 15901 Excalibur Road, Bowie, Maryland, 20716 and BE BOWIE LLC (hereinafter "the Owner"), a Maryland Limited Liability Company, with offices located at 5410 Edson Lane, Suite 220, Rockville, Maryland, 20852.

RECITALS:

WHEREAS, there is certain real property located within the City of Bowie consisting of approximately 20 acres commonly known as the Bowie Marketplace Shopping Center ("Marketplace") that is currently developed with a mixture of occupied and vacant retail use buildings comprising approximately 239,925 square feet (the "Property"); and

WHEREAS, the Marketplace has experienced a vacancy rate of more than 50% since 2001; and

WHEREAS, from time to time the Property has not been well maintained and it has been the subject of City Code violations; and

WHEREAS, the development on the Property suffers from poor traffic circulation patterns and is generally outdated; and

WHEREAS, over the years the City has received an ever diminishing revenue stream from the real and personal property located at the Marketplace; and

WHEREAS, it is anticipated that the City will receive increased revenues from the redevelopment of the Property; and

WHEREAS, the City desires that the Marketplace be demolished and replaced with an attractive new retail center with a grocery store anchor as expeditiously as possible in order to, among other things, increase City revenues deriving from the Property; and

WHEREAS, the City supports senior housing in the Route 450 corridor that will be developed in a manner that would be harmonious with the surrounding community; and

WHEREAS, on or about June 21, 2013, the Owner acquired title to the Property, which property is shown on Tax Map 38 Grid B4, as Parcel X 'Belair Shopping Center'; and

WHEREAS, the Owner proposes to redevelop the Marketplace in accordance with particular concepts contained in the 2006 Bowie and Vicinity Master Plan and Sectional Map Amendment ("Plan/SMA"); and

WHEREAS, it is City policy that development in the City, including redevelopment of the Property, adhere to certain duly-promulgated development rules and standards; and

WHEREAS, on August 1, 2011, the Bowie City Council adopted Resolution No. R-56-11 establishing the Bowie Economic Development Incentive Fund to aid in the retention and growth of private employers and the commercial tax base in the City of Bowie ; and

WHEREAS, the Owner has requested and the City desires to offer the Owner certain economic development incentives through the Bowie Economic Development Incentive Fund to ensure the redevelopment of the Property in an expeditious manner; and

WHEREAS, the City finds that use of the economic development incentives set forth herein are necessary to accomplish the important goal of redevelopment of the Property; and

WHEREAS, the aforementioned incentives are to be tied to specific actions or the performance of certain obligations by the Owner (including, among other things, a signed lease by the Owner with an acceptable grocery store anchor (and for this purpose, Harris Teeter is acceptable) and verification of demolition of the improvements located on the Property with accompanying invoices, receipts or other appropriate documentation of the work); and

WHEREAS, the City and Owner desire to establish the terms upon which the City will provide economic development incentives to the Owner for the redevelopment of the Property; and

WHEREAS, the Owner acknowledges that the Bowie Economic Development Incentive Fund, although established, is currently unfunded; however, upon approval of this Agreement by the City, the City will fund the Bowie Economic Development Incentive Fund as necessary to meet the City's obligations under this Agreement.

NOW THEREFORE, in consideration of One Dollar ($1.00), the mutual covenants, promises and obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS

The City and the Owner affirm that the foregoing Recitals are true and accurate and that they intend, by this reference, that the foregoing Recitals be incorporated into this Agreement as operative provisions hereof.

2. TIME IS OF THE ESSENCE; FORCE MAJEURE

The times established in this Agreement for performance by the parties and the completion of the redevelopment work to be performed under this Agreement shall be of the essence of the Agreement; provided, however, that any required time period in this Agreement shall be extended, on a day-for-day basis, by any delay outside the Owner's control, including but not limited to war, conflict, strikes, natural disasters, shortages, permitting delays and other force majeure events.

3. OWNER RESPONSIBILITIES

A. The Owner shall apply for demolition permits for the demolition of all structures on the Property, excluding Glory Days restaurant and Dryclean Depot, within 60 calendar days

of the date on which an ordinance amending the City budget for FY 2015 to appropriate $700,000 of previously unappropriated monies for the purpose of funding the payment contemplated by Paragraph 5(A) is enacted by the City or the date that this agreement is fully executed by all parties, whichever is the later date.

B. The Owner shall completely demolish the existing structures on the Property that are subject to the demolition permit(s) referenced in paragraph A above, and remove all resulting debris on or before 90 calendar days from the date the demolition permit is issued.

4. REDEVELOPMENT OF THE PROPERTY

A. Construction of the Minimum New Structure(s) on the Property as set forth in paragraph B below shall commence within 90 calendar days of the date that the building permit(s) is issued. Construction shall be pursued continuously and the building shells of the new structure shall be completed (subject to force majeure, punch list items and tenant buildouts) within 550 days of the date that the building permit(s) is issued (with such completion to be evidenced by Owner's architect's certificate of substantial completion).

B. The immediate redevelopment of the Property is contemplated to include the construction of one or more buildings comprising 150,000+/- square feet of retail space (the construction of such buildings shall be referred to herein as the "Project") including a grocery store, restaurants, gas pumps associated with the grocery. The Minimum New Structures shall mean the grocery store and at least 50,000 square feet of additional retail shop space.

C. Any residential dwelling units constructed on the Property shall be consistent with the Prince George's County Zoning Ordinance, and at least twenty percent (20%) of all residential dwelling units constructed on the Property shall be age restricted dwelling units.

D. The parties agree to work collaboratively throughout the redevelopment of the Property. In that regard, the City agrees that it will not unreasonably deny, delay or condition any Owner application for any certificate, license, permit or other approval that the City is authorized to issue in connection with the redevelopment of the Property; and that upon Owner's request it will advocate with other governmental agencies or authorities, including Prince George's County and MNCPPC, for the issuance of any certificate, license, permit or other approval that such other governmental agency or authority is authorized to issue in connection with the redevelopment of the Property , provided that nothing herein shall require the City to engage in or participate in any adversarial proceeding including litigation with or against any person or entity for any reason in order to fulfill its responsibilities hereunder.

E. The Owner must obtain all of the requisite certificates, licenses, permits, and other approvals that may be required of the Owner to redevelop the Property as contemplated herein by any Federal, State, County, or City law, ordinance or regulation, or by the Maryland-National Capital Park and Planning Commission ("MNCPPC"). Subject to the City complying with its obligations under Section 4D of this Agreement, in the event that the Owner is unable to obtain all such certificates, permits, licenses and approvals required to use the Property in

accordance with the terms hereof, the City shall have no liability to the Owner for any loss, damages or fees incurred by the Owner in pursuing same or for the termination of this Agreement and in such event this Agreement shall be terminated and of no force and effect.

F. The Owner shall maintain insurance coverages set forth in this Paragraph and the provision of the certificates of insurance to the City is a condition precedent to any payment hereunder.

1. The Owner shall maintain Commercial General Liability coverage with limits of $1,000,000 per occurrence/$2,000,000 general aggregate; Commercial Automobile Liability coverage with $1,000,000 combined single limit; Umbrella Liability coverage with limit of $5,000,000 per occurrence/aggregate; and Worker's Compensation and Employer's Liability coverage with limits of $1,000,000 each accident. The Owner shall provide the City with a certificate of insurance for General Liability, Automobile Liability and Worker's Compensation and Employer's Liability within thirty (30) days of the execution of this Agreement.

2. The Owner shall maintain property insurance coverage for risk of loss from fire, explosion and collapse, sufficient to cover the cost of replacement of all structures on the Property owned by the Owner or shall require each other Property owner to maintain such insurance, in which case the Owner shall obtain certificates from each such Property owner and provide said certificate to the City.

3. The Owner may obtain any or all such insurance coverages through blanket policies.

4. The Owner shall provide the City with a certificate of insurance for Builder's Risk insurance with limits of liability of $1,000,000 for all buildings to be constructed by Owner, within thirty days of the start of construction.

5. The Owner shall require its general contractor to provide General Liability insurance and Automobile Liability insurance, with limits of at least $5,000,000, and, Worker's Compensation and Employer's Liability with a limit of at least $1,000,000.

5. BOWIE ECONOMIC DEVELOPMENT INCENTIVES

A. The City agrees to reimburse the Owner by way of a grant from the Bowie Economic Development Incentive Fund for the actual cost of demolition of the structures on the Property, and grading and site work on the Property, in an amount not to exceed $700,000.00, payable as follows: $350,000 to be paid within 30 days of receipt of invoices for the demolition, grading and site work, accompanied by documentation satisfactory to the City, and verification by the City that the demolition has been completed, with the remaining amount of the costs of demolition, grading and site work, as set forth in the above referenced accompanying documentation, up to $350,000, to be paid within 30 days of the commencement of construction for the new grocery store. The Owner shall notify the City at least 15 days in advance of proceeding with any demolition and shall have all applicable permits prior to proceeding. A copy of the demolition permit shall be submitted with the invoice. The City shall choose the method to reimburse the Owner either by way of check or transfer of funds into an account designated by the Owner.

B. Provided that the Owner has given the City a copy of a fully executed lease, with all appendices attachments, exhibits, side letters, and other documents incorporated into the lease or affecting the terms and conditions of the tenant's occupancy, with a grocery store tenant for the anchor position of the new development on the Property, which lease shall be for a minimum term of five (5) years, the City shall pay to the Owner the amount of $50,000 as a grant from the Bowie Economic Development Incentive Fund, with such payment made within thirty (30) days of the date that the grocery store is first open for business to the public). The City further agrees to pay the Owner the amount of $50,000 per year as a grant from the Bowie Economic Development Incentive Fund for each of the following four years provided that the grocery store anchor tenant remains open and operational. The payments due the Owner for the aforementioned four year period shall be made annually on or before the first day of the month following the month in which the first payment under this paragraph is made.

6. CITY OBLIGATIONS

A. Lot Line Consolidation

1. The City shall take all actions within its control to consolidate the seven lots owned by the City known as Acorn Hill Park and further described as Tax Account 07 -- 0662544, 0662569, 0662577, 0662585, 0662593, 0662601, 0662619, and 0662627 into one lot. The City will retain ownership of the entirety of the Acorn Hill Park property
2. The property was appraised in February 2014, which appraisal assigned a value of $12,000 to the consolidated lot.
3. The lot lines as configured after consolidation will be used by the Owner to subdivide the Property.
4. This lot line adjustment is made to achieve the City's goal of the redevelopment of the Marketplace shopping center.

B. Transfer of Real Property

1. Within sixty days of the date of this Agreement, the City will transfer to the Owner that parcel of real property known as Sage Lane Parcel A, Tax Account 07 – 0662551, which property is about 13,085 square feet.
2. The property was appraised in February 2014 at a value of $13,000.
3. This grant is made to enable the realization of the City's goal for redevelopment of the Marketplace shopping center.

C. Representations

The City makes no representations as to the ability of the Owner to develop the Property as Owner intends.

7. IMPACT ON SURROUNDING PROPERTIES

A. The Owner shall comply with all applicable City ordinances and regulations, as well as any and all applicable Federal, State and local laws and regulations relating to the redevelopment of the Property. The Owner acknowledges that it is aware of the potential negative impacts that the demolition and construction phases of the redevelopment project can have on surrounding properties (e.g.., creation of noise, dust, dirt, and debris), and Owner agrees to take actions to minimize any such potential negative impacts that the redevelopment of the Property may have upon the surrounding properties and the adjacent community center. The Owner shall promptly communicate to the City and to the MNCPPC any complaints it receives regarding the aforementioned negative impacts.

B. The Owner will make commercially reasonable efforts to be a courteous neighbor to the adjacent and surrounding residential community during both the demolition and reconstruction phases, as well as the ongoing operational phase of the Property. Owner shall abide by all applicable State, County and City laws and regulations governing the operation of the uses and the maintenance of the Property.

8. GROCERY STORE OPERATIONAL NEEDS

A grocery store shall be the anchor tenant for the redeveloped shopping center. The City recognizes that the current trend of many grocery stores is to offer gasoline sales at their stores as a convenience to their customers, while providing a discount price to their patrons. Provided that designs are consistent with all applicable design guidelines and review documents and that the view from Annapolis Road/Maryland Route 450 is enhanced by landscaping, the City agrees to support gasoline sales in conjunction with the grocery store on the Property provided that such use is authorized by the Prince George's County Zoning Ordinance at this location.

9. STORMWATER MANAGEMENT

A. There is an existing, approved, stormwater management plan for the Property that has been extended until May 4, 2017.

B. The Owner and City agree that the existing stormwater management devices used to satisfy the requirements of the Property shall be "grandfathered" to the fullest extent allowed by the law and the City will allow and/or support appropriate modifications requested by the Owner provided such requests meet the requirements of applicable laws.

10. WATER AND SEWER

A. Water:

1. Site Water Utilities: The Owner shall design and construct on-site water utilities as privately owned utilities and obtain a Site Utility Permit as required through WSSC.

2. Connections to City of Bowie Water Mains: The Owner shall apply to the City of Bowie Department of Public Works for permission to make new connections to the City of Bowie water mains. The application shall include all site utility design documents, and required hydraulics to meet maximum daily loads and fire flow requirements. All costs for engineering review of plans, testing of the City's water mains for capacity, construction inspections, and connection fees shall be chargeable to the Owner. The Owner shall not make new connections, nor terminate existing water main connections on site without a letter approval from the City of Bowie.

3. Water Meters: The Owner agrees to limit the total number of meters as follows: one for each major tenant; one for each building, building section or pad that serves multiple smaller tenants. Larger tenants will be billed directly by City of Bowie for water and sewer service. Where a meter serves multiple tenants, the building owner will be billed by the City of Bowie for water and sewer service.

4. Future transfer of 10" water main: A primary 10" main shall be located on the property that will connect to the City of Bowie water mains located on Superior Lane and Stonybrook Drive. After completion of construction and finalizing the as-built drawing, this primary 10" main and all maintenance responsibilities for this main will be given to the City of Bowie, along with a 20' wide maintenance easement centered over the 10" main.

B. Sewer:

1. Site Sewage Utilities: With the exception of existing sewage mains that carry off site sewage, the Owner shall design and construct on-site sewage utilities as privately owned utilities and obtain a Site Utility Permit as required through WSSC.

2. Relocation of and Connection to City of Bowie Sewer Mains: The Owner shall apply to the City of Bowie Department of Public Works for permission to relocate existing City sewer mains and connect private site and building sewers to City sewer mains. The application shall include all site utility design documents and required documents to record any new maintenance easements. All costs for engineering review of plans, evaluation of City's sewer mains for capacity, construction inspections, and connection fees shall be chargeable to the Owner. The Owner shall not relocate sewers, make new connections, nor terminate existing sewer connections without letter approval from the City of Bowie.

C. Definition of "Owner": With respect to any obligation to be performed pursuant to this Section 10, the term "Owner" shall mean the person or entity owning the Property at the time that such obligation is required to be performed.

11. EXISTING PYLON SIGNAGE and DRIVEWAY ACCESS POINTS

The Owner and City agree that the redevelopment of the Property or the addition of new retail uses may necessitate a reevaluation of the driveway access points onto the Property and the existing pylon signage. The Parties intend that the existing number and location of pylon signs and driveway access points shall remain to the fullest extent allowed by the law and the City will allow and/or support minor modifications as to their locations as requested by the Owner.

12. RESIDENTIAL

A. The City supports a mixed use development on this property that includes a residential component. The City shall have the ability to approve or deny, in its sole and absolute discretion, any Conceptual Site Plan (the "CSP") application for residential uses on the Property prior to submission to the Prince George's County Council (the "County"). The Owner shall not submit any CSP application for the Property to the County unless said application is first approved by the City, in its sole and absolute discretion. The Owner shall not construct any residential improvements on the Property unless based upon a CSP approved by the City pursuant to this paragraph.

B. If the Owner submits a CSP with a residential use, senior age-restricted housing shall constitute a minimum of 20% of the total residential units contained on the Residential Parcels (the Parcel(s) behind the grocery anchored shopping center as depicted on the attached Exhibit A).

C. The City shall have the ability to approve or deny any Detailed Site Plan (the "DSP") application on the Property prior to submission to the County. The Owner shall not submit any DSP application on the Property to the County unless said application is first approved by the City. The City's approval of a DSP application on the Property shall not be unreasonably withheld. The Owner shall not construct any improvements on the Property unless based upon a DSP approved by the City pursuant to this paragraph.

D. References herein to "senior age-restricted housing" or "residential units for seniors" shall mean residential units contained on the residential portions of the Property that are required by covenant to be occupied by at least one resident who is 62 years of age and older.

13. LOCAL CONTRACTING AND HIRING

A. The Owner, with assistance from the City, shall conduct a "Small Business Contracting Opportunities Fair" to provide information to Bowie businesses about opportunities during the construction and operation phases of the new Marketplace. The Owner shall work with the City to ensure that the Fair is appropriately organized and advertised.

B. The Owner, with assistance from the City, will conduct a "Jobs Fair" in Bowie to provide an opportunity for all project contractors and their sub-contractors to fill vacant positions with Bowie workers. The Owner shall work with the City to ensure that the Fair is appropriately organized and advertised.

14. RECORD PLAT

The Owner shall provide the City with a copy of any and all final record plat(s) for the Property which is the subject of this Agreement.

15. NOTICES

Except as otherwise expressly provided by this Agreement, any written notices, requests, demands, consents, and other communications which are required or may be given under this Agreement shall be given as follows:

If to the City:

David J. Deutsch, City Manager
15901 Excalibur Road
Bowie, Maryland 20706
Tel: 301-809-3030
Email: ddeutsch@cityofbowie.org
Fax: 301-809-2302

If to the Owner:

Brian Berman, Vice President
5410 Edson Lane Suite 220
Rockville, Maryland 20852
Tel: 301-816-1555
Email: bberman@bermanenterprises.com
Fax: 301-816-1556

16. SEVERABILITY

Any provision of this Agreement which is held by a court of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability, without invalidating or rendering unenforceable the remaining provisions of this Agreement.

17. AMENDMENT; WAIVER

No provision of this Agreement may be amended, waived, or otherwise modified without the prior written consent of all of the parties hereto.

18. SECTION HEADINGS

The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

19. APPLICABLE LAW

This Agreement was made in the State of Maryland, and shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Maryland. Any action to enforce the provisions of this Agreement or for damages or other relief for breach or anticipated breach hereof shall be brought in the courts of the State of Maryland located in Prince George's County, and the parties consent to the jurisdiction thereof and acknowledge and agree that venue is proper therein.

20. INDEMNIFICATION

The Owner shall indemnify, defend and save harmless the City from any and all costs and damages, losses, claims, suits and actions including attorneys' fees that the City may sustain or suffer by reason of the Owner's failure to perform the terms and conditions of Section 3 and 4.A. of this Agreement, that such failure is caused by the City's actions or failure to act, except that in no event shall Owner be liable for any indirect damages under this Section 20; and except further, that such indemnification shall be limited as follows:(i) following completion of the requirements of Sections 3 and 4.A of this Agreement ("Completion"), the maximum amount of Owner's indemnification obligation under this Agreement shall be equal to the payments made to Owner pursuant to Section 5.B of this Agreement following Completion and (ii) after all of the payments due pursuant to Section 5.B have been made, this Section 20 shall expire and be of no further force and effect.

21. RECORDATION

This Agreement shall be recorded among the Land Records of Prince George's County, Maryland at the sole cost and expense of the Owner.

22. RIGHT TO TERMINATE.

This Agreement may be terminated immediately by the City upon written notice to the Owner whenever adequate funds have not been appropriated by the City Council in the annual budget for the purpose set forth herein. The City does not guarantee the appropriation of funds for any subsequent fiscal year (beginning July 1). Upon such termination, the City shall be liable to the Owner for all payments due to Owner as of the effective date of the termination. Furthermore, if at the time of any termination, the Owner has performed services entitling it to receive any payments hereunder from the City, the provisions of Sections 6, 9, 10 and 11 of this Agreement shall survive any such termination.

23. DEFAULT OR BREACH OF AGREEMENT BY OWNER

A. Any failure by the Owner to comply with any of its material obligations contained herein, or the sale or transfer of the Property prior to completion of the Minimum New Structures, shall constitute a material breach and shall entitle the City to give to the Owner written notice specifying the nature of the breach. Such notice shall require the Owner to make good or otherwise cure such breach. If such breach is not cured within thirty (30) days of such notice or, if such default cannot be cured within said period, and the Owner does not commence

actions to cure such breach within such period and thereafter diligently continue such actions and cure such breach, then the City will be entitled, without prejudice to any of the other rights conferred on it by this Agreement, to terminate this Agreement upon written notice to the Owner and (subject to Section 23.B.) to demand repayment of all monies paid by City pursuant to this Agreement. In the case of such a demand, but subject to Section 23.B, Owner shall repay City all sums due within 30 days of City's notice for repayment.

B. The City acknowledges that this Agreement is a material inducement to Owner to take certain actions at Owner's cost and expense, but subject to reimbursement as provided in this Agreement. Accordingly, notwithstanding the provisions of Section 23.A. or any other provisions of this Agreement, the City agrees that Owner may retain the following funds and shall not be obligated to return such funds to the City as a result of Owner's default, termination of this Agreement, or otherwise: (i) if Owner has demolished the existing structures on the Property as contemplated by Section 3.A. of this Agreement and has completed debris removal and grading, Owner shall retain and not be required to return the first $350,000 payment received pursuant to Section 5.A of this Agreement, (ii) if Owner has demolished the existing structures on the Property as contemplated by Section 3.A. of this Agreement and construction has commenced on the new grocery store, Owner shall retain and not be required to return the second $350,000 payment received pursuant to Section 5.A. of this Agreement and (iii) if the grocery store anchor tenant opens for business and is operational pursuant to a minimum five-year lease that has been provided to the City as required to this Agreement, Owner shall retain and not be required to return any payments received pursuant to Section 5.B.

24. WAIVER

The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

25. NONASSIGNABILITY

This Agreement shall not be assignable or transferable by the Owner, whether by operation of law or in any other manner, without the prior consent in writing from the City, which consent shall remain in the discretion of the City until the demolition, grading and site work contemplated by Paragraph 5.A. hereof has been completed and the grocery store lease contemplated by Paragraph 5.B. hereof has been provided to the City and thereafter shall not be unreasonably withheld, conditioned or delayed (and for this purpose the parties hereto expressly agree that the City's requirement that the assignee or transferee agree to assume all or any of the obligations under this Agreement shall be deemed to be reasonable). In the event of insolvency of the Owner, this Agreement shall terminate immediately at the election of the City. Notwithstanding anything herein to the contrary, Owner may subject the Property and this Agreement to a mortgage, deed of trust or other security.

26. WAIVER OF JURY TRIAL

Each of the parties hereto hereby waives to the fullest extent permitted by applicable law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. Each of the parties hereto hereby (a) certifies that no representative, agent or attorney of the other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it has been induced to enter into this agreement and the transactions contemplated by this agreement, as applicable, by, among other things, the mutual waivers and certifications in this Section 26.

27. COUNTERPARTS

This Agreement may be executed and delivered (including by facsimile or email transmission) in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.IN WITNESS WHEREOF, the Parties have executed and acknowledged this Agreement as of the day and year first written above.

WITNESS:

By: Awilda Hernandez, City Clerk

THE CITY OF BOWIE

By: David J. Deutsch, City Manager

WITNESS/ATTEST:

BE BOWIE LLC:

By: Brian Berman, Vice President

APPROVED AS TO FORM:

Elissa D. Levan, City Attorney

STATE OF MARYLAND

COUNTY OF ~~PRINCE GEORGE'S,~~ Anne Arundel to wit:

I HEREBY CERTIFY, that on this 24 day of November, 2014, before me, a Notary Public in and for the State aforesaid, personally appeared David J. Deutsch who has been satisfactorily proven to be the person whose name is subscribed to the within instrument, who acknowledged himself to be the City Manager of the City of Bowie, a municipal corporation of the State of Maryland, and that said City Manager, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the municipal corporation as such City Manager.

WITNESS my hand and notarial seal.

Awilda Hernandez (SEAL)

AWILDA HERNANDEZ
Notary Public
Anne Arundel County
Maryland
My Commission Expires November 26, 2017

Notary Public
My Commission Expires: 11/28/17

STATE OF ~~Maryland~~
COUNTY OF Montgomery, to wit:

I HEREBY CERTIFY, that on this 20 day of November, 2014, before me, a Notary Public in and for the State aforesaid, personally appeared Brian Berman, Vice President of a party to this Agreement, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and notarial seal.

(SEAL)

THERESA M. KENOTE MITCHELL
NOTARY PUBLIC
MONTGOMERY COUNTY, MD

Notary Public
My Commission Expires: 10/2/18

RESIDENTIAL CONCEPTUAL SITE PLAN

Residential Site Statistics	
Units	+/- 276 d.u.
Garage Parking	378 spots
Parking Required	= 2 spots/d.u.
	= 2(276) = 552 spots
Shared Parking	= 174 spots

0'-0" 25'-0" 50'-0" 100'-0" 200'-0"

EXHIBIT A