

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2009, Legislative Day No. 11
Resolution No. 42-09

Mr. Joseph Bartenfelder, Chairman
By Request of County Executive

By the County Council, June 1, 2009

A RESOLUTION to authorize the County Executive or other authorized administrative official to enter into a written agreement on behalf of Baltimore County, Maryland (the “County”) with the Towson Jail Associates, LLC, a limited liability company organized and existing under the laws of the State of Maryland (“TJA” or the “Café Tenant”), and Towson Swim Center, LLC, a limited liability company organized and existing under the laws of the State of Maryland (“TSC” or the “Pool Tenant”), for the payment of stipulated amounts in lieu of Baltimore County real property taxes for the property located at the northwest corner of Towsontown Boulevard and Bosley Avenue in Towson, Maryland 21204 (the “Premises”), which is improved by a multi-story structure formerly known as the Warden’s Building that was used in connection with the operation of the Old County Jail, in order to facilitate (a) the renovation and conversion of the former Warden’s Building for use as a café and for general commercial offices; and (b) the construction and operation of a community swim center to provide programs and membership opportunities for the public (collectively, the “Project”).

WHEREAS, it is in the best interests of the citizens of the County to encourage and facilitate the renovation and conversion of the former Warden’s Building for use as a cafe with on-site catering facilities on the lower levels and for general commercial office use on the upper floors; and

WHEREAS, it is in the best interests of the citizens of the County to support a recreational community pool facility and other ancillary uses, such as a food and beverage service, a fitness center, a child daycare center, meeting facilities, and party/reception space; and

WHEREAS, TJA and TSC are individually leasing from the County a portion of the Premises for the purposes heretofore enumerated and as more specifically detailed in each of their respective Ground Lease with the County; and

WHEREAS, Section 7-501 of the Tax-Property Article of the Annotated Code of Maryland (2008 Replacement Volume), as amended, provides for a real property tax exemption under certain circumstances, provided that the County, TJA, and TSC enter into a written agreement for the payment of negotiated payment in lieu of Baltimore County real property tax;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the County Executive or other authorized administrative official is hereby authorized to enter into a written agreement (the "Agreement") with TJA and TSC on behalf of the County to make the following payments to the County in lieu of paying Baltimore County real property taxes:

(a) From the date each Ground Lease and the PILOT agreement are fully executed (the "Effective Date"), until the first January 1 after the Project is completed (as hereinafter defined), or the applicable Ground Lease termination date, whichever shall occur first, the Café Tenant and the Pool Tenant each shall individually pay Three Thousand One Hundred Eighty-Five Dollars and Sixty Cents (\$3,185.60) at the end of each calendar year based upon the assessed value of the Premises (without regard to improvements, if any) and the applicable real property tax rate in effect for such period (the "Single Tier Tax Payment"). The Project shall be deemed Constructed on the

date upon which the Project achieves Substantial Completion and a certificate of use and occupancy is issued by the County Department of Permits and Development Management to the Pool Tenant and the Café Tenant, respectively.

(b) For the period from the first January 1 after the Project is Constructed and continuing until the applicable Ground Lease termination date, the Pool Tenant and the Café Tenant shall each make individual annual Single Tier Tax Payments in arrears at the end of each calendar year which equal, at a minimum, Six Thousand Six Hundred Ten Dollars and Forty-Five Cents (\$6,610.45).

(c) Thereafter, the Single Tier Tax Payment shall increase by Three Per Cent (3%) annually.

(d) At no time shall the tenant be required to pay more than the full amount of real property taxes based on the Premises and the Project's then-current assessment. tenant shall have the right to have the Property reassessed or to contest the assessment on behalf of the Landlord and any savings will inure to tenant.

(e) The difference between the amount of negotiated and/or stipulated payments in lieu of taxes remitted to the County under the Agreement and the amount of full Baltimore County real property taxes which would have otherwise been paid based on the assessed value of the Premises and the Project, shall be repaid upon a change in use, sale or transfer of the Premises and/or the Project without the prior written approval of the County or upon the termination of either Ground Lease for reasons other than the normal expiration of the applicable Ground Lease Term. Any payment under this subparagraph (e) shall be limited to the extent of available proceeds after repayment of all debt and other obligations, which constitute liens on the Premises. The provisions

of paragraphs (c) and (d) above shall not be affected by the making of one or more payments pursuant to this subparagraph (e) and shall remain in effect for the period set forth herein.

(f) Upon the applicable Ground Lease termination date, which shall be deemed to be (i) the termination of the Café Lease or Pool Lease, as applicable, to be recorded in the Land Records of the Baltimore County, (ii) a change in the use, or a sale, transfer, or encumbrance of the Café Property or Pool Property by either the Café Tenant or Pool Tenant, as applicable, without the prior written consent of the County, or (iii) a default by the Café Tenant or Pool Tenant, as applicable, under the terms of their respective Ground Leases, this Agreement shall expire as to that Tenant only, and the Tenant shall thereafter pay all Baltimore County real property taxes on the Premises and the Project in full, when and as due; and

BE IT FURTHER RESOLVED, that this Resolution shall obligate the TJA and TSC, individually, to submit audited financial statements annually to the Baltimore County Office of Budget and Finance within ninety (90) days of the close of their fiscal year for purposes of monitoring any taxes due beyond the Single Tier Tax Payment; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect from the date of its enactment.