

## **AGREEMENT IN LIEU OF TAXES**

This Agreement In Lieu of Taxes (this “Agreement”) is made effective as of the \_\_\_\_ day of April, 2025, by and among the City of Newport, Kentucky (the “City”), the Newport Independent School District (the “School District”) and PLK Communities, LLC, an Ohio limited liability company, and its successors, assigns and/or transferees (the “Company”); (the aforementioned are together referred to as the “Parties”):

### **WITNESSETH**

WHEREAS, the Company plans to acquire an approximate 17 acre parcel of property in the City of Newport, Kentucky, located along Lowell Street (Route 9) (the “Property”), to construct and mixed-use commercial and residential, together with related site amenities; and

WHEREAS, the City of Newport, Kentucky (the City”) has agreed to (i) issue Industrial Building Revenue Bonds (the “Bonds”) to finance the acquisition and construction of the Project, (ii) accept title to the Property and enter into a Lease Agreement with the Company for the Project (the “Lease Agreement”), and (iii) in conjunction with the foregoing, enter various agreements to memorialize the Company’s obligation to make a payment in lieu of taxes (“PILOT Payment”) with respect to the real Property related to the Project to the City; and

WHEREAS, the Company and the City has entered into an Inducement Contract, wherein the City agrees to authorize, issue, and sell the Bonds in an amount specified therein, pursuant to KRS 103.200 through 103.285, to finance the acquisition and construction of the Project; and

WHEREAS, the economic incentive to the Company by virtue of the issuance of the Bonds and the execution of the Lease Agreement is the abatement of real property *ad valorem* taxes with respect to the Project; and

WHEREAS, it is understood by the Parties that the Campbell County Property Valuation Administrator (the "PVA") is responsible for establishing assessed value of real property within Campbell County for the purpose of imposing real property *ad valorem* taxes; and

NOW, THEREFORE, in consideration of the premises and mutual covenants hereinafter contained, the Parties hereto agree as follows:

1. Recitals. The Parties hereafter confirm and affirm the accuracy of the Recitals contained above and those contained herein.

2. Valuation of Property. That the valuation of the real Property that comprises the Project shall be the fair cash value for the real Property as determined by the PVA, which shall be set and adjusted in accordance with the PVA's standard practices as the Project is developed. It is understood that the valuation of the Property may change over time as determined by the PVA.

3. Commencement of Obligations. The obligation to make PILOT Payments will be due on November 30<sup>th</sup> the year after the date the Bonds are issued and shall be due each November 30<sup>th</sup>, thereafter during the term of the Bonds, and shall be the obligation of the Company or its assigns to issue these payments to the City (and the City will pay any amount of the PILOT Payment due the County of Campbell, Kentucky (the "County") and the School District. The PILOT Payment not paid by December 31<sup>st</sup> of each

year shall be considered delinquent and shall bear penalty and interest the same as regular real estate payments *ad valorem* tax until paid.

4. Issuance of Bonds/Tax Abatement. Upon the issuance of the Bonds, the transfer of the Project and the execution of the Lease Agreement, the Project will be exempt from local real property *ad valorem* taxes pursuant to the provisions of Section 103.285 of the Kentucky Revised Statutes, but shall be subject to the PILOT Payment set forth in this Agreement. The term of the exemption from *ad valorem* taxes with respect to the Project shall be the earlier of (i) the termination of the Lease Agreement, (ii) forty (40) years from the date the Bonds are issued, or (iii) the date the Bonds are fully paid or defeased (the "Exemption Termination Date").

5. Obligation to Make PILOT Payments. The Company shall make an annual PILOT Payment to the City, beginning the first year after the Bonds are issued in an amount equal \$5.50 per each \$1,000.00 valuation multiplied by the value of the real Property as determined by the PVA. Upon receipt by the City, the PILOT Payment shall be distributed by the City, among the City, County and School District as follows:

City: \$1.60 per \$1,000.00 valuation

County: \$0.90 per \$1,000.00 valuation

School District: \$3.00 per \$1,000.00 valuation

6. Ad Valorem Taxes After Bonds Mature. Upon the Exemption Termination Date, the City shall convey the Project to the Company (or its assignees or transferees) at no cost with the Company paying all costs (for attorney's fees, recording fees, etc.), and the *ad valorem* tax exemption shall cease, and the City, the School District, the County and other taxing authorities, shall receive from the Company or its assigns one

hundred (100%) of the *ad valorem* taxes with respect to the Project at the tax rates established at that time on an annual basis in accordance with the assessment of property as determined by the PVA and the Commonwealth of Kentucky.

7. Other Taxes. Other than the *ad valorem* taxes discussed herein, this Agreement does not affect or apply to any other taxes or fees that may be owed by the Company (or its assignees or transferees) to the City, the School District, the County, or other taxing districts. The Company acknowledges that this Agreement will not be inconsistent or will not conflict with any bond placement agreement, any financing agreement, or the Lease Agreement executed or to be executed in connection with the Bonds (collectively, the “Bond Documents”), and to the extent that this Agreement is inconsistent or in conflict with the Bond Documents, the terms and language of this Agreement shall control over the Bond Documents.

8. Term of Bonds. It is further understood by the Parties that the final maturity date of the Bonds shall not exceed forty (40) years from their date of issuance. Any costs expended by the City related to the issuance of the Bonds shall be reimbursed or paid by the Company.

9. Notices.

All notices sent to the Company shall be sent to:

PLK Communities, LLC  
5905 East Galbraith Road, Suite 4100  
Cincinnati, Ohio 45236  
Attn: \_\_\_\_\_

All notices sent to the City shall be sent to:

City of Newport, Kentucky  
998 Monmouth Street  
Newport, Kentucky 41071  
Attn: City Manager

All notices sent to the School District shall be sent to:

Newport Independent School District  
30 West 8<sup>th</sup> Street  
Newport, Kentucky 41071  
Attn: Superintendent

10. Default. In addition to any and all remedies specified in the Bond Documents relating to the payment of the PILOT Payment required by this Agreement, the City and/or School District shall have the right to enforce the provisions of this Agreement in any matter that the City and/or School District deems appropriate. It is further agreed that in the event of a default, the Company will pay all costs, including the City's and/or School District's reasonable attorney fees, associated with the collection of the PILOT Payment due, but unpaid.

11. Effect of Bankruptcy. In the event that the Company or its successors, transferees, or assigns shall file a voluntary action seeking relief under applicable bankruptcy law, or have an involuntary action filed against it seeking such relief, then, and in that event, it is agreed that all payments required by this Agreement shall be treated the same as if they were local real property ad valorem taxes under applicable Kentucky law, giving said payments and obligations preference over all other secured and unsecured creditors.

12. Assignment. At its sole cost, the Company shall have the right to assign its interest under this Agreement to a special purpose entity formed by Company to undertake the Project or to an entity that is providing financing for the Project. Company, with written notice to the City and School District, may assign its interest under this Agreement to a third-party purchaser of the Project, and consent of the City or School District shall not be required. Any Assignment of this Agreement shall require the Assignee to assume all rights and

obligations of this Agreement, and pay any costs incurred by the City related to this action or process. This Agreement is legally binding upon the City, the School District and the Company, its officers, affiliates, shareholders successors in interests, employees, and agents, and assigns and transferees.

13. Governing Law and Jurisdiction. The Parties agree that this Agreement is governed by the laws of the Commonwealth of Kentucky. Any action taken by the Parties to enforce or seek relief from the terms and conditions of this Agreement shall be brought in the Campbell Circuit Court.

14. Entire Agreement. This Agreement contains the entire agreement of the Parties hereto in respect to the transaction contemplated hereby and all prior agreements, whether oral or written, are superseded hereby.

15. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but if any provision herein shall be deemed to be invalid such provision shall be ineffective to the extent of such invalidity without invalidating the remainder of the provisions contained in this Agreement.

16. Authorization. The Parties hereto represent that each is duly authorized and empowered to enter into this Agreement.

17. Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original.

Signature Page to Agreement In Lieu of Taxes

CITY OF NEWPORT, KENTUCY

By: \_\_\_\_\_  
Thomas L. Guidugli, Jr.  
Mayor

NEWPORT INDEPENDENT SCHOOL DISTRICT

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

PLK COMMUNITIES, LLC  
an Ohio limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_