

COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND  
BILL NO. 20-031

Introduced by Council President Vincenti at the request of the County Executive  
Legislative Session Day No. 20-026 Date: October 13, 2020

A BILL approving and providing for a multi-year Installment Purchase Agreement by Harford County, Maryland (the "County"), pursuant to Article II of Chapter 60 of the Harford County Code, as amended by Bill No. 11-07, enacted by the County Council of Harford County, Maryland on April 5, 2011, approved by the County Executive on April 12, 2011, and effective on June 13, 2011 (the "Agricultural Land Preservation Act"), to acquire Development Rights (as defined in the Agricultural Land Preservation Act) in approximately 62.7 acres, more or less, of agricultural land located at 4206 Graceton Road, Pylesville, Maryland within the County, containing approximately two (2) Development Rights, more or less, pursuant to a perpetual Development Rights Easement restricting use of such land to Agricultural Use from Wilson A. Heaps, II, or any other owner thereof for an aggregate purchase price not to exceed \$220,000.00, plus interest thereon; provided, however, that the actual amount of the purchase price shall be determined as provided herein pursuant to the Agricultural Land Preservation Act; providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive and Treasurer to make modifications to such Agreement under certain circumstances; providing for and determining various matters in connection therewith.

By the Council, October 13, 2020

Introduced, read first time, ordered posted and public hearing scheduled  
on: November 10, 2020  
at: 7:00 PM

*Mylia A. Dixon*  
By Order: \_\_\_\_\_, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on \_\_\_\_\_, and concluded on \_\_\_\_\_.

\_\_\_\_\_, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

RECITALS

1  
2 In accordance with the provisions of Section 524 of the Charter of Harford County, Maryland (the  
3 “Charter”), the Annual Budget and Appropriation Ordinance of Harford County, Maryland (the “County”)  
4 for fiscal year 2021, Bill No. 20-009, As Amended (the “Budget Ordinance”) includes an appropriation  
5 (Agricultural Preservation – County) permitting the County to enter into, pursuant to Article II of Chapter  
6 60 of the Harford County Code, as amended by Bill No. 11-07, enacted by the County Council of Harford  
7 County, Maryland (the “County Council”) on April 5, 2011, approved by the County Executive of Harford  
8 County, Maryland (the “County Executive”) on April 12, 2011 and effective on June 13, 2011 (the  
9 “Agricultural Land Preservation Act”), Installment Purchase Agreements (as defined in the Agricultural  
10 Land Preservation Act) to acquire Development Rights (each as defined in the Agricultural Land  
11 Preservation Act) in Agricultural Land and Woodland (each as defined in the Agricultural Land  
12 Preservation Act) located within the County. The Budget Ordinance was adopted by the County Council  
13 in accordance with the Charter.

14 Section 520 of the Charter provides that “any contract, lease, or other obligation in excess of three  
15 thousand dollars requiring the payment of funds from the appropriations of a later fiscal year shall be  
16 authorized by legislative act,” Section 524 of the Charter permits the County to incur debt and pursuant to  
17 the Agricultural Land Preservation Act, the County is authorized and empowered to enter into Installment  
18 Purchase Agreements to purchase conservation easements for agricultural land preservation purposes in the  
19 form of Development Rights Easements (as defined in the Agricultural Land Preservation Act).

20 The Agricultural Land Preservation Act provides that after review by the Harford County  
21 Agricultural Land Preservation Advisory Board in accordance with the County’s Easement Priority  
22 Ranking System (as such term is used in the Agricultural Land Preservation Act) and approval by the  
23 Harford County Board of Estimates, the County Council may approve and provide for the acquisition of  
24 Development Rights in each particular parcel of Agricultural Land and Woodland.

1 Attached to this Bill as Exhibit A is an application to sell a Development Rights Easement signed  
2 by the owner(s) of the Agricultural Land described below.

3 Attached to this Bill as Exhibit B are records of the Harford County Agricultural Land Preservation  
4 Advisory Board evaluating all applications to sell Development Right Easements to the County, with each  
5 application ranked pursuant to the County’s Easement Priority Ranking System.

6 The County has now determined to enter into an Installment Purchase Agreement with and/or any  
7 other person or entity that is or becomes the owner of all or any portion of the following described land  
8 prior to execution and delivery of such Installment Purchase Agreement (the “Seller”), in order to acquire  
9 the Development Rights in approximately 62.7 acres, more or less, of Agricultural Land located at 4206  
10 Graceton Road, Pylesville, Maryland within the County (the “Land”), containing approximately two (2)  
11 Development Rights, more or less, for an aggregate purchase price not to exceed \$220,000.00 (the  
12 “Maximum Purchase Price”), plus interest thereon as hereinafter provided; provided, however, that the  
13 actual amount of the purchase price shall be determined in accordance with the Agricultural Land  
14 Preservation Act and shall be equal to the lesser of (i) the Maximum Purchase Price or (ii) \$100,000.00  
15 multiplied by the first six (6) Development Rights (per parcel) and \$50,000.00 for each additional  
16 Development Right above six (6) (per parcel) based on the actual number of Development Rights in the  
17 Land, which latter amount represents the least of the three amounts calculated as the purchase price on the  
18 basis of the following factors: (i) the Maximum Easement Per Acre Value (as defined in the Agricultural  
19 Land Preservation Act), (ii) the Maximum Development Right Value (as defined in the Agricultural Land  
20 Preservation Act) and (iii) Maximum Per Acre Value (as defined in the Agricultural Land Preservation Act  
21 and also referred to therein as the “maximum per acre cap”).

22 NOW, THEREFORE:

23 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY,  
24 MARYLAND, That

25 (a) Harford County, Maryland (the “County”) shall enter into an Installment Purchase  
26 Agreement (the “Installment Purchase Agreement”) with Wilson A. Heaps, II and/or any other person or

1 entity that is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to the  
2 execution and delivery of the Installment Purchase Agreement (the "Seller") in order to acquire the  
3 Development Rights on approximately 62.7 acres, more or less, of Agricultural Land located at 4206  
4 Graceton Road, Pylesville, Maryland within the County (the "Land"), containing approximately two (2)  
5 Development Rights, more or less, for an aggregate purchase price not to exceed \$220,000.00 (the  
6 "Maximum Purchase Price"), plus interest thereon as hereinafter provided; provided, however, that the  
7 actual amount of the purchase price (the "Purchase Price") shall be determined in accordance with the  
8 Agricultural Land and Preservation Act and shall be equal to the lesser of (i) the Maximum Purchase Price  
9 or (ii) \$100,000.00 multiplied by the first six (6) Development Rights (per parcel) and \$50,000.00 for each  
10 additional Development Right above six (6) (per parcel) based on the actual number of Development Rights  
11 in the Land, which latter amount represents the least of the three amounts calculated as the purchase price  
12 on the basis of the following factors: (i) the Maximum Easement Per Acre Value (as defined in the  
13 Agricultural Land Preservation Act), (ii) the Maximum Development Right Value (as defined in the  
14 Agricultural Land Preservation Act) and (iii) Maximum Per Acre Value (as defined in the Agricultural Land  
15 Preservation Act and also referred to therein as the "maximum per acre cap"). The Purchase Price shall be  
16 set forth in the Installment Purchase Agreement between the County and the Seller, and the deferred portion  
17 of the Purchase Price not paid on the Closing Date (hereinafter defined) shall be set forth in the Installment  
18 Purchase Agreement.

19 (b) The Installment Purchase Agreement shall be in substantially the form attached  
20 hereto as Exhibit C and made a part hereof, and in such form the Installment Purchase Agreement is hereby  
21 approved as to form and content. The Installment Purchase Agreement shall be dated as of the date of its  
22 execution and delivery by the County and the Seller (the "Closing Date").

23 (c) A portion of the Purchase Price in an amount equal to 25% thereof shall be paid in  
24 cash to the Seller on the Closing Date. The balance of the Purchase Price shall be paid to the Seller in  
25 installments in each year thereafter to and including a date not more than 10 years after the Closing Date.

1 The dates on which each such installment is payable shall be determined by the County Executive and the  
2 Treasurer of the County (the “Treasurer”) and shall be set forth in the Installment Purchase Agreement.

3 (d) Interest on the unpaid balance of the Purchase Price shall accrue from the Closing  
4 Date and shall be payable at least annually until payment in full of the Purchase Price at a fixed interest rate  
5 equal to the yield on U.S. Treasury STRIPS maturing on the date next preceding the final maturity date in  
6 the Installment Purchase Agreement determined as of the business day preceding the Closing Date. Interest  
7 shall be calculated on the basis of a 360-day year of twelve 30-day months.

8 (e) The County’s obligation to pay the Purchase Price and the interest thereon under  
9 the Installment Purchase Agreement is and shall be a general obligation of the County and is and shall be  
10 made upon its full faith and credit and taxing power.

11 SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
12 COUNTY, MARYLAND,

13 That it is hereby found and determined that:

14 (a) The acquisition of the Development Rights in the Land as set forth in Section 1 of  
15 this Bill and in the form of the Installment Purchase Agreement attached hereto as Exhibit C is in the best  
16 interests of the County.

17 (b) The Installment Purchase Agreement is a contract providing for the payment of  
18 funds at a time beyond the fiscal year in which it is made and requires the payment of funds from  
19 appropriations of later fiscal years.

20 (c) Funds for the payment of the Purchase Price and the interest thereon under the  
21 Installment Purchase Agreement are included in the Budget Ordinance.

22 (d) The County shall acquire the Development Rights in the Land in perpetuity.

23 (e) The Purchase Price is within the legal limitation on the indebtedness of the County  
24 as set forth in Section 10-203 of the Local Government Article of the Annotated Code of Maryland.

25 (f) The cost of acquiring the Development Rights in the Land is equal to the Purchase  
26 Price.

1 (g) The only practical way to acquire the Development Rights in the Land is by private  
2 negotiated agreement between the County and the Seller.

3 SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
4 COUNTY, MARYLAND, That the Installment Purchase Agreement shall be signed by the County Executive  
5 by his manual signature, and the Installment Purchase Agreement shall bear the corporate seal of the County,  
6 attested by the manual signature of the Director of Administration of the County (the “Director of  
7 Administration”). In the event that any officer whose signature shall appear on the Installment Purchase  
8 Agreement shall cease to be such officer before the delivery of the Installment Purchase Agreement, such  
9 signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in  
10 office until delivery.

11 SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
12 HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are hereby authorized,  
13 prior to execution and delivery of the Installment Purchase Agreement, to make such changes or modifications  
14 in the form of the Installment Purchase Agreement attached hereto as Exhibit C as may be required or deemed  
15 appropriate by them in order to accomplish the purpose of the transactions (including, but not limited to, the  
16 establishment of interest and principal payment dates in each year that the Installment Purchase Agreement is  
17 outstanding) authorized by this Bill; provided that such changes shall be within the scope of the transactions  
18 authorized by this Bill and the execution of the Installment Purchase Agreement by the County Executive shall  
19 be conclusive evidence of the approval by the County Executive and the Treasurer of all changes or  
20 modifications in the form of the Installment Purchase Agreement and shall thereupon become binding upon  
21 the County in accordance with its terms, as authorized by Section 524 of the Charter and the Agricultural Land  
22 Preservation Act (collectively, the “Enabling Legislation”) and as provided for in this Bill.

23 SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
24 COUNTY, MARYLAND, That the County Executive is hereby authorized, after the execution and delivery  
25 of the Installment Purchase Agreement, to enter amendments to the Installment Purchase Agreement with

1 the Registered Owner solely to correct any mistake or to cure any formal defect, omission, inconsistency  
2 or ambiguity therein.

3 SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
4 COUNTY, MARYLAND, That the County Executive, the Director of Administration, the Treasurer and  
5 other officials of the County are hereby authorized and empowered to do all such acts and things and to  
6 execute, acknowledge, seal and deliver such documents (including a Tax Certificate and Compliance  
7 Agreement) and certificates as the County Executive may determine to be necessary to carry out and comply  
8 with the provisions of this Bill subject to the limitations set forth in the Enabling Legislation and any  
9 limitations set forth in this Bill.

10 SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
11 COUNTY, MARYLAND, That the Treasurer is hereby designated and appointed as registrar and paying  
12 agent for the Installment Purchase Agreement (the “Registrar”). The Registrar shall maintain, or cause to be  
13 maintained, books of the County for the registration and transfer of ownership of the Installment Purchase  
14 Agreement. In addition, the County may, from time to time, designate and appoint the Department of the  
15 Treasury of the County, any officer or employee of the County or one or more banks, trust companies,  
16 corporations or other financial institutions to act as a substitute or alternate registrar or paying agent for the  
17 Installment Purchase Agreement, and any such substitute or alternate shall be deemed to be the Registrar or  
18 an alternate Registrar for all purposes specified in the resolution appointing such substitute or alternate.  
19 Any such appointment shall be made by the County Council by resolution and the exercise of such power  
20 of appointment, no matter how often, shall not be an exhaustion thereof.


21 SECTION 8. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
22 COUNTY, MARYLAND, That for the purpose of paying the installments of the Purchase Price when due  
23 and payable and the interest on the unpaid balance of the Purchase Price when due and payable, there is  
24 hereby levied, and there shall hereafter be levied in each fiscal year that any portion of the Purchase Price  
25 payable under the Installment Purchase Agreement remains outstanding, ad valorem taxes on real and  
26 tangible personal property and intangible property subject to taxation by the County, without limitation of

1 rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the  
2 County within limitations prescribed by law, in an amount sufficient, together with the portion of the  
3 transfer tax imposed on transfers of real property in Harford County which is dedicated to agricultural land  
4 preservation and other available funds, to pay any installment of the Purchase Price under the Installment  
5 Purchase Agreement maturing during the succeeding year and to pay the annual interest on the outstanding  
6 balance of the Purchase Price until the Purchase Price and all interest have been paid in full; and the full  
7 faith and credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual  
8 payment of the Purchase Price under the Installment Purchase Agreement and the interest on the unpaid  
9 balance of the Purchase Price as and when the same respectively become due and payable.

10 SECTION 9. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD  
11 COUNTY, MARYLAND, That this Bill shall take effect 60 calendar days after it becomes law.

12 EFFECTIVE: \_\_\_\_\_

13 The Council Administrator of the Council does hereby  
14 certify that 7 copies of this Bill are immediately available  
15 for distribution to the public and the press.  
16

17 

18 \_\_\_\_\_  
Council Administrator



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**EXHIBIT A**  
Application

*As Introduced*

I. APPLICANT (i.e., the owner of the land). Indicate the portion owned by each owner.

A. Correct legal name: WILSON A. HEAPS, II

B. Contact person: WILSON A. HEAPS, II

C. Property address & mailing address if different:

Property: 4206 Graceton Rd Pylesville MD 21132  
Mailing: 4204 Graceton Rd Pylesville MD 21132

D. Telephone No. 443 2867723 e-mail \_\_\_\_\_

E. Social Security Number or Tax Identification Number for each owner.

(can wait until offer is made for ID security reasons)

154-42-8538

F. Type of legal entity:

individual

corporation incorporated in the State of \_\_\_\_\_

general partnership created in the State of \_\_\_\_\_

limited partnership created in the State of \_\_\_\_\_

limited liability company created in the State of \_\_\_\_\_

G. Description of Applicant's business and percentage of income attributed to agricultural production:

SELF-EMPLOYED REAL ESTATE MANAGEMENT  
AG LAND RENTAL INCOME FROM FIELD CROP PRODUCTION  
PASTURE RENTAL FOR BEEF CATTLE  
AG PRODUCTIONS INCOME LESS THAN 50% OF  
OVERALL INCOME

H. Legal Counsel representing Applicant in proposed transaction:

1. Name: NONE
2. Address: \_\_\_\_\_  
\_\_\_\_\_
3. Telephone No. \_\_\_\_\_ e-mail \_\_\_\_\_

I. Surveyor representing applicant

1. Name: HIGHLAND SURVEY ASSOCIATES ERICH SCHMITT
2. Address: FAWN GROVE RD  
PLYESVILLE MD 21132
3. Telephone No. 410.836.1481 Fax No. \_\_\_\_\_

J. Information concerning ownership (attach copy of deed(s) for all parcels).

Please list below all information for each parcel contained in this easement purchase.

1. Date of acquisition; recording reference; tax account; tax map and parcel number; acres; development rights, family conveyances or easement restriction applied to each parcel.

DECEMBER 15, 2016 Deed: Liber 12158/498  
TAX MAP 10, PARCEL 52  
\*43.84 ACRES MIL LAND PER MDAT RECORD  
\*3 AG DEVELOPMENT RIGHTS see 9/27/16 letter  
1 TENANT DWELLING from Harford Co  
pg 2

K. List mortgagees or deeds of trust or other encumbrances (including leases). Lien holders will be required to subordinate their mortgage or deed of trust to the easement of the County so please discuss with them.

NONE

\* SEE REVISED SURVEY BY ERICH SCHMITT -- 60+ Acres  
REQUEST RE-EVALUATION OF NUMBER OF  
AG DEVELOPMENT RIGHTS

- L. Describe all uses currently made of the land and by whom:  
Agricultural

45.52 acres tillable

5-7 Acres Pasture/stream system/pond

Non-Agricultural

2-3 acres Farmstead & Main House 4204 Graceton

1/2 acre Tenant House 4206 Graceton

- M. Family history of the property including cultural or historic aspects and importance in preserving.

THIS IS A CENTENNIAL FARM WHICH  
HAS BEEN IN CONTINUOUS OWNERSHIP  
BY THE DIRECT ANCESTORS OF WILSON A. HEAPS II  
PRIOR TO THE CONSTRUCTION OF THE EXISTING  
FARM HOUSE IN THE LATE 1800'S - CIRCA 1880

- N. Identify family conveyance members and address if applicable.

Name

Address

NOT APPLICABLE

- O. Identify all residences and buildings on the land with sq. footage of each.

MAIN DWELLING 4300 SQ FT BUILT CIRCA 1880

TENANT DWELLING 1576 SQ FT BUILT CIRCA 2007

BANK BARN - Frame & Block - 7250 SQ FT - CIRCA 2003  
STORAGE SHED 14' x 20' - Circa 2005

P. Identify all soil and/or water conservation plans in effect concerning the land and if all practices are applied (forward copy of SCS plan). Bmps in place.

TENANT FARMER - STEVE TROYER - WHITEHALL MD  
Tenant Farmer Maintains - Soil Conservation Plan

Q. Environmental and water quality highlights of farm.

Primarily Chester Loam Soils - Excellent Quality  
Tillable land  
Bisected by Jack's Hole Creek which feeds  
1/2 acre pond

R. Farm land breakdown

Cropland acres 52

Pasture acres 5

Woodland acres - 0 -

Homestead acres 3

Other N/A

S. Innovative farming practices on farm including value adding.

Best Land Management Practices  
in effect

Indicate whether you will take Installment Purchase option or lump sum payment.

INSTALLMENT PURCHASE OPTION

II. EXECUTION

It is understood that the above information is submitted in good faith, based on present expectations of the Applicant, to aid the Agricultural Land Preservation Advisory Board of Harford County, Maryland in its consideration of this application for the sale of a development rights easement to Harford County, Maryland.

The information in this application and supporting exhibits is true and complete to the best of my/our knowledge and is submitted for the purpose of the sale of my residential development rights and the placement of a conservation easement on my property to be held by Harford County, Maryland. I/We authorize Harford County to conduct whatever investigation it feels is necessary to properly evaluate and process this application. I/We understand that this application is subject to review and approval by the Agricultural Land Preservation Advisory Board, County Executive and by the County Council of Harford County, Maryland. We also understand this is only an application and does not commit the landowner to accept an offer.

Dated at Forest Hill MD, on November 21, 20 18.  
(City) (State)

Wilson A. Heaps  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**EXHIBIT B**

The Harford County Agricultural Land Preservation Advisory Board Records

*As Introduced*

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HARFORD COUNTY 2020 AGRICULTURAL PRESERVATION RANKING/EVALUATION

Rank	Name	SDAT AC*	Ranking Score
1	Nancy Jones	203.96	254.57
2	Heaps Family, LLC (Heaps 2)	235.72	237.46
3	Harkins, Herbert & Patricia	146.66	219.85
4	Fielder, Samuel 1 (southern parcel)	149.57	214.45
5	Elliott, Betty L.	42.97	214.28
6	Heaps Family, LLC (Heaps 3-north)	112.87	211.19
7	Fielder, Samuel 2 (northern parcel)	122.64	205.96
8	Heaps, Ann P. Residential Trust (Heaps 1)	64.73	203.88
9	Heaps, Wilson	57.07	203.30
10	Brown, Jennifer Kay	72.67	199.04
11	Johnson, Walter & Katherine	90.13	197.90
12	Smigaj, Denis & Garayoa, Cynthia	68.81	201.34
13	Stewart, Greg & Mary	52.18	194.75
14	Wilson, Garry & Karen	73.80	190.25
15	Livezey, Sara	109.02	187.49
16	Lawrence Farms, LLC Lot 1 (headquarters)	48.81	181.65
17	Heaps Family, LLC (Heaps 4-south)	131.51	176.03
18	Ruszala, Charles	28.45	169.97
19	Lawrence Farms, LLC Lot 2	28.87	168.81
20	Maulsby, David Jr.	150.00	165.89
21	Thompson, Nancy	39.33	158.22
22	Bayne Janet & Ruth Grossnickle	38.00	156.60
23	Martin, Leslie & Karen	21.00	154.83
24	Smith, William	63.42	154.52
25	LeMaster, William	35.80	152.85
26	Skillman, Robert	150.15	152.60
27	Springhouse Family Farm, LLC (Crocker)	20.61	152.02
28	Nair	71.04	151.41
29	Whiteford Land Associates LLC	154.65	148.93
30	Wilson, Louis	38.00	144.07
31	Burdette, Alan Jr & Monica	49.71	143.61
32	Michie, Matthew 2	75.11	141.86
33	Smith, Roy	76.26	139.48
34	Chesapeake Therapeutic Riding	28.66	134.08
35	Michie, Mark W.	64.20	133.11
36	Michie, Matthew 1	53.90	131.63
37	Burdette, Alan Sr. & Roberta	22.80	128.47
38	Phipps, Jeffrey & Darlene	44.85	128.07
39	Fielder, Samuel (wooded parcel)	54.91	126.28
40	JPS properties	100.70	123.4
41	Maliszewski, Thomas & Miriam	70.06	114.60
42	Hutchins, Samuel	12.07	113.78



<b>Rank</b>	<b>Name</b>	<b>SDAT AC*</b>	<b>Ranking Score</b>
43	Profili, Anthony-Terra Bella (parcel 68)	61.43	113.39
44	Markline, Robert	28.73	111.86
45	Langrehr, Harry & Mardella	60.36	111.37
46	Bowman, Gerald	74.00	109.85
47	King, Alvin Lee	64.12	107.71
48	Michie, Matthew & Adele	18.80	106.62
49	Bronston, Paul & Barbara	47.95	105.30
50	Mandl, Karl	33.93	92.21
51	Profili, Anthony parcel 67	46.61	87.49

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As Introduced

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**EXHIBIT C**

Form of Installment Purchase Agreement

*As Introduced*

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WILSON A. HEAPS, II

and

HARFORD COUNTY, MARYLAND

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INSTALLMENT PURCHASE AGREEMENT  
(No. \_\_\_\_\_)

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1 INSTALLMENT PURCHASE AGREEMENT

2 (No. 20\_\_-\_\_)

3 THIS INSTALLMENT PURCHASE AGREEMENT (“this Agreement”) is made as of the  
4 \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between WILSON A. HEAPS, II (the “Seller”) and HARFORD  
5 COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (the “County”).

6 RECITALS

7 A. Pursuant to and in accordance with Article II of Chapter 60 of the Harford County  
8 Code, as amended (the “Authorizing Act”), the County is authorized to preserve productive  
9 agricultural land and woodland in Harford County, Maryland by purchasing from the owners  
10 thereof the Development Rights (each as defined in the Authorizing Act) in Agricultural Land and  
11 Woodland (each as defined as defined in the Authorizing Act) located within the County.

12 B. The Seller is the owner in fee simple of certain Agricultural Land and Woodland  
13 located in Harford County, Maryland and more particularly described in Exhibit A to the Deed of  
14 Easement (hereinafter defined) (the “Land”). The Seller has offered to sell to the County the  
15 Development Rights in the Land and the County has accepted such offer, all upon and subject to  
16 the conditions set forth in this Agreement.

17 C. The County will receive the Seller’s Development Rights in the Land for the  
18 purposes set forth in the Authorizing Act.

19 D. Except for the limited transferability described herein and in the Deed of Easement,  
20 the transfer by the Seller of the Seller’s Development Rights in the Land pursuant to the Deed of  
21 Easement shall be in perpetuity.

22 AGREEMENTS

23 NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and  
24 agreements hereinafter set forth, and for other good and valuable consideration, the receipt and  
25 sufficiency whereof are hereby acknowledged, the Seller and the County hereby agree as follows:

26 ARTICLE I  
27 DEFINITIONS

28 SECTION 1.1. Definitions. As used in this Agreement, the following terms have the  
29 following meanings, unless the context clearly indicates a different meaning:

30 “Agricultural Use” shall have the meaning given to that term in the Authorizing Act.

31 “Authorizing Act” has the meaning given to that term in the Recitals of this Agreement.

32 “Building Lot” means an Owner’s Lot or a Child’s Lot.

1 “Business Day” or “business day” means a day on which (a) banks located in each of the  
2 cities in which the principal office of the County or the Registrar is located are not required or  
3 authorized by law or executive order to close for business, and (b) The New York Stock Exchange  
4 is not closed.

5 “Child’s Lot” has the meaning given to that term in the Authorizing Act.

6 “Closing Date” means \_\_\_\_\_, the date of execution and delivery of this  
7 Agreement by the parties.

8 “Code” means the Internal Revenue Code of 1986, as amended. Each reference to the Code  
9 herein shall be deemed to include the United States Treasury Regulations in effect or proposed  
10 from time to time with respect thereto.

11 “County” means Harford County, Maryland, a body corporate and politic created and  
12 existing under and by virtue of the Constitution and laws of the State, its successors and assigns.

13 “County Council” means the County Council of the County.

14 “County Executive” means the County Executive of the County.

15 “Deed of Easement” means the Deed of Easement dated \_\_\_\_\_, from the Seller  
16 to the County, which shall convey the Development Rights to the County in perpetuity,  
17 substantially in form attached hereto as Exhibit A and made a part hereof.

18 “Development Right” has the meaning given to that term in the Authorizing Act.

19 “Enabling Legislation” means, collectively, (1) Section 524 of the Harford County Charter,  
20 (2) the Authorizing Act, (3) Bill No. 11-07 enacted by the County Council on April 5, 2011,  
21 approved by the County Executive on April 12, 2011, and effective on June 13, 2011, and (4) Bill  
22 No. \_\_\_\_\_, enacted by the County Council on \_\_\_\_\_, approved by the County Executive on  
23 and effective \_\_\_\_\_.

24 “Land” means the tract of land located in Harford County, Maryland, containing \_\_\_\_\_  
25 acres, more or less, and more particularly described in Exhibit A attached to the Deed of Easement;  
26 provided, however, that if (a) a Building Lot is released by the County from the Deed of Easement,  
27 such Building Lot so released shall not thereafter be considered to be part of the Land.

28 “Owner’s Lot” has the meaning given to that term in the Authorizing Act.

29 “Permitted Encumbrances” means the encumbrances listed on Exhibit B attached hereto  
30 and made a part hereof and any encumbrances on or with respect to the Land or any portion thereof  
31 hereafter approved by the County.

32 “Person” or “person” means any natural person, firm, association, corporation, company,  
33 trust, partnership, public body or other entity.

34 “Purchase Price” has the meaning given to that term in Section 2.1.

1 “Registered Owner” means the registered owner of this Agreement as shown on the  
2 registration books maintained by the Registrar.

3 “Registrar” means the Treasurer of the County, or any other person hereafter appointed by  
4 resolution of the County Council to act as Registrar and paying agent for this Agreement.

5 “Seller” means Wilson A. Heaps, II his personal representatives and assigns.

6 “State” means the State of Maryland.

7 SECTION 1.2. Rules of Construction. The words “hereof,” “herein,” “hereunder,”  
8 “hereto,” and other words of similar import refer to this Agreement in its entirety.

9 The terms “agree” and “agreements” contained herein are intended to include and mean  
10 “covenant” and “covenants.”

11 References to Articles, Sections, and other subdivisions of this Agreement are to the  
12 designated Articles, Sections, and other subdivisions of this Agreement.

13 The headings of this Agreement are for convenience only and shall not define or limit the  
14 provisions hereof.

15 All references made (a) in the neuter, masculine or feminine gender shall be deemed to  
16 have been made in all such genders, and (b) in the singular or plural number shall be deemed to  
17 have been made, respectively, in the plural or singular number as well.

18 ARTICLE II  
19 SALE AND PURCHASE OF DEVELOPMENT RIGHTS

20 SECTION 2.1. Agreement to Sell and Purchase Development Rights. The Seller agrees  
21 to sell all of the Development Rights and Family Conveyances in the Land to the County and the  
22 County agrees to purchase all of the Development Rights and Family Conveyances in the Land  
23 from the Seller on the Closing Date for the purchase price of \$\_\_\_\_\_ (the “Purchase Price”).  
24 The Purchase Price is equal to \$100,000.00 per Development Right for the first six (6)  
25 Development Rights (per parcel) and \$50,000.00 for each additional Development Right above six  
26 (6) (per parcel) for eleven (11) Development Rights, and represents the least of the three amounts  
27 calculated as the Purchase Price on the basis of the following factors: (i) the Maximum Easement  
28 Per Acre Value (as defined in the Authorizing Act), (ii) the Maximum Development Right Value  
29 (as defined in the Authorizing Act) and (iii) Maximum Per Acre Value (as defined in the  
30 Authorizing Act and also referred to therein as the “maximum per acre cap”).

31 SECTION 2.2. Delivery of Deed of Easement. In order to evidence the sale of all of  
32 the Development Rights in the Land to the County, the Seller shall execute and deliver the Deed  
33 of Easement to the County on the Closing Date. The Deed of Easement shall be recorded among  
34 the Land Records of Harford County, Maryland on or about the Closing Date as determined by the  
35 County.

ARTICLE III  
PAYMENT OF PURCHASE PRICE; INCENTIVE PAYMENT

SECTION 3.1. Payment of Purchase Price; Incentive Payment.

(a) The County has paid on the Closing Date a portion of the Purchase Price in the amount of \$\_\_\_\_\_ to the Seller and shall pay the balance of the Purchase Price in the amount of \$\_\_\_\_\_ to the Registered Owner in installments on \_\_\_\_\_ and on the same day in each year thereafter to and including \_\_\_\_\_ (each an "Installment Payment Date"), in the amounts set forth in Schedule I attached hereto and made a part hereof.

(b) Interest on the unpaid balance of the Purchase Price at the fixed rate of interest equal to \_\_\_% per annum shall accrue from the date hereof and shall be payable to the Registered Owner on each Installment Payment Date. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

(c) The Purchase Price and the interest on the unpaid balance thereof are payable in lawful money of the United States of America, at the time of payment.

(d) Payment of each installment of the Purchase Price and interest thereon shall be made by the County on each Installment Payment Date to the Registrar. The Registrar shall forward each such payment (other than the final installment of the Purchase Price) on the applicable Installment Payment Date to the person appearing on the registration books of the County maintained by the Registrar as the Registered Owner on the tenth day before the applicable Installment Payment Date, or if such tenth day is not a Business Day, the Business Day next preceding such day, by check or draft mailed to the Registered Owner at the address of the Registered Owner as it appears on such registration books on the tenth day before the applicable Installment Payment Date, or if such tenth day is not a Business Day, the Business Day next preceding such day. The final installment of the Purchase Price shall be paid by the Registrar to the Registered Owner upon presentation and surrender of this Agreement at the office of the Registrar.

(e) The County's obligation to pay the Purchase Price and the interest on the unpaid balance thereof as provided herein is a general obligation of the County, and the full faith and credit and the taxing power of the County are irrevocably pledged to the punctual payment thereof as and when the same become due and payable.

SECTION 3.2. Registration and Transfer of this Agreement.

(a) Until the Purchase Price and all interest thereon have been paid in full, the Registrar, on behalf of the County, shall maintain and keep at the offices of the Registrar, registration books for the registration and registration of transfer of ownership of this Agreement. The ownership of this Agreement may not be transferred or assigned, except upon the written approval of the County.

(b) The Seller is the initial Registered Owner. This Agreement shall be transferable only upon the written approval of the County and upon the books of the County maintained for such purpose by the Registrar, at the written request of the Registered Owner as

1 then shown on such registration books or such Registered Owner's attorney duly authorized in  
2 writing, together with a written instrument of transfer substantially in the form attached hereto as  
3 Exhibit C, or as may otherwise be satisfactory to and approved by the Registrar in writing, duly  
4 executed by such Registered Owner or such Registered Owner's attorney duly authorized in  
5 writing. The Registrar shall complete the Schedule of Transferees attached hereto as Exhibit D  
6 with the name, address and tax identification number of the transferee Registered Owner, the date  
7 of the transfer and the outstanding principal balance of the Purchase Price as of the date of transfer;  
8 provided, however, that if there is any conflict between the information set forth in Exhibit D  
9 hereto and the registration books maintained by the Registrar, the information shown on such  
10 registration books shall control.

11 The County and the Registrar may deem and treat the person in whose name this  
12 Agreement is registered upon the books of the County maintained by the Registrar as the absolute  
13 owner of this Agreement, whether any payments hereunder shall be overdue or not, for the purpose  
14 of receiving payment of, or on account of, the Purchase Price and interest thereon and for all other  
15 purposes, and all such payments so made to any such Registered Owner or upon his order shall be  
16 valid and effectual to satisfy and discharge the liability upon this Agreement to the extent of the  
17 sum or sums so paid, and neither the County nor the Registrar shall be affected by any notice to  
18 the contrary.

19 For every registration of transfer of this Agreement, the County or the Registrar may make  
20 a charge sufficient to reimburse themselves for any tax or other governmental charge required to  
21 be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person  
22 requesting such transfer as a condition precedent to the exercise of the privilege of registering such  
23 transfer.

24 SECTION 3.3. Mutilated, Lost, Stolen or Destroyed Agreement. In the event that this  
25 Agreement is mutilated, lost, stolen or destroyed, the County and the Registered Owner (as then  
26 shown on the registration books maintained by the Registrar) shall execute a substitute for this  
27 Agreement having the same terms as that of this Agreement mutilated, lost, stolen or destroyed;  
28 provided that, in the case of any mutilated Agreement, such mutilated Agreement shall first be  
29 surrendered to the Registrar, and, in the case of any lost, stolen or destroyed Agreement there shall  
30 be first furnished to the County and the Registrar evidence of such loss, theft or destruction  
31 satisfactory to the County and the Registrar, together with indemnity satisfactory to each of them  
32 in their sole discretion. The County and the Registrar may charge the Registered Owner requesting  
33 such new Agreement their expenses and reasonable fees, if any, in this connection. If after the  
34 delivery of such substitute Agreement, a bona fide purchaser of the original Agreement (in lieu of  
35 which such substitute Agreement was issued) presents for payment such original Agreement, the  
36 County and the Registrar shall be entitled to recover such substitute Agreement from the person to  
37 whom it was delivered or any other person who receives delivery thereof, except a bona fide  
38 purchaser, and shall be entitled to recover upon the security or indemnity provided therefor or  
39 otherwise to the extent of any loss, damage, cost or expense incurred by the County and the  
40 Registrar in connection therewith.

41 ARTICLE IV  
42 REPRESENTATIONS AND WARRANTIES



1           SECTION 4.1.   Representations and Warranties of the County. The County makes the  
2 following representations and warranties:

3           (a)     The County is a body corporate and politic and a political subdivision of the  
4 State.

5           (b)     The County has the necessary power and authority to acquire the  
6 Development Rights in the Land, to enter into this Agreement, to perform and observe the  
7 covenants and agreements on its part contained in this Agreement and to carry out and consummate  
8 all transactions contemplated hereby. By proper action, the County has duly authorized the  
9 execution and delivery of this Agreement.

10          (c)     This Agreement has been duly and properly authorized, executed, sealed  
11 and delivered by the County, constitutes the valid and legally binding obligation of the County,  
12 and is enforceable against the County in accordance with its terms.

13          (d)     There are no proceedings pending or, to the knowledge of the County,  
14 threatened before any court or administrative agency which may affect the authority of the County  
15 to enter into this Agreement.

16           SECTION 4.2.   Representations and Warranties of the Seller. The Seller makes the  
17 following representations and warranties:

18          (a)     The Seller has full power and authority to execute and deliver this  
19 Agreement and the Deed of Easement, and to incur and perform the obligations provided for herein  
20 and therein. No consent or approval of any person or public authority or regulatory body is required  
21 as a condition to the validity or enforceability of this Agreement or the Deed of Easement, or, if  
22 required, the same has been duly obtained.

23          (b)     This Agreement and the Deed of Easement have been duly and properly  
24 executed by the Seller, constitute valid and legally binding obligations of the Seller, and are fully  
25 enforceable against the Seller in accordance with their respective terms.

26          (c)     There is no litigation or proceeding pending or, so far as the Seller knows,  
27 threatened before any court or administrative agency which, in the opinion of the Seller, would  
28 materially adversely affect the authority of the Seller to enter into, or the validity or enforceability  
29 of, this Agreement or the Deed of Easement.

30          (d)     There is (i) no provision of any existing mortgage, indenture, contract or  
31 agreement binding on the Seller or affecting the Land, and (ii) to the knowledge of the Seller, no  
32 provision of law or order of court binding upon the Seller or affecting the Land, which would conflict  
33 with or in any way prevent the execution, delivery, or performance of the terms of this Agreement  
34 or the Deed of Easement, or which would be in default or violated as a result of such execution,  
35 delivery or performance, or for which adequate consents, waivers or, if necessary, subordinations,  
36 have not been obtained.

37          (e)     There exist no liens or security interests on or with respect to the Land (other  
38 than Permitted Encumbrances).

1 (f) The Seller is not a nonresident alien of the United States of America for  
2 purposes of federal income taxation.

3 (g) By a separate, non-public document, the Seller shall disclose the Seller’s  
4 Social Security Number to the County. The Seller shall, upon request of the County, execute U.S.  
5 Treasury Form W-9 and deliver the same to the County for filing.

6 The representations in subsections (f) and (g) above are made under penalties of perjury  
7 and the information contained therein may be disclosed by the County to the Internal Revenue  
8 Service. The Seller acknowledges that any false statement in such subsections or the documents  
9 referred to therein could be punished by fine, imprisonment or both.

10 ARTICLE V  
11 PROVISIONS RELATING TO EXCLUSION  
12 OF INTEREST FROM INCOME FOR FEDERAL INCOME TAXATION

13 SECTION 5.1. Intent of County and Tax Covenant of County. The County intends that  
14 the interest payable under this Agreement shall not be includible in the gross income of the  
15 Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code.  
16 Accordingly, the County shall not knowingly take or permit to be taken any other action or actions  
17 or omit or fail to take any action, which would cause this Agreement to be an “arbitrage bond” within  
18 the meaning of Section 148 of the Code, or which would otherwise cause interest payable under this  
19 Agreement to become includible in the gross income of any Registered Owner for purposes of  
20 federal income taxation pursuant to Section 148 of the Code.

21 SECTION 5.2. Acknowledgment of Seller with Regard to Tax Consequences of  
22 Transaction. The Seller hereby acknowledges receipt of an opinion from Miles & Stockbridge P.C.,  
23 Bond Counsel, dated the Closing Date, to the effect that under existing laws, regulations, rulings and  
24 decisions, interest payable under this Agreement is not includible in the gross income of the  
25 Registered Owner for federal income tax purposes, which opinion assumes continuous compliance  
26 with certain covenants in the Tax Certificate and Compliance Agreement to be executed and delivered  
27 by the County on the date of delivery of this Agreement and assumes that the Land will be used solely  
28 for Agricultural Use and is otherwise limited in accordance with its terms. The Seller acknowledges  
29 that the Seller has made the Seller’s own independent investigation and has consulted with attorneys,  
30 accountants and others selected by the Seller in the Seller’s sole discretion with respect to all other  
31 tax considerations related to the transaction contemplated hereby (including, but not limited to,  
32 installment sales treatment under Section 453 of the Code, charitable contribution deductions under  
33 Section 170 of the Code, exchange of like property under Section 1031 of the Code, and federal  
34 estate tax implications); and the Seller certifies that the Seller has not looked to or relied upon the  
35 County or any of its officials, agents or employees, or to Bond Counsel, with respect to any of  
36 such matters.

37  
38 ARTICLE VI  
39 THE REGISTRAR

1 SECTION 6.1. Appointment of Registrar. The Treasurer of the County is hereby  
2 designated and appointed to act as Registrar for this Agreement.

3 SECTION 6.2. Change of Registrar and Appointment of Successor Registrar. The  
4 County shall have the right to change the Registrar at any time by filing with the Registrar to be  
5 removed, and with the Registered Owner, a resolution of the County Council appointing a successor  
6 Registrar. Notwithstanding the foregoing, such removal shall not be effective until a successor  
7 Registrar has accepted such appointment and assumed the Registrar's duties hereunder.

8 SECTION 6.3. Qualifications of Successor Registrar. Any successor Registrar shall be  
9 either (a) the Treasurer of the County, (b) an officer or employee of the County, or (c) a bank, trust  
10 company or other financial institution duly organized under the laws of the United States or any state  
11 or territory thereof which is authorized by law and permitted under the laws of the State to perform all  
12 the duties imposed upon it as Registrar by this Agreement.

13 SECTION 6.4. Successor by Merger or Consolidation. If the Registrar is a bank, trust  
14 company or other financial institution, any institution or corporation into which the Registrar  
15 hereunder may be merged or converted or with which it may be consolidated, or any corporation  
16 resulting from any merger or consolidation to which the Registrar hereunder shall be a party or  
17 any institution or corporation succeeding to the corporate trust business (if any) of the Registrar,  
18 shall be the successor Registrar under this Agreement, without the execution or filing of any paper  
19 or any further act on the part of the parties hereto, anything in this Agreement to the contrary  
20 notwithstanding.

21 ARTICLE VII  
22 MISCELLANEOUS

23 SECTION 7.1. Successors of County. In the event of the dissolution of the County, all  
24 the covenants, stipulations, promises and agreements in this Agreement contained, by or on behalf  
25 of, or for the benefit of, the County, the Seller, any other Registered Owner and the Registrar, shall  
26 bind or inure to the benefit of the successors of the County from time to time and any entity, officer,  
27 board, commission, agency or instrumentality to whom or to which any power or duty of the  
28 County shall be transferred.

29 SECTION 7.2. Parties in Interest. Except as herein otherwise specifically provided,  
30 nothing in this Agreement expressed or implied is intended or shall be construed to confer upon  
31 any person, firm or corporation, other than the County, the Seller, any other Registered Owner and  
32 the Registrar, any right, remedy or claim under or by reason of this Agreement, this Agreement  
33 being intended to be for the sole and exclusive benefit of the County, the Seller, any other  
34 Registered Owner from time to time of this Agreement and the Registrar.

35 SECTION 7.3. Binding Effect. This Agreement shall be binding upon and inure to the  
36 benefit of the parties hereto, their respective heirs, personal representatives, successors and  
37 assigns, including, without limitation, all Registered Owners from time to time of this Agreement.

38 SECTION 7.4. Severability. In case any one or more of the provisions of this Agreement  
39 shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any

1 other provisions of this Agreement and this Agreement shall be construed and enforced as if such  
2 illegal or invalid provisions had not been contained herein or therein.

3 SECTION 7.5. Prior Agreements Canceled; No Merger. This Agreement shall  
4 completely and fully supersede all other prior agreements, both written and oral, between the County  
5 and the Seller relating to the acquisition of the Development Rights. Neither the County nor the Seller  
6 shall hereafter have any rights under such prior agreements but shall look solely to this Agreement  
7 and the Deed of Easement for definitions and determination of all of their respective rights, liabilities  
8 and responsibilities relating to the Land, the Development Rights, and the Family Conveyances and  
9 the payment for the Development Rights and the Family Conveyances. In addition, this Agreement  
10 shall survive the execution and recording of the Deed of Easement in all respects and shall not be  
11 merged therein.

12 SECTION 7.6. Amendments, Changes and Modifications. This Agreement may not be  
13 amended, changed, modified, altered or terminated except by an agreement in writing between the  
14 County and the Registered Owner. An executed counterpart of any such amendment shall be  
15 attached to this Agreement and shall be binding upon the Registered Owner and all successor  
16 Registered Owners.

17 SECTION 7.7. No Personal Liability of County Officials. No covenant or agreement  
18 contained in this Agreement shall be deemed to be the covenant or agreement of any official,  
19 officer, agent or employee of the County in his or her individual capacity, and neither the officers  
20 or employees of the County, nor any official executing this Agreement shall be liable personally  
21 on this Agreement or be subject to any personal liability or accountability by reason of the issuance  
22 thereof.

23 SECTION 7.8. Governing Law. The laws of the State shall govern the construction and  
24 enforcement of this Agreement.

25 SECTION 7.9. Notices. Except as otherwise provided in this Agreement, all notices,  
26 demands, requests, consents, approvals, certificates or other communications required under this  
27 Agreement to be in writing shall be sufficiently given and shall be deemed to have been properly  
28 given three Business Days after the same is mailed by certified mail, postage prepaid, return receipt  
29 requested, addressed to the person to whom any such notice, demand, request, approval, certificate  
30 or other communication is to be given, at the address for such person designated below:

31 County: Harford County, Maryland  
32 Administrative Offices  
33 220 South Main Street  
34 Bel Air, Maryland 21014  
35 Attention: Treasurer  
36  
37  
38

39 with a copy to: Melissa L. Lambert, Esquire  
40 County Attorney  
41 Administrative Offices

1 220 South Main Street  
2 Bel Air, Maryland 21014

3  
4 Seller Wilson A. Heaps, II  
5 4204 Graceton Road  
6 Pylesville,, Maryland 21132

7  
8 Registrar: Robert F. Sandlass  
9 Treasurer  
10 Administrative Offices  
11 220 South Main Street  
12 Bel Air, Maryland 21014  
13

14 Any of the foregoing may, by notice given hereunder to each of the others, designate any further  
15 or different addresses to which subsequent notices, demands, requests, consents, approvals,  
16 certificates or other communications shall be sent hereunder.

17 SECTION 7.10. Holidays. If the date for making any payment or the last date for  
18 performance of any act or the exercising of any right, as provided in this Agreement, shall not be a  
19 Business Day, such payment may, unless otherwise provided in this Agreement, be made or act  
20 performed or right exercised on the next succeeding Business Day with the same force and effect as  
21 if done on the nominal date provided in this Agreement, and in the case of payment no interest shall  
22 accrue for the period after such nominal date.

23 [SIGNATURES APPEAR ON THE FOLLOWING PAGE]

1 WITNESS the signatures and seals of the parties hereto as of the date first above written.

2  
3 HARFORD COUNTY, MARYLAND

4  
5 [COUNTY'S SEAL]

6  
7 By: \_\_\_\_\_  
8 Barry Glassman  
9 County Executive

10  
11 ATTEST:

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14 \_\_\_\_\_  
15 Ben Lloyd  
16 Director of Administration

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18  
19  
20 WITNESS:

SELLER:

21  
22  
23 \_\_\_\_\_ (SEAL)  
24 WILSON A. HEAPS, II  
25  
26

As Introduced

1  
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3  
4 INSTALLMENTS OF  
5 DEFERRED PORTION OF PURCHASE PRICE  
6 (WILSON A. HEAPS, II)  
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<u>Date of Payment</u>	<u>Amount Payable</u>
_____, 20__	\$ _____
_____, 20__	\$ _____
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_____, 20__	\$ _____
<b>Total Deferred Portion</b>	\$ _____
<b>Amount paid on Closing Date</b>	\$ _____
<b>TOTAL DISTRIBUTIONS</b>	\$ _____

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EXHIBIT A  
TO INSTALLMENT  
PURCHASE AGREEMENT

FORM OF DEED OF EASEMENT

As Introduced



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DEED OF EASEMENT

THIS DEED OF EASEMENT made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between WILSON A. HEAPS, II, party of the first part, Grantor (the “Grantor”), and HARFORD COUNTY, MARYLAND, party of the second part, Grantee (the “Grantee” or the “County”).

Explanatory Statement

A. Pursuant to Article II of Chapter 60 of the Harford County Code, as amended (the “Act”), the County Council of Harford County, Maryland (the “County Council”) created the Agricultural Land Preservation and Purchase of Development Rights Program to preserve productive Agricultural Land and Woodland (each as defined in the Act), which provide for the continued production of food and fiber for the citizens of the County.

B. By authority of the Act, the Grantee may purchase Development Rights (each as defined in the Act) from agricultural landowners by subjecting the subject property to a Development Rights Easement (as defined in the Act) in perpetuity in the manner more specifically provided in the Act.

C. The Grantor is the fee simple owner of the hereafter described parcel(s) of Agricultural Land (as defined in the Act) located in the County and desires to sell and convey to the Grantee a Development Rights Easement to restrict the use of such land to Agricultural Use (as defined in the Act) in accordance with the Act and as hereinafter set forth.

D. Bill No. \_\_\_\_\_, enacted by the County Council on\_\_\_\_\_, approved by the County Executive on \_\_\_\_\_ and effective \_\_\_\_\_, authorizes the County to purchase from the Grantor the Development Rights in certain Agricultural Land owned by the Grantor and containing not to exceed \_\_\_\_\_ acres.

NOW, THEREFORE, in consideration of the sum of \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_\_) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to Harford County, Maryland, as Grantee, its successors and assigns, a Development Rights Easement, in perpetuity, together with and subject to the covenants, conditions, limitations and restrictions hereafter set forth so as to constitute and equitable servitude thereon, in, under and over the parcel(s) of land situate in the \_\_\_\_\_ Election District of Harford County, Maryland and being more particularly described in Exhibit A attached hereto (the “Land”).

AND FURTHER, together with all Development Rights (with the exception of the right reserved to the Grantor and successors and assigns to maintain an owner residence and/or Tenant House (as defined in the Act), in either case, situate on the Land on the date hereof).

AND FURTHER, if no such owner residence and/or Tenant House exists on the Land on the date hereof, there is reserved to the Grantor and successors and assigns, subject to the provisions of Section E of “Covenants, Conditions, Limitations and Restrictions” below, the right to construct one owner residence and/or Tenant House on the Land, and after execution of this Deed

1 of Easement, such owner residence and/or Tenant House, as the case may be, if approved pursuant  
2 to Section E, shall not be subdivided off of the Land.

3 AND, FURTHER, the Grantor covenants for himself, and for his respective heirs, personal  
4 representatives and assigns, with the Grantee, its successors and assigns, to do and refrain from  
5 doing upon the Land all and any of the various acts hereafter set forth, it being the intention of  
6 the parties that the Land shall be preserved solely for the Agricultural Use as defined in and in  
7 accordance with the provisions of the Act, and that all and any of the various acts hereafter set  
8 forth are intended to limit the use of the Land and are deemed to be and shall be construed as  
9 covenants running with the Land.

10 COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

11 Subject to the reservations hereinafter contained and except as otherwise provided herein,  
12 the Grantor, for himself and his respective heirs, personal representatives and assigns, covenants  
13 and agrees with Grantee as follows:

14 A. The Land may not be developed or otherwise used for other than Agricultural Use.

15 B. The Land shall be maintained in Agricultural Use or properly managed so that it is  
16 available for continued Agricultural Use from the date of the recording of this Deed of Easement  
17 among the Land Records of the County.

18 C. At the time of establishment of the easement hereby granted, a soil and water  
19 conservation plan as prepared by the Soil Conservation District shall be implemented and  
20 maintained with respect to the Land.

21 D. The Grantor will not allow any type of residential subdivision, other than that  
22 outlined in this Deed of Easement and permitted by the Act with respect to an Owner's Lot and a  
23 Child's Lot (each as defined in the Act).

24 E. The construction of new buildings or structures on the Land, including, without  
25 limitation, any owner residence or Tenant House on a non-subdividable parcel, but excluding farm  
26 buildings that did not exist at the time of the establishment of the easement hereby granted, is  
27 contingent upon the written application to and approval by the Department of Planning and Zoning,  
28 subject to review by and recommendation of the Agricultural Land Preservation Advisory Board.

29 F. Subject to the provisions of paragraphs G and H hereof:

30 1. The Grantor may at any time hereafter request a two (2) acre or less lot  
31 exclusion for the exclusive residential use of the Grantor. Such request (a) must be made by letter  
32 provided to the Department of Planning and Zoning of the County verifying the Grantor's intention  
33 to live in a dwelling situate within any lot so excluded and (b) shall be subject to review and  
34 recommendation of the Agricultural Land Preservation Advisory Board of the County. In addition,  
35 the use and occupancy permit must be in the name of the Grantor; and the Owner's Lot may not  
36 be sold or transferred for a period of five (5) years from the date of issuance of the use and  
37 occupancy permit except in the event of the death or legal incompetence of the Grantor or if the  
38 lot is part of bankruptcy proceedings; or with approval of the Department of Planning and Zoning,

1 subject to review and recommendation of the Agricultural Land Preservation Advisory Board.  
2 Upon such request and recommendation of the Agricultural Land Preservation Advisory Board,  
3 the Grantee shall execute and deliver to the Grantor, his/her personal representatives, successors  
4 and assigns, an instrument in recordable form releasing such lot from the force and effect of this  
5 Deed of Easement and all covenants, conditions, limitations and restrictions herein set forth.

6           2.       The Grantor may at any time hereafter request the right to construct, use  
7 and occupy a tenant home on the Land in accordance with the conditions established within Section  
8 267-27(D)(5) of the Harford County Code, as amended. Such request (a) must be made by letter  
9 provided to the Department of Planning and Zoning and (b) shall be subject to review and  
10 recommendation of the Agricultural Land Preservation Advisory Board. The tenant house shall  
11 not be subdivided off of the Land.

12           3.       The Grantor may at any time hereafter request in writing to the Department  
13 of Planning and Zoning a two (2) acre or less lot exclusion for the exclusive residential use of a  
14 Child (as defined in the Act). Such request (a) must be from both Grantor and the Child verifying  
15 the intention of the Child to live in a dwelling situate within the lot so excluded and (b) shall be  
16 subject to the review and recommendation of the Agricultural Land Preservation Advisory Board.  
17 In addition, the building permit and the owner occupancy permit must be in the Child's name. The  
18 Child's Lot may not be sold or transferred for a period of five (5) years from the date of issuance  
19 of the use and occupancy permit except in the event of the death or the legal incompetence of the  
20 Child or if the Child's Lot is part of bankruptcy proceedings; or with approval of the Department  
21 of Planning and Zoning, subject to review and recommendation of the Agricultural Land  
22 Preservation Advisory Board. Upon such request and recommendation of the Agricultural Land  
23 Preservation Advisory Board, the Grantee shall execute and deliver to the Child, his/her personal  
24 representatives, successors and assigns, an instrument in recordable form releasing the Child's Lot  
25 from the force and effect of this Deed of Easement and all covenants, conditions, limitations and  
26 restrictions herein set forth.

27           G.       The exclusion of lots pursuant to the provisions of paragraph F above from the force  
28 and effect of this Deed of Easement and all covenants, conditions, limitations and restrictions  
29 herein set forth shall be subject to the following conditions:

30           1.       The total number of such lot exclusions may not exceed one (1) lot for each  
31 twenty-five (25) acres contained within the Land or four (4) lots per easement property, whichever  
32 is less; and

33           2.       The maximum size of any lot so excluded may not exceed a maximum lot  
34 area of two (2) acres, including within such area all County right-of-way requirements unless  
35 waived by the Department of Planning and Zoning, with the review and recommendation of the  
36 Agricultural Land Preservation Advisory Board; and

37           3.       The Grantor requesting a lot exclusion shall be required to repay the County  
38 for each lot so excluded in an amount equal to the amount paid per acre by the County to the  
39 Grantor to acquire the Land, plus all costs associated with the establishment of such lot.

1 H. The rights reserved to the Grantor under paragraph F to request a lot exclusion shall  
2 be deemed a personal covenant only, and one that is not intended to run with the Land and shall  
3 belong only to, and may be exercised only, by the Grantor named in this Deed of Easement.  
4

5 I. Notwithstanding anything to the contrary herein contained, the exclusion of any  
6 Child's Lot or Owner's Lot from the encumbrance of this Deed of Easement shall become void  
7 upon the earlier to occur of (i) the death of the Child or Landowner (as applicable) for whose  
8 benefit the exclusion was granted if the Grantee has not received a use and occupancy permit  
9 therefor at the time of the Child's or Landowner's death (as applicable) and (ii) the fifth  
10 anniversary of the date the Grantee granted the exclusion if a use and occupancy permit in the  
11 name of the Child or Landowner (as applicable) has not been received by the Grantee by such fifth  
12 anniversary. In the event that the exclusion of a Child's Lot or Owner's Lot (as applicable)  
13 becomes void as provided above, the Grantor shall promptly execute and deliver, or promptly  
14 cause to be executed and delivered, to the Grantee an instrument in recordable form subjecting the  
15 Child's Lot or Owner's Lot (as applicable) to this Deed of Easement and all covenants, conditions,  
16 limitations and restrictions herein set forth.

17 J. The Grantor and all future landowners of the Land reserve the right to use the Land  
18 for any Agricultural Use and further reserve all other rights, privileges and incidents to the  
19 ownership of the fee simple estate in the Land that have not been conveyed hereby or otherwise  
20 limited by the covenants, conditions, limitations and restrictions herein set forth.

21 K. This instrument shall not be deemed to provide for or permit public access to any  
22 privately owned land except for periodic inspections by the Grantee.

23 L. No conveyances, oil, gas or mineral leases, or similar servitude, no rights of way  
24 or easements for utilities or roadways or any other restrictions, including other conservation  
25 easements such as forest easements and wetland easements, may be granted to any person or  
26 government agency in, on, over or under the Land without the prior written approval of the  
27 Grantee, which may condition its approval in accordance with its regulations.

28 M. The Grantee, its employees and agents shall have the right to enter the Land at all  
29 reasonable times for the purpose of inspecting and surveying the Land to determine whether the  
30 Grantor is complying with the provisions of this Deed of Easement. The Grantor specifically grants  
31 permission to the Grantee to photograph and record the Land, structures and activities being  
32 conducted upon the Land. The Grantee shall provide prior notice to Grantor at the Grantor's last  
33 known address, unless the Grantee determines that immediate entry is required to prevent,  
34 terminate, or mitigate an alleged or actual violation of this Deed of Easement. In the course of  
35 such inspection, the Grantee may not inspect the interior of any structure. However, if the Grantee  
36 has a reason to believe that a structure (for example, a barn) has been converted to a dwelling or a  
37 structure has been built to contain a dwelling without the Grantee's approval, written notice of a  
38 suspected violation will be provided to the Grantor, including the reasons for suspicion. The  
39 Grantor shall be provided a reasonable period of time to cure the violation or prevent the threatened  
40 violation. Subsequently, the Grantee shall schedule another inspection and may enter the interior  
41 of the structure in question.

1 N. The easement conveyed to the Grantee on the Land is based upon \_\_\_\_\_ acres and  
2 two (2) Development Rights.

3 The Grantor is a Landowner (as defined in the Act).

4 Pursuant to Treasury Regulation Section 1.170A-14(g)(6), the Grantor hereby  
5 acknowledges and agrees that the Grantee shall have a vested property right at least equal to the  
6 proportionate value of the Development Rights Easement granted herein as it bears to the value of  
7 the Land as a whole in accordance with the aforementioned Income Tax Regulation Section.

8 Upon any breach of a provision of this Deed of Easement by the Grantor, and after due  
9 notice to the Grantor, the Grantee may institute suit to enjoin any such breach or enforce any  
10 provision by temporary, *ex parte* and/or permanent injunction, either prohibitive or mandatory,  
11 including a temporary restraining order, whether by *in rem*, *quasi in rem* or *in personam*  
12 jurisdiction; and require that the Land be restored promptly to the condition required by this Deed  
13 of Easement at the expense of the Grantor (including, but not limited to, re-conveyance of title to  
14 land conveyed in violation of provisions herein); to recover damages; to impose civil penalties;  
15 and to take such other legal action as may be necessary to ensure compliance with this Deed of  
16 Easement and the covenants, conditions, limitations and restrictions and other provisions herein  
17 contained. The Grantee's remedies shall be cumulative and shall be in addition to all appropriate  
18 legal proceedings and any other rights and remedies available to Grantee at law or equity. No  
19 failure or delay on the part of the Grantee to enforce any provision of this Deed of Easement shall  
20 constitute a waiver or otherwise discharge or invalidate any provision of this Deed of Easement  
21 or affect the right of the Grantee to enforce this Deed of Easement.

22 The Grantor further covenants that the Grantor has not done or suffered to be done any act,  
23 matter or thing whatsoever, to encumber the property hereby conveyed; that Grantor will warrant  
24 specially the property interest hereby conveyed; and the Grantor will execute such further  
25 assurances of the same as may be required.

26 As used herein, the singular form of a word includes both the singular and plural, the plural  
27 form of a word includes both plural and singular, and reference the words of certain gender  
28 includes reference to all genders.

29 No determination by any court, governmental body or otherwise that any provision of this  
30 Deed of Easement is invalid or unenforceable in any instance shall affect the validity or  
31 enforceability of (a) any other such provision or (b) such provision in any circumstance not  
32 controlled by such determination. Each such provision shall be valid and enforceable to the fullest  
33 extent allowed by, and shall be construed wherever possible as being consistent with, applicable  
34 law.

35 [SIGNATURES APPEAR ON FOLLOWING PAGE]

1 WITNESS THE HAND AND SEAL of the undersigned.

2  
3 WITNESS:

GRANTOR:

4  
5  
6  
7 \_\_\_\_\_ (SEAL)  
8 WILSON A. HEAPS II

9  
10  
11 STATE OF MARYLAND, COUNTY OF \_\_\_\_\_, TO WIT:

12  
13 I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the  
14 Subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Wilson  
15 A. Heaps, II, known to me (or satisfactorily proven) to be the person whose name is subscribed to  
16 the within instrument, and he acknowledged that he/she executed the same for the purposes therein  
17 contained.

18 WITNESS my hand and Notarial Seal.

19  
20  
21 \_\_\_\_\_  
22 Notary Public

23  
24 My Commission Expires: \_\_\_\_\_  
25

1 I HEREBY CERTIFY that the foregoing Deed of Easement was prepared on behalf of and  
2 at the request of Harford County, Maryland by or under the supervision of a member of the Bar of  
3 the Court of Appeals of Maryland.  
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7 \_\_\_\_\_  
8 Francina J. Brinker  
9  
10

AS Introduced

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EXHIBIT A  
TO DEED OF EASEMENT  
Description of Land

As Introduced



EXHIBIT B  
TO INSTALLMENT  
PURCHASE AGREEMENT

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PERMITTED ENCUMBRANCES

As Introduced

EXHIBIT C  
TO INSTALLMENT  
PURCHASE AGREEMENT

ASSIGNMENT  
OF  
INSTALLMENT PURCHASE AGREEMENT  
BETWEEN  
WILSON A. HEAPS, II  
AND  
HARFORD COUNTY, MARYLAND  
DATED \_\_\_\_\_

FOR VALUE RECEIVED, \_\_\_\_\_ (the "Registered Owner"), subject to the approval of Harford County, Maryland, hereby sell[s], assign[s] and transfer[s] unto \_\_\_\_\_ without recourse, [all] of the Registered Owner's right, title and interest in and to the Installment Purchase Agreement referenced above; and the Registered Owner's hereby irrevocably directs the Registrar (as defined in such Agreement) to transfer ownership of such Agreement on the books kept for registration thereof. The Registered Owner hereby represents, warrants and certifies that there have been no amendments to such Agreement [except \_\_\_\_\_].

Date: \_\_\_\_\_

WITNESS OR ATTEST: [\_\_\_\_\_]

\_\_\_\_\_

NOTICE: The signature on this Assignment must correspond with of the name of the Registered Owner as it appears on the registration books for the Installment Purchase Agreement referred to herein in every particular, without alteration or enlargement or any change whatever.

ADD NOTARY ACKNOWLEDGMENT

Transfer of the Installment Purchase Agreement as indicated above is approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Harford County, Maryland

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

As Introduced

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EXHIBIT D  
TO INSTALLMENT  
PURCHASE AGREEMENT

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TRANSFER OF AGREEMENT - SCHEDULE OF TRANSFEREES

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This Installment Purchase Agreement shall be transferable only upon the written approval of the County and upon the registration books of the County maintained by the Registrar pursuant to Section 3.2 of this Installment Purchase Agreement, at the written request of the Registered Owner as then shown on such registration books or such Registered Owner's attorney duly authorized in writing, together with a written instrument of transfer substantially in the form attached hereto as Exhibit C, or as may otherwise be satisfactory to and approved by the Registrar in writing, duly executed by such Registered Owner or such Registered Owner's attorney duly authorized in writing.

16  
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<u>Date of Registration of Transfer</u>	<u>Name of Transferee Registered Owner</u>	<u>Outstanding Balance of Purchase Price</u>	<u>Signature of Registrar</u>
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**BILL NO. 20-031**