

# County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 11


## Resolution No. 140 - 2012

Introduced by: The Chairperson at the request of the County Executive

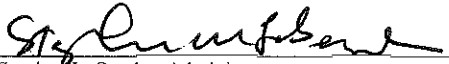
A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership, and Howard County, Maryland for a multi-family rental housing project known as Hickory Ridge Place Apartments.

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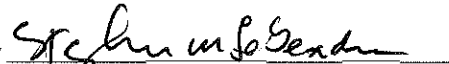
Introduced and read first time September 4, 2012.

By order   
Stephen LeGendre, Administrator

Read for a second time at a public hearing on September 18, 2012.

By order   
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn , by the County Council on October 1, 2012.

Certified By   
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment



1           **WHEREAS**, Hickory Ridge Village LLLP (the “Partnership”) proposes to refinance and  
2 operate a 108-unit multi-family rental development for low to moderate income households  
3 known as “Hickory Ridge Place Apartments” and located on Hickory Ridge Road in Columbia,  
4 Howard County, Maryland (the “Project”); and

5  
6           **WHEREAS**, the Partnership has applied to the U.S. Department of Housing and Urban  
7 Development for a HUD 223 (a) (7) loan in the approximate amount of \$4,997,900 (the “HUD  
8 financing”) to refinance the existing debt on the Project HUD insured 223 (a) (7) loan from Wells  
9 Fargo Bank in the approximate amount of \$4,997,900 (the “HUD Loan”) to refinance the  
10 existing first mortgage loan in the original principal amount of \$5,194,700 from Berkshire  
11 Mortgage Finance Limited Partnership; and

12  
13           **WHEREAS**, pursuant to the HUD financing programs, the Project will provide housing  
14 for low and moderate income households; and

15  
16           **WHEREAS**, the Partnership has requested that the County permit the Partnership to  
17 make payments in lieu of taxes pursuant to Section 7-505 of the Tax-Property Article of the  
18 Annotated Code of Maryland; and

19  
20           **WHEREAS**, the Partnership has demonstrated to the County that an agreement for  
21 payments in lieu of taxes is necessary to make the Project economically feasible; and

22  
23           **WHEREAS**, in order to induce the Partnership to provide affordable housing in Howard  
24 County, it is in the interest of the County to accept payments in lieu of County real property  
25 taxes subject to the terms and conditions of the Payment in Lieu of Taxes Agreement attached to  
26 this Resolution as “Exhibit 1”.

27  
28           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
29 Maryland this 1<sup>st</sup> day of October, 2012, that:

30 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of  
31 Maryland, the County shall accept payments in lieu of County real property taxes for the



1 Hickory Ridge Place rental housing project subject to the terms and conditions of the  
2 Payment in Lieu of Taxes Agreement attached to this Resolution as "Exhibit 1".

3 (2) The County Executive is hereby authorized to execute and deliver the Agreement in the  
4 name and on behalf of the County in substantially the form attached hereto as "Exhibit  
5 1".

6 (3) The County Executive, prior to execution and delivery of the Agreement, may make such  
7 changes or modifications to the Agreement as he deems appropriate in order to  
8 accomplish the purpose of the transactions authorized by this Resolution, provided that  
9 such changes or modifications shall be within the scope of the transactions authorized by  
10 this Resolution; and the execution of the Agreement by the County Executive shall be  
11 conclusive evidence of the approval by the County Executive of all changes or  
12 modifications to the Agreement, and the Agreement shall thereupon become binding  
13 upon the County in accordance with its terms.



Project: Hickory Ridge Place

## **PAYMENT IN LIEU OF TAXES AGREEMENT**

**THIS AGREEMENT** (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership (the "Partnership") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County").

### **RECITALS**

A. The Partnership proposes to refinance the existing first mortgage loan (the "Existing First Mortgage") for a 108-unit multi-family low-income rental housing development known as "Hickory Ridge Place Apartments" (the "Project") located at 10799 Hickory Ridge Road, Columbia, Maryland, which real property is more particularly described on Exhibit "A" attached hereto (the "Property").

B. The Partnership has applied to the United States Department of Housing and Urban Development ("HUD") for a HUD insured 223 (a) (7) loan from Wells Fargo Bank in the approximate amount of Four Million Nine Hundred Ninety Seven Thousand Nine Hundred Dollars (\$4,997,900) (the "HUD Loan") to refinance the existing first mortgage in the original principal amount of \$5,194,700 from Berkshire Mortgage Finance Limited Partnership.

The existing project financing includes the Existing First Mortgage, a loan from the State of Maryland Community Development Association ("CDA") in the original principal amount of \$680,000 (the "CDA Loan") and a loan from the Perpetual Revolving Fund, Inc. ("PRF") in the original principal amount of \$767,000 (the "PRF" Loan.) The "CDA Loan" and the "PRF Loan" are collectively referred to as the "Existing Subordinate Loans." The refinancing of the Existing First Mortgage with the HUD Loan will have no impact on the Existing Subordinate Loans, which will remain in effect together with all associated low income and limited distribution requirements. The Project benefits from an existing payment in lieu of taxes agreement that was executed between the Partnership and Howard County, Maryland dated October 24, 2002 (the "Existing PILOT Agreement"). Under the original financing programs, the project provides housing for low and moderate income persons. Also under government programs and this agreement, the Project will operate on a limited distribution basis.

C. The Partnership has requested that following the refinancing of the existing first mortgage the County permit the Partnership to make payments in lieu of County real property taxes pursuant to Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (the "Act") on the same terms as the former PILOT agreement. The Act provides, among other things, that real property may be exempt from County property tax if:

(1) the real property is owned or leased by a person engaged in constructing or operating housing structures or projects;

(2) the real property is used for a housing structure or project that is constructed under a

federal, State, or local government program that funds construction;

(3) the structures and facilities of the real property are governmentally-controlled as to rents, charges, rates of return, and methods of operation so that the real property operates on a nonprofit or limited distribution basis; and

(4) the owner and the governing body of the county where the real property is located agree that the owner shall pay a negotiated amount in lieu of the applicable county property tax.

D. In order to continue the PILOT support following the proposed refinancing and to induce the Partnership to provide housing for low and moderate income persons, the County agrees to accept payments in lieu of County real property taxes, subject to the terms and conditions of this Agreement.

E. The County Council of Howard County, Maryland has approved this Agreement by resolution, a copy of which is attached hereto as Exhibit "B".

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Partnership and the County agree as follows:

1. Definitions. In this Agreement the term:

(a) "Distribution" means any withdrawal or taking of cash or any assets of the Project, excluding payment for reasonable expenses incident to the operation and maintenance of the Project. Such expenses shall include a reasonable property management fee and a reasonable guaranteed distribution to the limited partner as an investor services fee.

(b) "Gross Rental Income" means the total of all charges paid by all tenants of the Project, less the cost of all utilities paid by the Partnership.

(c) "Household of Low Income" means a household whose annual income meets the requirements of the federal Low Income Housing Tax Credit program, 26 USC 42(g)(1)(B), which requires, among other things, that the initial annual income of an eligible household is sixty percent (60%) or less of the median income as set from time to time by the United States Department of Housing and Urban Development for Section 8 Programs in the Baltimore Metropolitan Statistical Area.

(d) "Initial Closing" means the date of the initial closing of the HUD Loan.

(e) "Residual Receipts" means any cash remaining at the end of a calendar year after deducting from Surplus Cash:

(i) the Payment required by Section 5(b) of this Agreement; and

(ii) any Distributions, the aggregate of which do not exceed 10% per year of the Partnership's original initial equity investment in the Project, as determined by the County.

(f) "Surplus Cash" means any cash remaining at the end of a calendar year after the payment of:



(i) the Payment required by Section 5(a) of this Agreement;

(ii) all reasonable and actual operating costs and expenses of the Project including reasonable property management fees and a reasonable guaranteed distribution to the limited partner as an investor services fee; and

(iii) all payments required under any mortgage on the Property including payments under the HUD Loan or the CDA Loan.

2. Acceptance of Payments. For the term of this Agreement, the Partnership shall make, and the County shall accept, annual payments in lieu of all County real property taxes due on the Property (the "Payments"). The Property shall be exempt from County real property taxes in accordance with the Act so long as this Agreement is in effect.

3. Conditions Precedent. This Agreement shall not take effect unless and until each of the following conditions precedent have been fulfilled:

(a) Title. The Partnership shall have taken fee simple and/or leasehold title to the Property;

(b) Financing. The Partnership shall have received the HUD Loan for the refinancing of the Project; and

(c) PILOT Low Income Covenants. The Partnership shall have executed and recorded covenants on the Property, in a form acceptable to the County, that require the Partnership and all subsequent owners of the Property to offer for rent not less than one hundred and six (106) of the rental units in the Project to Households of Low to Moderate (60% AMI or Less) Income and shall remain so for a period of not less than forty (40) years from the date of the HUD Loan Closing (the "Low Income Covenants").

4. Effective Date. This Agreement shall take effect when each of the conditions precedent set forth in Section 3 are fulfilled (the "Effective Date"); provided, however, that if all of the conditions precedent are not fulfilled by June 1, 2013, this Agreement shall be null and void.

5. Amount of Payments. Each Payment made under this Agreement shall be in an amount calculated as follows:

(a) Minimum Payment. The Partnership shall pay to the County an amount equal to (i) two and one-half percent (2½%) of the Project's Gross Rental Income for the preceding calendar year, less (ii) the amount of County fire tax, front-foot benefit assessment charge, ad valorem charge, and, if applicable, Middle Patuxent Drainage Area Supplemental Ad Valorem Charge (the "County Assessments") paid by the Borrower for the Project for the current taxable year.

(b) Payment from Surplus Cash. To the extent funds are available from Surplus Cash, the Partnership shall pay the following payments in the order set forth below:

(i) to the County an additional five and one-half percent (5 ½%) of the

Project's Gross Rental Income;

(ii) all payments required on the unsecured loan from Perpetual Revolving Fund, Inc. relating to the property.

(c) Payment from Residual Receipts. To the extent funds are available from Residual Receipts, the Partnership shall pay to the County an amount which, when added to the Payments made under (a) and (b), equals (i) the County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

(d) Total Payment. Notwithstanding anything to the contrary under this Agreement, at no time shall any Payment exceed the aggregate of (i) County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

6. Time and Place Payments Due. Each Payment shall be made by May 1 of each year for the prior calendar year. Payments shall be made to the Director of Finance, 3430 Courthouse Drive, Ellicott City, Maryland 21043. Payments of the County Assessments shall be made at the time and in the manner provided by law.

7. Penalties for Late Payment. The Partnership shall be subject to the following penalties for late payments:

(a) 1% per month or part of a month during the period May 2 to June 30 following the due date; and

(b) 1 1/2% per month or part of a month on or after July 1 following the due date.

8. Penalties for Failure to Pay. At the option of the County, if any Payment is due and unpaid on or after July 1 following the due date, this Agreement may be terminated and all County real property taxes for the preceding taxable year shall be immediately due and payable.

9. Reports and Records.

(a) By no later than March 31 of each year, the Partnership shall submit to the County, in a form acceptable to the County, a report of the Project's income and expenses for the preceding calendar year, including an itemized breakdown of Gross Rental Income, Surplus Cash, and Residual Receipts.

(b) The Partnership shall submit such other reports as the County may reasonably require in order to verify the Partnership's compliance with this Agreement.

(c) The Partnership shall permit the County or any of its authorized agents to inspect the records of the Project in order to verify the Partnership's compliance with this Agreement.

10. Representations and Warranties.

(a) The Partnership represents and warrants to the County that it is eligible in all respects to enter in this Agreement to make payments in lieu of taxes under the Act.

(b) The Partnership covenants and agrees that it will do all things necessary to remain eligible to make payments in lieu of taxes in accordance with the Act.

11. Term of Agreement. This Agreement shall remain in effect until the earlier to occur of:

(a) the repayment of all principal and interest due under the HUD loan and the CDA loan;

(b) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion a of the Property; unless the party acquiring the property agrees to continue the LIHTC low income covenant under terms and conditions acceptable to the County;

(c) any default under the PILOT Low Income Covenants which is not cured within a reasonable period after notice; or

(d) any default under this Agreement which is not cured within a reasonable period after notice .

12. Sale; Liens; Partnership Interests. During the term of this Agreement, the Partnership shall not, without the prior written consent of the County:

(a) sell or transfer any portion of the Property except as permitted under Section 42(i)(7) of the Internal Revenue Code;

(b) permit any liens or encumbrances against the Property except as required by the financings described in this Agreement; or

(c) Permit any general partner to sell, assign or otherwise transfer any partnership interest in the Partnership, other than the initial sale of limited partnership interests for tax credit purposes or any transfer of the limited partner's interest to an affiliate.

13. State Taxes. The Partnership acknowledges and agrees that it shall pay all State real property taxes.

14. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, all successors and assigns of the Partnership.

15. Entire Agreement. This Agreement represents the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Partnership and the County, by their duly authorized representatives have signed this Agreement as of the date first written above.

WITNESS/ATTEST: **Hickory Ridge Village LLLP, a Maryland limited liability limited partnership**

By: HICKORY RIDGE DEVELOPMENT LLLP, a Maryland limited liability limited partnership, its general partner

By: SHELTER DEVELOPMENT, LLC, a Maryland limited liability company, its general partner

\_\_\_\_\_  
By: \_\_\_\_\_ (SEAL)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST: **HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Lonnie Robbins  
Chief Administrative Officer

By: \_\_\_\_\_  
Ken Ulman  
County Executive

APPROVED for Form and Legal Sufficiency: this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED by Department of Finance:

\_\_\_\_\_  
Margaret Ann Nolan  
County Solicitor

\_\_\_\_\_  
Stanley F. Milesky, Director

Reviewed and Approved:

\_\_\_\_\_  
Thomas P. Carbo, Director  
Housing & Community Development

Exhibit A: Property Description  
Exhibit B: Council Resolution No. \_\_\_-2012

EXHIBIT A

LEGAL DESCRIPTION

BEING KNOWN AND DESIGNATED AS PARCEL "A" as shown on the Plat entitled, "Columbia, Village of Hickory Ridge, Section One, Area Six, Sheet 1 of 2," which plat is recorded among the Land Records of Howard County, Maryland as Plat No. 4241.

County Council Of Howard County, Maryland

2012 Legislative Session  
Day No.

Legislative \_\_\_\_\_

Resolution No. \_\_\_\_\_ -2012

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership, and Howard County, Maryland for a multi-family rental housing project known as Hickory Ridge Place Apartments.

Introduced and read first time \_\_\_\_\_, 2012.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2012.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted \_\_\_\_, Adopted with amendments \_\_\_\_, Failed \_\_\_\_, Withdrawn \_\_\_\_, by the County Council on \_\_\_\_\_, 2012.

Certified By \_\_\_\_\_  
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, Hickory Ridge Village LLLP (the “Partnership”) proposes to refinance and  
2 operate a 108-unit multi-family rental development for low income households known as  
3 “Hickory Ridge Place Apartments” and located on Hickory Ridge Road in Columbia, Howard  
4 County, Maryland (the “Project”); and

5  
6           **WHEREAS**, HUD insured 223 (a) (7) loan from Wells Fargo Bank in the approximate  
7 amount of \$4,997,900 (the “HUD Loan”) to refinance the existing first mortgage loan in the  
8 original principal amount of \$5,194,700 from Berkshire Mortgage Finance Limited Partnership ;  
9 and

10  
11           **WHEREAS**, pursuant to the HUD financing programs, the Project will provide housing  
12 for low income households; and

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14           **WHEREAS**, the Partnership has requested that the County permit the Partnership to  
15 make payments in lieu of taxes pursuant to Section 7-505 of the Tax-Property Article of the  
16 Annotated Code of Maryland; and

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18           **WHEREAS**, the Partnership has demonstrated to the County that an agreement for  
19 payments in lieu of taxes is necessary to make the Project economically feasible; and

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21           **WHEREAS**, in order to induce the Partnership to provide affordable housing in Howard  
22 County, it is in the interest of the County to accept payments in lieu of County real property taxes  
23 subject to the terms and conditions of the Payment in Lieu of Taxes Agreement attached to this  
24 Resolution as “Exhibit 1”.

25  
26           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
27 Maryland this \_\_\_\_ day of \_\_\_\_\_, 2012, that:

- 28 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of  
29 Maryland, the County shall accept payments in lieu of County real property taxes for the  
Hickory Ridge Place rental housing project subject to the terms and conditions of the  
Payment in Lieu of Taxes Agreement attached to this Resolution as “Exhibit 1”.

- (2) The County Executive is hereby authorized to execute and deliver the Agreement in the name and on behalf of the County in substantially the form attached hereto as "Exhibit 1".
- (3) The County Executive, prior to execution and delivery of the Agreement, may make such changes or modifications to the Agreement as he deems appropriate in order to accomplish the purpose of the transactions authorized by this Resolution, provided that such changes or modifications shall be within the scope of the transactions authorized by this Resolution; and the execution of the Agreement by the County Executive shall be conclusive evidence of the approval by the County Executive of all changes or modifications to the Agreement, and the Agreement shall thereupon become binding upon the County in accordance with its terms.



Amendment 1 to Council Resolution No. 140 -2012

BY: Chairperson at the request  
of the County Executive

Legislative Day No. 13  
Date: October 1, 2012

Amendment No. 1

*(This amendment corrects certain financing arrangements and clarifies the income focus of the project.)*

- 1 On page 1, in line 2, strike “to moderate”.
- 2
- 3 On page 1, in line 7, strike beginning with “HUD” down through and including “Project” in line
- 4 8, and substitute “HUD insured 223 (a) (7) loan from Wells Fargo Bank in the approximate
- 5 amount of \$4,997,900 (the “HUD Loan”) to refinance the existing first mortgage loan in the
- 6 original principal amount of \$5,194,700 from Berkshire Mortgage Finance Limited Partnership”.
- 7
- 8 On page 1, in line 11, strike “and moderate”.
- 9
- 10 Remove Exhibit 1, as attached to the Resolution as prefiled, and substitute a revised Exhibit 1, as
- 11 attached to this Amendment.

ADOPTED October 1, 2012  
FAILED \_\_\_\_\_  
SIGNATURE Stephen M. Gerardo



Project: Hickory Ridge Place

## PAYMENT IN LIEU OF TAXES AGREEMENT

**THIS AGREEMENT** (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership (the "Partnership") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County").

### RECITALS

A. The Partnership proposes to refinance the existing first mortgage loan (the "Existing First Mortgage") for a 108-unit multi-family low-income rental housing development known as "Hickory Ridge Place Apartments" (the "Project") located at 10799 Hickory Ridge Road, Columbia, Maryland, which real property is more particularly described on Exhibit "A" attached hereto (the "Property").

B. The Partnership has applied to the United States Department of Housing and Urban Development ("HUD") for a HUD insured 223 (a) (7) loan from Wells Fargo Bank in the approximate amount of Four Million Nine Hundred Ninety Seven Thousand Nine Hundred Dollars (\$4,997,900) (the "HUD Loan") to refinance the existing first mortgage in the original principal amount of \$5,194,700 from Berkshire Mortgage Finance Limited Partnership.

The existing project financing includes the Existing First Mortgage, a loan from the State of Maryland Community Development Association ("CDA") in the original principal amount of \$680,000 (the "CDA Loan") and a loan from the Perpetual Revolving Fund, Inc. ("PRF") in the original principal amount of \$767,000 (the "PRF Loan"). The "CDA Loan" and the "PRF Loan" are collectively referred to as the "Existing Subordinate Loans." The refinancing of the Existing First Mortgage with the HUD Loan will have no impact on the Existing Subordinate Loans, which will remain in effect together with all associated low income and limited distribution requirements. The Project benefits from an existing payment in lieu of taxes agreement that was executed between the Partnership and Howard County, Maryland dated October 24, 2002 (the "Existing PILOT Agreement"). Under the original financing programs, the project provides housing for low and moderate income persons. Also under government programs and this agreement, the Project will operate on a limited distribution basis.

C. The Partnership has requested that following the refinancing of the existing first mortgage the County permit the Partnership to make payments in lieu of County real property taxes pursuant to Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (the "Act") on the same terms as the former PILOT agreement. The Act provides, among other things, that real property may be exempt from County property tax if:

- (1) the real property is owned or leased by a person engaged in constructing or operating housing structures or projects;
- (2) the real property is used for a housing structure or project that is constructed under a

federal, State, or local government program that funds construction;

(3) the structures and facilities of the real property are governmentally-controlled as to rents, charges, rates of return, and methods of operation so that the real property operates on a nonprofit or limited distribution basis; and

(4) the owner and the governing body of the county where the real property is located agree that the owner shall pay a negotiated amount in lieu of the applicable county property tax.

D. In order to continue the PILOT support following the proposed refinancing and to induce the Partnership to provide housing for low and moderate income persons, the County agrees to accept payments in lieu of County real property taxes, subject to the terms and conditions of this Agreement.

E. The County Council of Howard County, Maryland has approved this Agreement by resolution, a copy of which is attached hereto as Exhibit "B".

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Partnership and the County agree as follows:

1. Definitions. In this Agreement the term:

(a) "Distribution" means any withdrawal or taking of cash or any assets of the Project, excluding payment for reasonable expenses incident to the operation and maintenance of the Project. Such expenses shall include a reasonable property management fee and a reasonable guaranteed distribution to the limited partner as an investor services fee.

(b) "Gross Rental Income" means the total of all charges paid by all tenants of the Project, less the cost of all utilities paid by the Partnership.

(c) "Household of Low Income" means a household whose annual income meets the requirements of the federal Low Income Housing Tax Credit program, 26 USC 42(g)(1)(B), which requires, among other things, that the initial annual income of an eligible household is sixty percent (60%) or less of the median income as set from time to time by the United States Department of Housing and Urban Development for Section 8 Programs in the Baltimore Metropolitan Statistical Area.

(d) "Initial Closing" means the date of the initial closing of the HUD Loan.

(e) "Residual Receipts" means any cash remaining at the end of a calendar year after deducting from Surplus Cash:

(i) the Payment required by Section 5(b) of this Agreement; and

(ii) any Distributions, the aggregate of which do not exceed 10% per year of the Partnership's original initial equity investment in the Project, as determined by the County.

(f) "Surplus Cash" means any cash remaining at the end of a calendar year after the payment of:

(i) the Payment required by Section 5(a) of this Agreement;

(ii) all reasonable and actual operating costs and expenses of the Project including reasonable property management fees and a reasonable guaranteed distribution to the limited partner as an investor services fee; and

(iii) all payments required under any mortgage on the Property including payments under the HUD Loan or the CDA Loan.

2. Acceptance of Payments. For the term of this Agreement, the Partnership shall make, and the County shall accept, annual payments in lieu of all County real property taxes due on the Property (the "Payments"). The Property shall be exempt from County real property taxes in accordance with the Act so long as this Agreement is in effect.

3. Conditions Precedent. This Agreement shall not take effect unless and until each of the following conditions precedent have been fulfilled:

(a) Title. The Partnership shall have taken fee simple and/or leasehold title to the Property;

(b) Financing. The Partnership shall have received the HUD Loan for the refinancing of the Project; and

(c) PILOT Low Income Covenants. The Partnership shall have executed and recorded covenants on the Property, in a form acceptable to the County, that require the Partnership and all subsequent owners of the Property to offer for rent not less than one hundred and six (106) of the rental units in the Project to Households of Low to Moderate (60% AMI or Less) Income and shall remain so for a period of not less than forty (40) years from the date of the HUD Loan Closing (the "Low Income Covenants").

4. Effective Date. This Agreement shall take effect when each of the conditions precedent set forth in Section 3 are fulfilled (the "Effective Date"); provided, however, that if all of the conditions precedent are not fulfilled by June 1, 2013, this Agreement shall be null and void.

5. Amount of Payments. Each Payment made under this Agreement shall be in an amount calculated as follows:

(a) Minimum Payment. The Partnership shall pay to the County an amount equal to (i) two and one-half percent (2½%) of the Project's Gross Rental Income for the preceding calendar year, less (ii) the amount of County fire tax, front-foot benefit assessment charge, ad valorem charge, and, if applicable, Middle Patuxent Drainage Area Supplemental Ad Valorem Charge (the "County Assessments") paid by the Borrower for the Project for the current taxable year.

(b) Payment from Surplus Cash. To the extent funds are available from Surplus Cash, the Partnership shall pay the following payments in the order set forth below:

(i) to the County an additional five and one-half percent (5 ½%) of the

Project's Gross Rental Income;

(ii) all payments required on the unsecured loan from Perpetual Revolving Fund, Inc. relating to the property.

(c) Payment from Residual Receipts. To the extent funds are available from Residual Receipts, the Partnership shall pay to the County an amount which, when added to the Payments made under (a) and (b), equals (i) the County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

(d) Total Payment. Notwithstanding anything to the contrary under this Agreement, at no time shall any Payment exceed the aggregate of (i) County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

6. Time and Place Payments Due. Each Payment shall be made by May 1 of each year for the prior calendar year. Payments shall be made to the Director of Finance, 3430 Courthouse Drive, Ellicott City, Maryland 21043. Payments of the County Assessments shall be made at the time and in the manner provided by law.

7. Penalties for Late Payment. The Partnership shall be subject to the following penalties for late payments:

(a) 1% per month or part of a month during the period May 2 to June 30 following the due date; and

(b) 1 1/2% per month or part of a month on or after July 1 following the due date.

8. Penalties for Failure to Pay. At the option of the County, if any Payment is due and unpaid on or after July 1 following the due date, this Agreement may be terminated and all County real property taxes for the preceding taxable year shall be immediately due and payable.

9. Reports and Records.

(a) By no later than March 31 of each year, the Partnership shall submit to the County, in a form acceptable to the County, a report of the Project's income and expenses for the preceding calendar year, including an itemized breakdown of Gross Rental Income, Surplus Cash, and Residual Receipts.

(b) The Partnership shall submit such other reports as the County may reasonably require in order to verify the Partnership's compliance with this Agreement.

(c) The Partnership shall permit the County or any of its authorized agents to inspect the records of the Project in order to verify the Partnership's compliance with this Agreement.

10. Representations and Warranties.

(a) The Partnership represents and warrants to the County that it is eligible in all respects to enter in this Agreement to make payments in lieu of taxes under the Act.

(b) The Partnership covenants and agrees that it will do all things necessary to remain eligible to make payments in lieu of taxes in accordance with the Act.

11. Term of Agreement. This Agreement shall remain in effect until the earlier to occur of:

(a) the repayment of all principal and interest due under the HUD loan and the CDA loan;

(b) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion a of the Property; unless the party acquiring the property agrees to continue the LIHTC low income covenant under terms and conditions acceptable to the County;

(c) any default under the PILOT Low Income Covenants which is not cured within a reasonable period after notice; or

(d) any default under this Agreement which is not cured within a reasonable period after notice .

12. Sale; Liens; Partnership Interests. During the term of this Agreement, the Partnership shall not, without the prior written consent of the County:

(a) sell or transfer any portion of the Property except as permitted under Section 42(i)(7) of the Internal Revenue Code;

(b) permit any liens or encumbrances against the Property except as required by the financings described in this Agreement; or

(c) Permit any general partner to sell, assign or otherwise transfer any partnership interest in the Partnership, other than the initial sale of limited partnership interests for tax credit purposes or any transfer of the limited partner's interest to an affiliate.

13. State Taxes. The Partnership acknowledges and agrees that it shall pay all State real property taxes.

14. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, all successors and assigns of the Partnership.

15. Entire Agreement. This Agreement represents the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Partnership and the County, by their duly authorized representatives have signed this Agreement as of the date first written above.

**WITNESS/ATTEST:** **Hickory Ridge Village LLLP, a Maryland limited liability limited partnership**

By: HICKORY RIDGE DEVELOPMENT LLLP, a Maryland limited liability limited partnership, its general partner

By: SHELTER DEVELOPMENT, LLC, a Maryland limited liability company, its general partner

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTEST:**

**HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Lonnie Robbins  
Chief Administrative Officer

By: \_\_\_\_\_  
Ken Ulman  
County Executive

**APPROVED** for Form and Legal Sufficiency: this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED** by Department of Finance:

\_\_\_\_\_  
Margaret Ann Nolan  
County Solicitor

\_\_\_\_\_  
Stanley F. Milesky, Director

Reviewed and Approved:

\_\_\_\_\_  
Thomas P. Carbo, Director  
Housing & Community Development

**Exhibit A:** Property Description  
**Exhibit B:** Council Resolution No. \_\_\_-2012



EXHIBIT A

LEGAL DESCRIPTION

BEING KNOWN AND DESIGNATED AS PARCEL "A" as shown on the Plat entitled, "Columbia, Village of Hickory Ridge, Section One, Area Six, Sheet 1 of 2," which plat is recorded among the Land Records of Howard County, Maryland as Plat No. 4241.

County Council Of Howard County, Maryland

2012 Legislative Session  
Day No.

Legislative \_\_\_\_\_

Resolution No. \_\_\_\_\_-2012

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership, and Howard County, Maryland for a multi-family rental housing project known as Hickory Ridge Place Apartments.

\_\_\_\_\_

Introduced and read first time \_\_\_\_\_, 2012.

By order \_\_\_\_\_

Stephen LeGendre, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2012.

By order \_\_\_\_\_

Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted \_\_\_\_, Adopted with amendments \_\_\_\_, Failed \_\_\_\_, Withdrawn \_\_\_\_, by the County Council on \_\_\_\_\_, 2012.

Certified By \_\_\_\_\_

Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, Hickory Ridge Village LLLP (the “Partnership”) proposes to refinance and  
2 operate a 108-unit multi-family rental development for low income households known as  
3 “Hickory Ridge Place Apartments” and located on Hickory Ridge Road in Columbia, Howard  
4 County, Maryland (the “Project”); and

5  
6           **WHEREAS**, HUD insured 223 (a) (7) loan from Wells Fargo Bank in the approximate  
7 amount of \$4,997,900 (the “HUD Loan”) to refinance the existing first mortgage loan in the  
8 original principal amount of \$5,194,700 from Berkshire Mortgage Finance Limited Partnership ;  
9 and

10  
11           **WHEREAS**, pursuant to the HUD financing programs, the Project will provide housing  
12 for low income households; and

13  
14           **WHEREAS**, the Partnership has requested that the County permit the Partnership to  
15 make payments in lieu of taxes pursuant to Section 7-505 of the Tax-Property Article of the  
16 Annotated Code of Maryland; and

17  
18           **WHEREAS**, the Partnership has demonstrated to the County that an agreement for  
19 payments in lieu of taxes is necessary to make the Project economically feasible; and

20  
21           **WHEREAS**, in order to induce the Partnership to provide affordable housing in Howard  
22 County, it is in the interest of the County to accept payments in lieu of County real property taxes  
23 subject to the terms and conditions of the Payment in Lieu of Taxes Agreement attached to this  
24 Resolution as “Exhibit 1”.

25  
26           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
27 Maryland this \_\_\_\_ day of \_\_\_\_\_, 2012, that:

- 28 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of  
29 Maryland, the County shall accept payments in lieu of County real property taxes for the  
Hickory Ridge Place rental housing project subject to the terms and conditions of the  
Payment in Lieu of Taxes Agreement attached to this Resolution as “Exhibit 1”.

- (2) The County Executive is hereby authorized to execute and deliver the Agreement in the name and on behalf of the County in substantially the form attached hereto as "Exhibit 1".
- (3) The County Executive, prior to execution and delivery of the Agreement, may make such changes or modifications to the Agreement as he deems appropriate in order to accomplish the purpose of the transactions authorized by this Resolution, provided that such changes or modifications shall be within the scope of the transactions authorized by this Resolution; and the execution of the Agreement by the County Executive shall be conclusive evidence of the approval by the County Executive of all changes or modifications to the Agreement, and the Agreement shall thereupon become binding upon the County in accordance with its terms.

Project: Hickory Ridge Place

## PAYMENT IN LIEU OF TAXES AGREEMENT

**THIS AGREEMENT** (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership (the "Partnership") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County").

### RECITALS

A. The Partnership proposes to refinance a 108-unit multi-family rental housing development known as "Hickory Ridge Place Apartments" (the "Project") located at 10799 Hickory Ridge Road, Columbia, Maryland, which real property is more particularly described on Exhibit "A" attached hereto (the "Property").

B. The Partnership has applied to the United States Department of Housing and Urban Development ("HUD") for a HUD 223 (a) (7) loan in the approximate amount of Four Million Nine Hundred Ninety Seven Thousand Nine Hundred Dollars (\$4,997,900) ( the "HUD Loan") to refinance the existing debt of the Project. Under the HUD program, the Project will provide housing for low and moderate income persons. Also, under the government programs and this Agreement, the Project will operate on a limited distribution basis.

C. The Partnership has requested that the County permit the Partnership to make payments in lieu of County real property taxes pursuant to Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (the "Act"). The Act provides, among other things, that real property may be exempt from County property tax if:

(1) the real property is owned or leased by a person engaged in constructing or operating housing structures or projects;

(2) the real property is used for a housing structure or project that is constructed under a federal, State, or local government program that funds construction;

(3) the structures and facilities of the real property are governmentally-controlled as to rents, charges, rates of return, and methods of operation so that the real property operates on a nonprofit or limited distribution basis; and

(4) the owner and the governing body of the county where the real property is located agree that the owner shall pay a negotiated amount in lieu of the applicable county property tax.

D. In order to induce the Partnership to provide housing for low and moderate income persons, the County agrees to accept payments in lieu of County real property taxes, subject to the terms and conditions of this Agreement.

E. The County Council of Howard County, Maryland has approved this Agreement by

resolution, a copy of which is attached hereto as Exhibit "B".

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Partnership and the County agree as follows:

1. Definitions. In this Agreement the term:

(a) "Distribution" means any withdrawal or taking of cash or any assets of the Project, excluding payment for reasonable expenses incident to the operation and maintenance of the Project. Such expenses shall include a reasonable property management fee and a reasonable guaranteed distribution to the limited partner as an investor services fee.

(b) "Gross Rental Income" means the total of all charges paid by all tenants of the Project, less the cost of all utilities paid by the Partnership.

(c) "Household of Low Income" means a household whose annual income meets the requirements of the federal Low Income Housing Tax Credit program, 26 USC 42(g)(1)(B), which requires, among other things, that the initial annual income of an eligible household is sixty percent (60%) or less of the median income as set from time to time by the United States Department of Housing and Urban Development for Section 8 Programs in the Baltimore Metropolitan Statistical Area.

(d) "Initial Closing" means the date of the initial closing of the Bond Loan.

(e) "Residual Receipts" means any cash remaining at the end of a calendar year after deducting from Surplus Cash:

(i) the Payment required by Section 5(b) of this Agreement; and

(ii) any Distributions, the aggregate of which do not exceed 10% of the Partnership's equity investment in the Project, as determined by the County.

(f) "Surplus Cash" means any cash remaining at the end of a calendar year after the payment of:

(i) the Payment required by Section 5(a) of this Agreement;

(ii) all reasonable and actual operating costs and expenses of the Project including reasonable property management fees and a reasonable guaranteed distribution to the limited partner as an investor services fee; and

(iii) all payments required under any mortgage on the Property or other loan approved by the County, including payments under the HUD Loan or other financing.

2. Acceptance of Payments. For the term of this Agreement, the Partnership shall make, and the County shall accept, annual payments in lieu of all County real property taxes due on the Property (the "Payments"). The Property shall be exempt from County real property taxes in accordance with the Act so long as this Agreement is in effect.



3. Conditions Precedent. This Agreement shall not take effect unless and until each of the following conditions precedent have been fulfilled:

(a) Title. The Partnership shall have taken fee simple and/or leasehold title to the Property;

(b) Financing. The Partnership shall have received the HUD Loan for the refinancing of the Project; and

(c) PILOT Low Income Covenants. The Partnership shall have executed and recorded covenants on the Property, in a form acceptable to the County, that require the Partnership and all subsequent owners of the Property to offer for rent not less than one hundred (100) of the rental units in the Project to Households of Low to Moderate (60% AMI or Less) Income and shall remain so for a period of not less than thirty (30) years from the date of the HUD Loan Closing (the "Low Income Covenants").

4. Effective Date. This Agreement shall take effect when each of the conditions precedent set forth in Section 3 are fulfilled (the "Effective Date"); provided, however, that if all of the conditions precedent are not fulfilled by June 1, 2013, this Agreement shall be null and void.

5. Amount of Payments. Each Payment made under this Agreement shall be in an amount calculated as follows:

(a) Minimum Payment. The Partnership shall pay to the County an amount equal to (i) two and one-half percent (2½%) of the Project's Gross Rental Income for the preceding calendar year, less (ii) the amount of County fire tax, front-foot benefit assessment charge, ad valorem charge, and, if applicable, Middle Patuxent Drainage Area Supplemental Ad Valorem Charge (the "County Assessments") paid by the Borrower for the Project for the current taxable year.

(b) Payment from Surplus Cash. To the extent funds are available from Surplus Cash, the Partnership shall pay to the County an additional five and one-half percent (5½%) of the Project's Gross Rental Income.

(c) Payment from Residual Receipts. To the extent funds are available from Residual Receipts, and as approved by the Department of Housing and Urban Development ("HUD"), the Partnership shall pay to the County an amount which, when added to the Payments made under (a) and (b), equals (i) the County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

(d) Total Payment. Notwithstanding anything to the contrary under this Agreement, at no time shall the Payment exceed the aggregate of (i) County real property taxes which would have been paid for the current taxable year, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the current taxable year.

6. Time and Place Payments Due. Each Payment shall be made by May 1 of each year for the prior calendar year. Payments shall be made to the Director of Finance, 3430 Courthouse Drive, Ellicott City, Maryland 21043. Payments of the County Assessments shall be made at the time and in the manner provided by law.

7. Penalties for Late Payment. The Partnership shall be subject to the following penalties for late payments:

(a) 1% per month or part of a month during the period May 2 to June 30 following the due date; and

(b) 1 1/2% per month or part of a month on or after July 1 following the due date.

8. Penalties for Failure to Pay. At the option of the County, if any Payment is due and unpaid on or after July 1 following the due date, this Agreement may be terminated and all County real property taxes for the preceding taxable year shall be immediately due and payable.

9. Reports and Records.

(a) By no later than March 31 of each year, the Partnership shall submit to the County, in a form acceptable to the County, a report of the Project's income and expenses for the preceding calendar year, including an itemized breakdown of Gross Rental Income, Surplus Cash, and Residual Receipts.

(b) The Partnership shall submit such other reports as the County may reasonably require in order to verify the Partnership's compliance with this Agreement.

(c) The Partnership shall permit the County or any of its authorized agents to inspect the records of the Project in order to verify the Partnership's compliance with this Agreement.

10. Representations and Warranties.

(a) The Partnership represents and warrants to the County that it is eligible in all respects to enter in this Agreement to make payments in lieu of taxes under the Act.

(b) The Partnership covenants and agrees that it will do all things necessary to remain eligible to make payments in lieu of taxes in accordance with the Act.

11. Term of Agreement. This Agreement shall remain in effect until the earlier to occur of:

(a) the repayment of all principal and interest due under HUD 223 (a) (7) Loan;

(

(b) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion of the Property;

(c) any default under the PILOT Low Income Covenants following the receipt of



notice and lapse of any applicable cure periods; or

(d) any default under this Agreement following the receipt of notice and lapse of any applicable cure periods.

12. Sale; Liens; Partnership Interests. During the term of this Agreement, the Partnership shall not, without the prior written consent of the County:

(a) sell or transfer any portion of the Property except as permitted under Section 42(i)(7) of the Internal Revenue Code;

(b) permit any liens or encumbrances against the Property except as required by the financings described in this Agreement; or

(c) Permit any general partner to sell, assign or otherwise transfer any partnership interest in the Partnership, other than the initial sale of limited partnership interests for tax credit purposes or any transfer of the limited partner's interest to an affiliate.

13. State Taxes. The Partnership acknowledges and agrees that it shall pay all State real property taxes.

14. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, all successors and assigns of the Partnership.

15. Entire Agreement. This Agreement represents the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Partnership and the County, by their duly authorized representatives have signed this Agreement as of the date first written above.

WITNESS/ATTEST: **Hickory Ridge Village LLLP, a Maryland limited liability limited partnership**

By: HICKORY RIDGE DEVELOPMENT LLLP , a **Maryland limited liability limited partnership, its general partner**

By: SHELTER DEVELOPMENT, LLC, a **Maryland limited liability company, its general partner**

\_\_\_\_\_  
By: \_\_\_\_\_ (SEAL)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST: **HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Lonnie Robbins  
Chief Administrative Officer

By: \_\_\_\_\_  
Ken Ulman  
County Executive

**APPROVED** for Form and Legal Sufficiency: this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED** by Department of Finance:

\_\_\_\_\_  
Margaret Ann Nolan  
County Solicitor

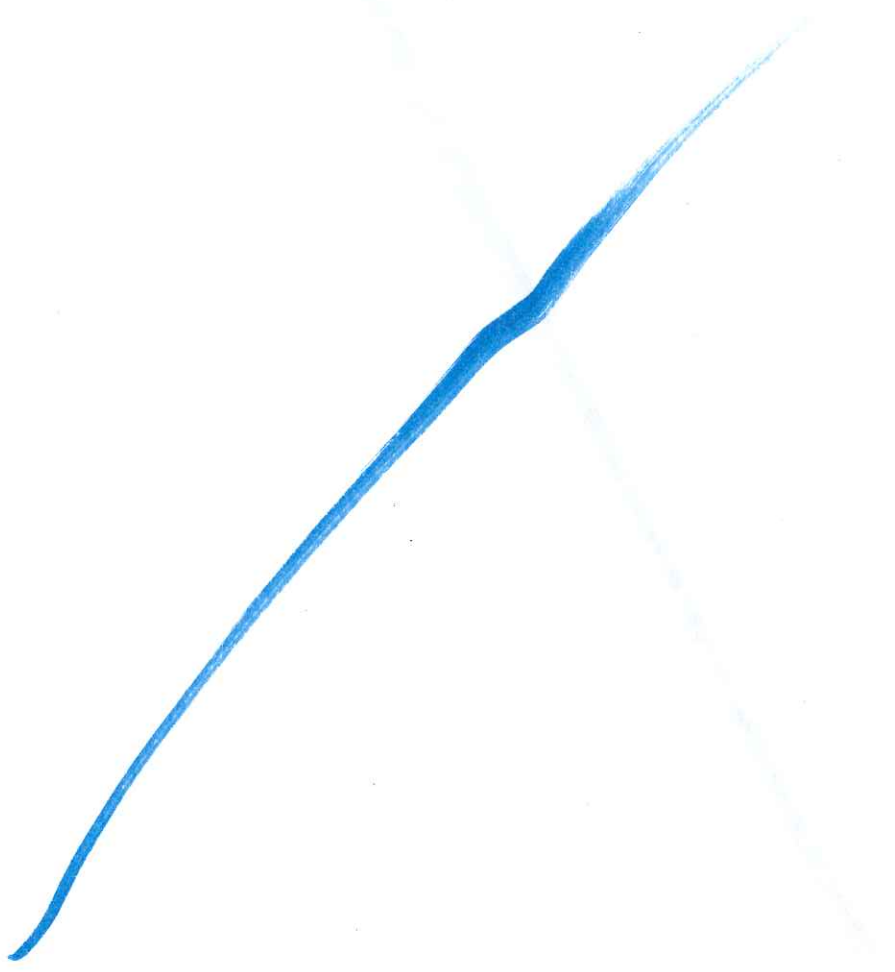
\_\_\_\_\_  
Sharon F. Greisz, Director

**Exhibit A:** Property Description  
**Exhibit B:** Council Resolution No. \_\_ -2012

EXHIBIT A

LEGAL DESCRIPTION

BEING KNOWN AND DESIGNATED AS PARCEL "A" as shown on the Plat entitled, "Columbia, Village of Hickory Ridge, Section One, Area Six, Sheet 1 of 2," which plat is recorded among the Land Records of Howard County, Maryland as Plat No. 4241.



County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. \_\_\_\_\_

Resolution No. \_\_\_\_\_-2012

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership, and Howard County, Maryland for a multi-family rental housing project known as Hickory Ridge Place Apartments.

Introduced and read first time \_\_\_\_\_, 2012.

By order \_\_\_\_\_

Stephen LeGendre, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2012.

By order \_\_\_\_\_

Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted \_\_, Adopted with amendments \_\_, Failed \_\_, Withdrawn \_\_, by the County Council

on \_\_\_\_\_, 2012.

Certified By \_\_\_\_\_

Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, Hickory Ridge Village LLLP (the “Partnership”) proposes to refinance and operate a 108-unit  
2 multi-family rental development for low to moderate income households known as “Hickory Ridge Place Apartments”  
3 and located on Hickory Ridge Road in Columbia, Howard County, Maryland (the “Project”); and  
4

5           **WHEREAS**, the Partnership has applied to the U.S. Department of Housing and Urban Development for a  
6 HUD 223 (a) (7) loan in the approximate amount of (\$4,997,900)the “HUD financing”) to refinance the existing debt on  
7 the Project; and  
8

9           **WHEREAS**, pursuant to the HUD financing programs, the Project will provide housing for low and moderate  
10 income households; and  
11

12           **WHEREAS**, the Partnership has requested that the County permit the Partnership to make payments in lieu of  
13 taxes pursuant to Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland; and  
14

15           **WHEREAS**, the Partnership has demonstrated to the County that an agreement for payments in lieu of taxes is  
16 necessary to make the Project economically feasible; and  
17

18           **WHEREAS**, in order to induce the Partnership to provide affordable housing in Howard County, it is in the  
19 interest of the County to accept payments in lieu of County real property taxes subject to the terms and conditions of the  
20 Payment in Lieu of Taxes Agreement attached to this Resolution as “Exhibit 1”.

21  
22           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County, Maryland this \_\_\_\_  
23 day of \_\_\_\_\_, 2012, that:

- 24 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland, the County  
25 shall accept payments in lieu of County real property taxes for the Hickory Ridge Place rental housing project  
26 subject to the terms and conditions of the Payment in Lieu of Taxes Agreement attached to this Resolution as  
27 “Exhibit 1”.
- 28 (2) The County Executive is hereby authorized to execute and deliver the Agreement in the name and on behalf of  
29 the County in substantially the form attached hereto as “Exhibit 1”.
- 30 (3) The County Executive, prior to execution and delivery of the Agreement, may make such changes or  
31 modifications to the Agreement as he deems appropriate in order to accomplish the purpose of the transactions  
32 authorized by this Resolution, provided that such changes or modifications shall be within the scope of the  
33 transactions authorized by this Resolution; and the execution of the Agreement by the County Executive shall be  
34 conclusive evidence of the approval by the County Executive of all changes or modifications to the Agreement,  
35 and the Agreement shall thereupon become binding upon the County in accordance with its terms.





County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 11

Resolution No. 140 -2012

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION approving the terms and conditions of a Payment in Lieu of Taxes Agreement by and between Hickory Ridge Village LLLP, a Maryland limited liability limited partnership, and Howard County, Maryland for a multi-family rental housing project known as Hickory Ridge Place Apartments.

Introduced and read first time September 4, 2012.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Read for a second time at a public hearing on September 18, 2012.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn , by the County Council on October 1, 2012.

Certified By Stephen LeGendre  
Stephen LeGendre, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1       **WHEREAS**, Hickory Ridge Village LLLP (the “Partnership”) proposes to refinance and  
2 operate a 108-unit multi-family rental development for low to moderate income households  
3 known as “Hickory Ridge Place Apartments” and located on Hickory Ridge Road in Columbia,  
4 Howard County, Maryland (the “Project”); and  
5

6       **WHEREAS**, the Partnership has applied to the U.S. Department of Housing and Urban  
7 Development for a HUD 223 (a) (7) loan in the approximate amount of \$4,997,900 (the “HUD  
8 financing”) to refinance the existing debt on the Project; and  
9

10       **WHEREAS**, pursuant to the HUD financing programs, the Project will provide housing  
11 for low and moderate income households; and  
12

13       **WHEREAS**, the Partnership has requested that the County permit the Partnership to  
14 make payments in lieu of taxes pursuant to Section 7-505 of the Tax-Property Article of the  
15 Annotated Code of Maryland; and  
16

17       **WHEREAS**, the Partnership has demonstrated to the County that an agreement for  
18 payments in lieu of taxes is necessary to make the Project economically feasible; and  
19

20       **WHEREAS**, in order to induce the Partnership to provide affordable housing in Howard  
21 County, it is in the interest of the County to accept payments in lieu of County real property  
22 taxes subject to the terms and conditions of the Payment in Lieu of Taxes Agreement attached to  
23 this Resolution as “Exhibit 1”.  
24

25       **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
26 Maryland this 1<sup>st</sup> day of October, 2012, that:

- 27 (1) In accordance with Section 7-505 of the Tax-Property Article of the Annotated Code of  
28 Maryland, the County shall accept payments in lieu of County real property taxes for the  
29 Hickory Ridge Place rental housing project subject to the terms and conditions of the  
30 Payment in Lieu of Taxes Agreement attached to this Resolution as “Exhibit 1”.



1 (2) The County Executive is hereby authorized to execute and deliver the Agreement in the  
2 name and on behalf of the County in substantially the form attached hereto as "Exhibit  
3 1".

4 (3) The County Executive, prior to execution and delivery of the Agreement, may make such  
5 changes or modifications to the Agreement as he deems appropriate in order to  
6 accomplish the purpose of the transactions authorized by this Resolution, provided that  
7 such changes or modifications shall be within the scope of the transactions authorized by  
8 this Resolution; and the execution of the Agreement by the County Executive shall be  
9 conclusive evidence of the approval by the County Executive of all changes or  
10 modifications to the Agreement, and the Agreement shall thereupon become binding  
11 upon the County in accordance with its terms.

