

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of this ____ day of _____, 2014, by and between **ELLCOTT LLLP**, a limited liability limited partnership of the State of Maryland (the "Partnership") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County").

RECITALS

A. The Partnership has contracted to acquire and renovate certain real property located at 8720 Ridge Road in Ellicott City, Howard County, Maryland, which real property is more particularly described on Exhibit "A" attached hereto (the "Property"). The Partnership proposes to renovate and operate on the Property an existing 81-unit senior rental housing project, to be known as "Park View at Ellicott City" (the "Project").

B. The Partnership has applied to the Community Development Administration, an agency of the Division of Finance of the Department of Housing and Community Development of the State of Maryland ("DHCD") for (1) tax exempt bonds in the approximate amount of Three Million Four Hundred Twenty Four Thousand Dollars (\$3,424,000) (the "Bond Loan"), (2) a Rental Housing Works loan in the approximate amount of Seven Hundred Forty Thousand Dollars (\$740,000) (The "RHW Loan"), (3) an assignment of approximately \$668,718 in State HOME Loan Funds to the Partnership (the "State HOME Loan Funds"), and (5) an allocation of 4% Low Income Housing Tax Credits ("LIHTC") that will contribute equity in the approximate amount of One Million Eight Hundred Sixty Seven Thousand Dollars (\$1,867,000) (collectively, the "DHCD Financing") to fund a portion of the acquisition and renovation costs of the Project. Additionally, the Partnership has applied to Howard County, Maryland for a Rental Housing Development Program Loan in the approximate amount of Three Hundred Thousand dollars (\$300,000) (the RHDLP Loan"). Under the State and County programs, the Project will provide housing for lower income persons.

C. The Partnership has requested that the County permit the Partnership to make payments in lieu of County real property taxes pursuant to Section 7-506.1 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 or substantially rehabilitated under a federal, State, or local government program that funds construction, or insures its financing in whole or in part, or provides interest subsidy, rent subsidy or rent supplements;

(3) the owner of the real property agrees to (A) continue to maintain the real property as rental housing for lower income persons under the requirements of the governmental programs described in item (2) of this paragraph and agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement or (B) enters into an agreement with the governing body of the county to allow the entire property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five years; 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 lower 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 DHCD Financing.

(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 initial equity investment in the Project, as determined by the County.

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

(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, any portion of a deferred developer fee as permitted under the DHCD Financing , 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 approved by the County, including payments under the DHCD 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 DHCD Financing for the acquisition and renovation of the Project; and

(c) 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 eighty (81) of the rental units in the Project to Households of Low Income for a period of not less than forty (40) years from the date of Initial 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 January 31, 2015, 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 percent (2%) 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 or to be paid by the Borrower for the Project with respect to the calendar year to which the Payment applies.

(b) Payment from Surplus Cash. To the extent funds are available from Surplus Cash, the Partnership shall pay to the County an additional six percent (6%) of the Project's Gross Rental Income.

(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. The intention of this Agreement is that each Payment shall at no time exceed the aggregate of (i) County real property taxes which would have been paid for the calendar year to which the Payment applies, if the Project were not exempt from taxation, plus (ii) the County Assessments paid by the Partnership for the Project for the calendar year to which the Payment applies.

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, and the County has provided the Partnership with notice and thirty (30) days to cure the non-payment, 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's Director of Finance, 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 termination of the Low Income Covenants;

(b) the foreclosure, or the making of a deed in lieu of foreclosure, of any portion of the Property, unless the party acquiring the Property agrees to continue the Low Income Covenants under terms and conditions acceptable to the County;

(c) any default under the Low Income Covenants which is not cured within a reasonable period after notice, which period shall in all events be at least thirty (30) days; 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, make any transfer, exchange, encumber or otherwise convey its interest in the Property except as permitted by the DHCD Financing documents. If the Partnership transfers the Property to a new owner (other than a holder of a mortgage or deed of trust in the event of foreclosure or deed in lieu of foreclosure), then the Partnership shall be permitted to assign this Agreement to the new owner, provided that (i) the transfer to the assignee was permitted by the DHCD Financing documents and (ii) the assignee shall be subject to the terms and conditions of this Agreement.

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.

[Signatures appear on the next page]

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:

ELLICOTT LLLP

By: Ellicott Development LLLP, General Partner
By: Shelter Development, LLC, Managing General Partner

By: _____(SEAL)
Jeffrey K. Hettleman
Executive Vice President

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____(SEAL)
Ken Ulman
County Executive

APPROVED for Form and Legal Sufficiency: this _____ day of _____, 2014.

APPROVED by Department of Finance:

Margaret Ann Nolan
County Solicitor

Stanley Mileski, Director

Exhibit A: Property Description
Exhibit B: Council Resolution No. ____-2014

EXHIBIT A

BEING KNOWN AND DESIGNATED as Parcel "B", on the plat entitled "Plat of Revision Park View at Ellicott City, Parcels A & B" which plat is recorded among the Plat Records of Howard County, Maryland as Plat No. 14758.

TOGETHER WITH those easements appurtenant to the above-described property as set forth in Joint Use Easement Agreement and Declaration dated April 30, 2001 and recorded among the Land Records of Howard County, Maryland in Liber No. 5458, folio 405 by and among the Howard County Housing Commission, Ellicott City Limited Partnership and Ellicott City II Limited Partnership.

**Actual legal description to be insured hereby, to be created by surveyor and shown on
ALTA/ACSM Land Title Survey.**