

ATTACHMENT B

**A Negotiated Payment In Lieu Of Taxes AGREEMENT BETWEEN
ST. PAUL SENIOR LIVING LIMITED PARTNERSHIP/ST. PAUL SENIOR LIVING II LIMITED PARTNERSHIP
AND
PRINCE GEORGE'S COUNTY MARYLAND**

THIS AGREEMENT, made this _____ day of _____, 2013 by and among **ST. PAUL SENIOR LIVING LIMITED PARTNERSHIP/ST. PAUL SENIOR LIVING II LIMITED PARTNERSHIP**, a limited partnership of the State of Maryland (collectively the "Owner"), and Prince George's County, Maryland, a body corporate and politic (The "County").

WHEREAS, the Owner is a Maryland limited partnership which controls 1207 Addison Road located in Capitol Heights in Prince George's County, Maryland, for the purpose of owning and operating thereon an apartment project containing approximately 223 apartment units (the "Improvements") to provide housing primarily for low to moderate income elderly residents (the Property and the Improvements being hereinafter collectively referred to as the "Project"); and

WHEREAS, the Owner will operate the Project for rental housing on a limited distribution basis pursuant to a regulatory agreement between the Owner and the Community Development Administration of Maryland Department of Housing and Community Development or other governmental authority (the "Regulatory Agreement") executed in connection with the financing of the Project; and

WHEREAS, Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland as amended provides, among other things, that real property may be exempt from county property tax if (i) the real property is owned by a person engaged in constructing or operating housing structures or projects (which may include non-dwelling commercial and community facilities, community rooms, dining halls, and infirmaries to serve its occupants and the surrounding neighborhood); and (ii) 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, or insures its financing in whole or in part; and (iii) the owner thereof enters into an agreement with the governing body of the county where the real property is located for the payment of a negotiated sum or sums in lieu of County property taxes on said real property; and (iv) the owner of the real property enters into an agreement with said 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

WHEREAS, the Owner hereby represents that the Project will qualify in all respects, under the provisions of said Section 7-506.1, supra, for an agreement for negotiated payments in lieu of ordinary Prince George's County real estate taxes upon the Project; and

WHEREAS, pursuant to Resolution No. CR- -2013 adopted on _____ 2013, the County Council of Prince George's County, Maryland, approved an agreement for payments in lieu of taxes for the Project, and authorized the County Executive to enter into such an agreement, a copy of which Resolution is attached hereto as Exhibit B and by reference made a part hereof; and

WHEREAS, the County agrees to enter into this Agreement for payment of a negotiated sum or sums in lieu of Prince George's County real property taxes provided that the Owner conducts its operations in accordance with the criteria and controls set forth in said Section 7-506.1, *supra*; and

WHEREAS, the Owner and the County, pursuant to the power and authority of Section 7-506.1, *supra*, have agreed upon a formula, as hereinafter described, to determine the sum payable by the Owner to the County in lieu of Prince George's County real property taxes upon the Project.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

In consideration of the mutual covenants, terms and agreements hereof and pursuant to the power and authority of said Section 7-506.1, *supra*, it is agreed as follows:

- (1) This Agreement shall become effective as of the date of the execution of this Agreement (the "Effective Date") and shall remain effective until the Termination Date (as defined in paragraph 4 below). The payments to be made by the Owner to the County, provided for herein with respect to the Project shall be in lieu of Prince George's County real property taxes under the Tax-Property Article of the Annotated Code of Maryland, as amended, and the Prince George's County Code, as amended.
- (2) The intention of this Agreement is that the Owner's payment in lieu of taxes shall at no time exceed the amount of County real property tax otherwise payable based on the assessment of County real property taxes on the improvements. This Agreement shall not waive the payment of other County taxes, assessments and fees, including but not limited to sanitation taxes, County solid waste service charges, or other taxes assessed by entities or jurisdictions other than the County, including but not limited to State of Maryland taxes, municipal taxes, the Washington Suburban Sanitary Commission, Washington Suburban Transit Commission and The Maryland-National Capital Park and Planning Commission.
- (3) The Property and the Project shall be exempt from County real property taxes for ten (10) property tax years beginning July 1, 2013 through June 30, 2023. The payment in lieu of taxes for each year shall be the lesser of \$8,208.51 or 20% of the applicable property tax for St. Paul Senior Living and the lesser of \$4,628.74 or 20% of the applicable property tax for St. Paul Senior Living II.
- (4) This agreement shall terminate in the event that:
 - i. The Project shall cease to be owned by the Owner provided however that this agreement shall remain in full force and effect so long as the St. Paul Land

- Development Company and/or St. Paul Community Development Corporation or its affiliates own the Project directly or indirectly;
- ii. The Owner or the Project shall cease to comply with the conditions of Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland, as amended;
- iii. The Owner shall fail to make any payment hereby required as and when due.

(5) (a) All payments under this Agreement shall be subject to the same interest rate, collection, and tax sale provisions of the Prince George's County Code generally applicable to the collection of County property taxes, except as otherwise expressly set forth in this Agreement. Payments shall be delinquent as the Prince George's County Code provides with respect to County real property taxes generally.

(b) If the Owner has not paid any amount due under this Agreement prior to the date on which unpaid County property taxes generally become delinquent (currently October 1, but subject to amendment of the State and/or County Codes), the County may, at its option, with notice to the then current owner of the Property and to the holders to all mortgages or deeds of trust, exercise any and all of its rights under law with respect to the enforcement of collection (including by tax sale) of amounts then due.

(6) The Owner shall comply with its covenants regarding the maintenance of its housing for low to moderate income persons set forth by any the Community Development Administration or other governmental authority.

IN WITNESS WHEREOF, St. Paul Senior Living Limited Partnership, A Maryland Limited Partnership and St. Paul Senior Living II Limited Partnership, a Maryland Limited Partnership have caused this Agreement to be signed in their name by their General Partners, and Prince George's County has caused their names to be signed by the County Executive, and its corporate seal to be affixed, duly attested on this Agreement, on the day and year first hereinabove written.

ST. PAUL SENIOR LIVING LIMITED PARTNERSHIP

St. Paul Land Development Company,

WITNESS: _____

By: _____

Carl S. Williams
President

ST. PAUL SENIOR LIVING II LIMITED PARTNERSHIP

By: St. Paul Associates, LLP, General Partner

By: BA St. Paul, LLC, General Partner

By: Bozzutto & Associates, Inc.

Sole Member

WITNESS: _____

By: _____

Richard L. Mostyn,
Vice Chairman

By: St. Paul Land Development
Company, General Partner

WITNESS: _____

By: _____

Carl S. Williams
President

PRINCE GEORGE'S COUNTY, MARYLAND

Attest:

By: _____

County Executive

WITNESS: _____

By: _____

Name: _____

Title: _____

STATE OF MARYLAND, CITY/COUNTY OF PRINCE GEORGE'S, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2013, before me a notary Public of said State of Maryland the undersigned officer, personally appeared Richard L. Mostyn, who acknowledged himself to be the duly authorized officer of the General Partner B.A. St. Paul. LLC, a Maryland limited partnership, and that he as such officer being authorized so to do has executed the foregoing instrument for the purposes herein contained.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF MARYLAND, CITY/COUNTY OF PRINCE GEORGE'S, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2013, before me a Notary Public of said State of Maryland and the undersigned officer, personally appeared _____, on behalf of Rushern L. Baker III, County Executive of Prince George's County, and (s)he acknowledged the foregoing Agreement to be the corporate act and indeed of the County Executive of Prince George's County.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

REVIEWED AS TO FORM AND LEGAL SUFFICIENCY

Office of Law