

**NEGOTIATED PAYMENTS IN LIEU OF TAXES (“PILOT”) AGREEMENT**  
**BETWEEN**  
**RESIDENCES AT GLENARDEN HILLS 2, LLC**  
**AND**  
**PRINCE GEORGE’S COUNTY, MARYLAND**

THIS NEGOTIATED PAYMENTS IN LIEU OF TAXES (“PILOT”) AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2019 (the “**Effective Date**”), by and between **RESIDENCES AT GLENARDEN HILLS 2, LLC**, a limited liability company organized under the laws of the State of Maryland (“**Owner**”), and **PRINCE GEORGE’S COUNTY, MARYLAND**, a body corporate and politic (“**County**”).

WHEREAS, the Owner, proposes to acquire a certain parcel of undeveloped property located on 1.6607 acres of land with the street address of 3171 Rolland Kenner Loop, in the City of Glenarden, Maryland 20706, as more particularly identified as a portion of parcel account number 13-1427061 as identified by the Maryland State Department of Assessments and Taxation and as more particularly described in Exhibit A that is attached hereto and herein incorporated by reference (“**Property**”), and proposes to build on the Property fifty-five (55) senior residential apartment units and related facilities (“**Improvements**”) which will be dedicated to providing housing for low to moderate income seniors age 62 years and older. (Property and Improvements together referred to as the “**Project**”); and

WHEREAS, the acquisition of the Property and construction and equipping of the Project will be financed in part through (i) a mortgage loan (“**First Loan**”) funded from the proceeds from tax exempt bonds issued by the Community Development Administration (“**CDA**”), a unit of the Division of Development Finance of the Department of Housing and Community Development of the State of Maryland; (ii) an infrastructure fund from Prince George’s County Redevelopment Authority; (iii) investor member equity provided in connection with an allocation of 4% Low Income Housing Tax Credits (“**LIHTC**”) from the CDA of the State of Maryland; (iv) deferred payment of the developer’s fee; (v) a loan by the CDA under its Rental Housing Works program (“**RHW Loan**”); and (vi) a loan from the County under its HOME Investment Partnership Program (“**HOME Loan**”), which the First Loan, the HOME Loan and RHW Loan shall collectively be referred to herein as the “**Loans**”; and

WHEREAS, the Owner will operate the Project for rental housing in accordance with certain regulatory agreements and restrictive covenant agreements and declarations between the Owner and certain parties in connection with the Owner’s financing of the Project, including (i) one or more regulatory agreements between the Owner and the United States Department of Housing and Urban Development (“**HUD**”) as the same may be amended and/or modified (the “**HUD Regulatory Agreement**”); (ii) one or more regulatory agreements between the Owner and CDA, as the same may be amended and/or restated from time to time (collectively, the “**State Regulatory Agreement**”); (iii) a LIHTC Covenant between the Owner and the CDA, as the same may be amended and/or restated from time to time (“**LIHTC Covenant**”); and (iv) a HOME

Regulatory Agreement Declaration of Covenants and Deed of Trust between the Owner and the County as same may be amended and/or restated from time to time (the “County HOME Loan Agreement”). The HUD Regulatory Agreement, the State Regulatory Agreement, the County HOME Regulatory Agreement and the LIHTC Covenant are collectively referred to herein as the (“**Regulatory Agreements**”); and

WHEREAS, Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland (2012 Replacement Volume, as amended) (“Section 7-506.1”), provides, among other things, except in Baltimore City, that real property may be exempt from county and municipal corporation property tax if the following apply: (a)(2)(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, infirmaries, child and adult day care facilities, and drug rehabilitation facilities to serve its occupants and the surrounding neighborhood, each a “**Service Facility**”); (a)(2)(ii) 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: (a)(2)(ii)(1) funds construction or insures its financing in whole or in part; or (a)(2)(ii)(2) provides interest subsidy, rent subsidy, or rent supplements; (a)(2)(iii) the owner and the governing body of the county and, where applicable, the municipal corporation where the real property is located agree that the owner shall pay a negotiated amount in lieu of the applicable county or municipal corporation property tax; (a)(2)(iv) the owner of the real property (a)(2)(iv)(1)(A) agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the governmental programs described in (a)(2)(ii) of this paragraph and (a)(2)(iv)(1)(B) agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement, OR (a)(2)(iv)(2) enters into an agreement with the governing body of the county or municipal corporation 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 (5) years; and

WHEREAS, the Owner hereby represents that, as of the date hereof, pursuant to the Owner’s borrowing of the RHW Loan and the County Loan and execution and delivery of the Regulatory Agreements, the Project qualifies under the provisions of said Section 7-506.1, supra, for an agreement for negotiated payments in lieu of the payment of Prince George’s County real property taxes for the Project; and

WHEREAS, pursuant to Resolution No. CR-\_\_\_\_\_, adopted on \_\_\_\_\_, the County Council of Prince George’s County, Maryland, approved an agreement for negotiated payments in lieu of taxes for the Property and authorized the County to enter into this Agreement; and

WHEREAS, the County agrees to enter into this Agreement for negotiated payments in lieu of taxes provided that the Owner conducts and operates the Property and Project in accordance with the criteria and controls set forth in said Section 7-506.1, supra, and as governed by all applicable federal, state, and local laws; and

WHEREAS, pursuant to Section 7-506.1, supra, the Prince George's County Department of Housing and Community Development (“**DHCD**”) analyzed and determined the amount payable by the Owner to the County in lieu of the payments of Prince George's County real property taxes for the Property and 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 on the Effective Date and the obligation to pay negotiated payments in lieu of taxes shall commence as of the Substantial Completion of the Project (as defined below in paragraph 3) and shall remain effective until the Termination Date (as defined below in paragraph 4). The payments to be made by the Owner to the County, provided for herein with respect to the Project, shall be in lieu of the payments of Prince George's County taxes on real property under the Tax-Property Article of the Annotated Code of Maryland (2012 Replacement Volume, as amended, or any successor). Such payments shall be made by the Owner in accordance with this Agreement and shall be accepted by the County only as long as: (i) the Project shall be owned and used for the provision of rental housing and related Service Facility, including parking facilities, on a limited distribution basis, pursuant to the Regulatory Agreements; and (ii) the Owner shall in all other respects comply with the conditions of Section 7-506.1, which authorizes the County to enter into this Agreement, and all of its obligations under this Agreement.

(2) The intention of this Agreement is that the payments in lieu of taxes shall at no time exceed the amount of taxes otherwise payable based on the annual assessment for Prince George's County real property taxes. The Owner expressly agrees and understands that any annual taxes, fees and or fines assessed by other agencies such as the State of Maryland, the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitation Commission, the Washington Suburban Transit Commission, and solid waste charges and applicable fees for Bay Restoration and Clean Water (collectively, “**Other Real Estate Taxes and Fees**”) are not being deferred and are not covered under the scope of this Agreement. The Owner shall, therefore, pay all Other Real Estate Taxes and Fees in accordance with the applicable assessment and payment requirements.

(3) Commencing from the Effective Date of this Agreement and continuing until the date the Project architect issues a Certificate of Substantial Completion (“**Substantial Completion of the Project**”), all taxes based on Prince George's County assessment are due to be paid in full on September 30<sup>th</sup> of year. The Owner shall forward a copy of the Certificate of Substantial Completion to the County's Director of Finance and the Director of the Department of Housing and Community Development at the address provided herein within five (5) business days after issuance.

(4) Beginning with the Substantial Completion of the Project, the Project shall be exempt from paying full Prince George's County real property taxes for a period of time not to exceed

forty (40) full tax years following Substantial Completion of the Project, and ending on the earlier of forty (40) years from Substantial Completion of the Project, or upon an occurrence of any of the events set forth in paragraph (5e) below (the "Termination Date"). The intent of this Agreement is that the Owner shall receive the benefit of the payments in lieu of taxes for the period of time not to exceed forty (40) full tax years from the Substantial Completion of the Project.

5(a) Commencing on the Substantial Completion Date and continuing until the Termination Date, in addition to the payment of Other Real Estate Taxes and Fees as set forth in paragraph (2), the Owner shall make annual payments to the County for each tax year of: \$192.65 for each of the fifty-five (55) units in the Project (\$10,595.50 annually) (the "Annual Payment"). The Annual Payment described in this clause (5a) shall be increased by three percent (3%) per year after the first full calendar year following Substantial Completion of the Project. Each Annual Payment shall be paid by September 30th of each tax year.

(b) For each year after the first full year from Substantial Completion of the Project and continuing until the Termination Date, in addition to the payment of Other Real Estate Taxes and Fees and payment of the Annual Payment the Owner shall make an additional annual payment to the County for each tax year in an amount equal to 8.654% of the Project's prior year remaining Surplus Cash (as such term is defined in the State Regulatory Agreement)(the "**PILOT Cash Flow Payment**"). This amount will be determined from the audited annual property income statement from the prior year. The PILOT Cash Flow Payment shall be paid by September 30<sup>th</sup> of each tax year.

(c) Beginning on the Termination Date, the Project shall no longer be exempt from County real property taxes and the Owner shall commence paying the regular County real property tax for the Project.

(d) The difference between the Project amounts paid under paragraphs 5a and 5b above and the amounts which would otherwise have been due prior to the Termination Date, based on the annual tax assessment for Prince George's County real property but which are being deferred under the terms of this Agreement is referred to as the "**Deferred Amount**". The Deferred Amount shall be due and payable on the refinance, sale or transfer of the Property if the Project ceases to be used in whole or part for the purpose set forth in this Agreement prior to the Termination Date, unless prior written consent of the County is obtained. The provisions set forth in this paragraph shall survive termination or expiration of this Agreement.

(e) Upon transfer or conveyance due to a foreclosure or a deed in lieu of foreclosure, the Project shall no longer be exempt from the County real property taxes and, as applicable, all real property taxes, including the Deferred Amount, shall be due and immediately payable to the County; provided however, so long as one or more of the Regulatory Agreements and affordability restrictions that form the basis of this Agreement survive foreclosure or conveyance by deed in lieu of foreclosure, the County hereby consents to the assignment of this Agreement to any surviving lender, as may be applicable, in the event such lender acquires title to the Property in a foreclosure or by deed in lieu of foreclosure. The provisions set forth in this paragraph shall survive termination or expiration of this

Agreement.

(f) This Agreement shall terminate upon the occurrence of any of the events set forth in (f)(i) through (f)(iv) below, and upon termination, all payments then due under this Agreement shall be paid to the County within sixty (60) calendar days thereof:

(i) Subject to paragraph 5(e), the Property shall cease to be owned by the Owner or any successor to Owner or an event of default, as defined within the Regulatory Agreements, has been declared by the beneficiary of the Regulatory Agreements and remains uncured by the Owner or any successor to Owner within sixty (60) days thereafter;

(ii) The Owner, the Property or the Project shall cease to comply with the conditions of Section 7-506.1;

(iii) The Owner shall fail to make any payment hereby required as and when due, which failure continues for ten (10) business days following Owner's receipt from the County of notice of such payment failure; or

(iv) The Owner shall elect to terminate this Agreement by providing written notice to the County.

(g) The Limited Liability Company Operating Agreement of the Owner dated as of October 15, 2018, as may be amended, and the Regulatory Agreements shall be submitted by the Owner to the County's Director of Finance and the County's Director of the Department of Housing and Community Development, at the addresses shown below, no later than five (5) business days after execution of the Regulatory Agreements.

(h) By March 31st of each tax year, the Owner shall submit to the County's Director of Finance and the County's Director of the Department of Housing and Community Development audited financial statements, in such detail as may be required by the Director of Finance to administer this Agreement. Said financial statements shall be based on an examination of the books and records prepared in accordance with generally accepted accounting principles and shall be certified and audited by a Certified Public Accountant registered to practice in the State of Maryland or with the registration authority of any other State.

(i) Documents submitted to the County and notices provided hereunder should be addressed as follows:

Director  
Office of Finance

County Administration Building  
14741 Governor Oden Bowie Drive  
Upper Marlboro, MD 20772

Director  
Department of Housing and Community Development  
9200 Basil Court, Suite 500  
Largo, MD 20774

(j) All taxes (as applicable) shall be due and payable by September 30th of each year. 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 as for the collection of County property taxes except as otherwise expressly set forth in this Agreement.

(k) If the Owner has not paid the amount due under this Agreement within one hundred and eighty (180) days after such payment is due, the County may, at its option, declare a default by providing notice of such default to the Owner and to the holders of all mortgages or deeds of trust. If within ten (10) business days of such notice, any payments that are owed have not been brought current by the Owner or any of the Project lenders, then the County may declare all taxes, including the Deferred Amount, due as follows: the amount equal to the total Prince George's County real property taxes which would have been due from the Owner on account of the assessed value of the Improvements in the absence of this Agreement, plus all interest, if any, which shall have been charged pursuant to this Agreement, less all amounts actually paid under this Agreement. In order to enforce its rights under this paragraph after the Owner has failed to bring its payments current within thirty (30) days of Owner receiving notice of its default, the County may renegotiate this Agreement, foreclose or seek any other remedy available at law or in equity, including proceeding to Tax Sale. Payments due under this paragraph shall be considered a lien against the Property subordinate to the lien of the Loans. The County's delay and/or failure to provide notice within the time and manner stated herein shall not limit or be a waiver of any of its rights and remedies in law and equity.

(6) [reserved].

(7) Any document or agreement referenced hereinabove or amendments thereto, shall be provided with appropriate recording reference by the Owner when executed and shall be attached to this Agreement by a subsequent addendum identifying such documents and agreements for purposes of this Agreement.

(8) The recitals set forth above are herein incorporated as operative provisions.

(9) This Agreement shall be governed and construed in accordance with the laws of the State of Maryland, and any action for enforcement shall be brought in the Circuit Court for Prince George's County.

(10) If any clause, covenant, paragraph or provision herein shall be declared fully or

partially invalid or unenforceable, the remaining clauses, covenants, paragraphs and provisions shall remain enforceable and valid to the fullest extent permitted by law.

(11) All understandings and agreements, oral or written, previously made between the parties are merged into this Agreement and this Agreement fully and completely expresses the agreement between the parties as to the PILOT. This Agreement cannot be amended, modified or terminated except by a written instrument executed by both parties hereto.

*Remainder of page is blank*

*[Signature Pages Follow.]*

DRAFT

IN WITNESS WHEREOF, **Residences at Glenarden Hills 2, LLC**, a Maryland limited liability company, has caused this Agreement to be signed in its name by its member, and PRINCE GEORGE’S COUNTY, MARYLAND has caused its name to be signed by the County Executive, or his designee representative, duly attested on this Agreement, on the day and year first hereinabove written.

**OWNER:**

**RESIDENCES AT GLENARDEN HILLS 2, LLC**,  
a Maryland limited liability company

By: Residences at Glenarden Hills 2 Managing  
Member, LLC, a Maryland limited liability  
company

By: Pennrose Holdings, LLC, a  
Pennsylvania limited liability company

By: \_\_\_\_\_

Name: Mark H. Dambly

Title: President

COMMONWEALTH OF PENNSYLVANIA,  
COUNTY/CITY OF PHILADELPHIA, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_ day of \_\_\_\_\_, in the year 2019, before the subscriber, the undersigned Notary Public of the State of Pennsylvania, personally appeared Mark H. Dambly, who acknowledged himself to be the President of Pennrose Holdings, LLC, a limited liability company and the managing member of Residences at Glenarden Hills 2 Managing Member, LLC, the managing member of Residences at Glenarden Phase 2, LLC, a Maryland limited liability company, and acknowledged the foregoing deed to be his act.

In testimony whereof I have affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_

\_\_\_\_\_

Notary Public

Commission Expires: \_\_\_\_\_

*[Signatures continue on the following page]*



**COUNTY:**  
**PRINCE GEORGE'S COUNTY, MARYLAND**

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Raymond Gilley  
Deputy Chief Administrative Office for  
Economic Development

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

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the Subscriber, a Notary Public of said State of Maryland, in and for Prince George's County aforesaid, personally appeared Raymond Gilley, Deputy Chief Administrative Officer for Economic Development of Prince George's County, and he acknowledged the foregoing Agreement to be the corporate act and deed of the Deputy Chief Administrative Officer for Budget, Finance, Economic Development and Administration on behalf of Prince George's County, Maryland.

AS WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

ATTORNEY CERTIFICATION:

I hereby certify that the foregoing Agreement for **Residences at Glenarden Hills 2, LLC** was prepared by or under the supervision of the undersigned, \_\_\_\_\_, an attorney admitted to practice before the Court of Appeals of Maryland.

By: \_\_\_\_\_

DRAFT

**EXHIBIT A**

**PROPERTY DESCRIPTION**

The Land referred to herein below is situated in the County of Prince George's, State of Maryland, and is described as follows:

BEING KNOWN AND DESIGNATED AS "PARCEL A" AS DEPICTED ON THE PLAT ENTITLED "PARCEL A, GLENARDEN APARTMENTS KENT DISTRICT PRINCE GEORGE'S COUNTY, MARYLAND", WHICH PLAT IS RECORDED IN PLAT BOOK WWW 67, PAGE 1, AMONG THE LAND RECORDS OF PRINCE GEORGE'S COUNTY, MARYLAND.

SAVING AND EXCEPTING THE FOLLOWING LOTS "PART OF ALLEY B", "PART OF PARCEL 4", PART OF DECATUR TROTTER PLACE", "ALLEY A", "ROLAN KENNER LOOP", "COLBERT LANE", "PARCEL C", "PARCEL 3", "PARCEL 1", "MARVIN WILSON WAY", AND "PARCEL 6", ALL AS DEPICTED ON PLAT RECORDED IN PLAT BOOK SJH 248, PAGE 39.

SAVING AND EXCEPTING THE FOLLOWING LOTS "PART OF OWNERSHIP PARCEL 10-A", "PART OF OWNERSHIP 10-B", ALL AS DEPICTED ON PLAT RECORDED IN PLAT BOOK SJH 248, PAGE 40.