

**ATTACHMENT B**  
**AMENDED AND RESTATED**  
**NEGOTIATED PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT**  
**BETWEEN**  
**FORT WASHINGTON MANOR LIMITED PARTNERSHIP**  
**AND**  
**PRINCE GEORGE’S COUNTY, MARYLAND**

THIS AMENDED AND RESTATED PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT (“AGREEMENT”), made this \_\_\_\_ day of \_\_\_\_\_, 2013, between FORT WASHINGTON MANOR LIMITED PARTNERSHIP, a limited partnership of the State of Maryland (“Owner”), and PRINCE GEORGE’S COUNTY, MARYLAND, a body corporate and politic (“County”).

WHEREAS, the Owner acquired that certain parcel of land located in Fort Washington, Prince George’s County, Maryland, as more particularly described in Exhibit A that is attached hereto and herein incorporated by reference (“Property”); and

WHEREAS, the Owner constructed a rental housing project on the Property that contains 150 apartment units and utilized the Property to provide housing for low to moderate income elderly residents (“Project”); and

WHEREAS, the Owner has operated, and intends to continue to operate the Project for rental housing on a limited distribution basis pursuant to a regulatory agreement between the Owner and the State of Maryland Community Development Administration or other governmental authority, which was executed in connection with the Owner’s financing of the Project; and

WHEREAS, the Owner and the County entered into a Negotiated Payments in Lieu of Taxes Agreement (“Original PILOT”), dated October 4, 2005 (“Original PILOT Effective Date”), which Agreement provided for the Owner to pay to the County negotiated payment sums in lieu of the payment of ordinary real property tax assessment; and

WHEREAS, AHD, Inc., a Maryland corporation, and TRG MD LLC, a Maryland limited liability company, the General Partners of the Owner, desire that the Project continue to provide housing for low to moderate income elderly residents; and

WHEREAS, the Owner intends to refinance the mortgage loan which provided primary debt financing for the acquisition of the Property and construction of the Project with a United States Department of Housing and Urban Development (“HUD”) insured mortgage loan (“Refinance Loan”); and

WHEREAS, the Owner will continue to operate the Project for rental housing on a limited distribution basis pursuant to certain regulatory agreements and restrictive covenant agreements and declarations between the Owner and certain parties, including (i) one or more regulatory agreements between the Owner and the State of Maryland Department of Housing and Community Development (“DHCD”) dated as of the Effective Date, as the same may be amended and/or restated from time to time (collectively, the “State Regulatory Agreement”); (ii) a HOME Regulatory Agreement Declaration of Covenants Deed of Trust between the Owner and the County, as the same may be amended and/or restated from time to time (the “County HOME Loan Agreement”), and (iii) a Low Income Housing Tax Credit Covenant between the Owner and the Community Development Administration, a unit in the Division of Development Finance of DHCD, as the same may be amended and/or restated from time to time (the “LIHTC Covenant”) (the State Regulatory Agreement, the County HOME Loan Agreement and the LIHTC Covenant are hereafter collectively referred to as the “Regulatory Agreements”); and

WHEREAS, the Owner desires that the Project continue to benefit from the Original PILOT, as amended and restated herein, to ensure the financial feasibility of the Project’s continued provision of rental housing for the Project’s low to moderate income elderly residents; and

WHEREAS, the Owner desires to amend and restate the Original PILOT as provided for herein and provide that the Original PILOT, as amended and restated will govern the ownership and operation of the Project; and

WHEREAS, Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (2007 Replacement Volume, as amended), provides, among other things, that real property outside of Baltimore City 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 or substantially rehabilitated under a federal, state or local government program that funds construction, or insures its financing, or provides interest subsidy, rent subsidy or rent supplements; and is substantially completed after July 1, 1978; and (iii) the structures and facilities on the real property are governmentally controlled as to rents, charges, rates of return and methods of operation so as to operate on a nonprofit or limited distribution basis; and (iv) 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 all local taxes on said real property; and

WHEREAS, the Project was substantially completed by the Owner after July 1, 1978, and thus meets the requirement described in item (ii) of the preceding recital; and

WHEREAS, the Owner hereby represents that the Project qualifies in all respects, under the provisions of said Section 7-505, supra, for negotiated payments in lieu of the payment of standard Prince George's County real property taxes for the Property; and

WHEREAS, pursuant to Resolution No. CR-26-2005, adopted on June 14, 2005, the County Council of Prince George's County, Maryland, approved an agreement for payments in lieu of taxes for the Property and the Project and authorized the County to enter into the Original PILOT; and

WHEREAS, pursuant to Resolution No. CR-\_\_\_\_\_, adopted on \_\_\_\_\_, the County Council of Prince George's County, Maryland, approved an Amended and Restated Agreement for Payment in Lieu of Taxes for the Property and the Project and authorized the County to enter into this Agreement; and

WHEREAS, the parties desire to amend and restate the Original PILOT by entering into this Agreement provided that the Owner conducts and operates the Property and Project in accordance with the criteria and controls set forth in said Section 7-505, supra and as governed by all applicable local, state and federal laws; and

WHEREAS, the Owner and the County, pursuant to the power and authority of Section 7-505, supra, have agreed upon a formula to determine the sum payable by the Owner to the County in lieu of the payment of standard Prince George's County real property taxes for the Property.

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 7-505, supra, it is agreed as follows:

(1) This Agreement shall become effective as of January 1, 2014 (the "Effective Date") and shall remain effective until the Cumulative Amount, as defined herein, shall have been paid in full. The payments to be made by the Owner to the County, provided for herein with respect to the Project (as defined above), shall be in lieu of the payment of ordinary Prince George's County taxes on real property under the Tax-Property Article of the Annotated Code of Maryland (2007 Replacement Volume, as amended). Such payments shall be made by the Owner 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 facilities (including parking facilities) on a limited distribution basis, pursuant to the Regulatory Agreements; (ii) the Owner shall in all other respects comply with the conditions of Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland, (2007 Replacement Volume, as amended), which authorizes the County to enter into this Agreement, and shall comply with all of its obligations under this Agreement; and (iii) the Owner shall provide to the County, or its authorized representatives, the financial information required by Paragraph 6 hereof in order to ensure full and complete compliance with the terms hereof.

(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, but not including State of Maryland real property taxes.

(3) Beginning on the Effective Date and in accordance with Paragraph 4 hereof, the Property (including the Project) located in Fort Washington, Prince George's County, Maryland, shall be exempt from ordinary Prince George's County taxes on real property for the period beginning upon the Effective Date hereof and ending on the earlier to occur of December 31, 2049, or upon an occurrence of any of the events set forth in Paragraph 4(e) below ("Termination Date").

(4) (a) For the period from January 1, 2014 and continuing through December 31, 2049, the Owner shall make annual payments to the County for each tax year of Fifty Thousand Dollars (\$50,000) plus starting in 2023 Twenty-Five Percent (25%) of surplus cash flow ("Surplus Cash") as defined in the Amended and Restated Agreement of Limited Partnership dated as of October 13, 2005 ("Partnership Agreement"). (The Partnership Agreement and Regulatory Agreement were submitted by the Owner to the Director of Finance of the County, each within forty-eight (48) hours after execution). Each annual payment of Fifty Thousand Dollars (\$50,000) shall be paid by September 30<sup>th</sup> of each tax year. Each annual payment of Twenty-Five Percent (25%) of Surplus Cash shall be paid by March 31<sup>st</sup> of each tax year.

(b) Beginning January 2050, the Property shall no longer be exempt from County real property taxes and the Owner shall commence paying (i) the regular County real property tax and (ii) annual payments of Fifty Thousand Dollars (\$50,000) toward the Cumulative Amount on the date County property taxes are due until the Cumulative Amount is fully paid.

(c) Cumulative Amount is defined as the cumulative difference between the annual County real property taxes that would be due on the Property absent this Agreement and the payments made under this Agreement. Payments to the County on the Cumulative Amount shall be subordinate to payments on the HUD insured Refinance Loan, and shall not bear interest.

(d) If the Property is transferred or conveyed due to a foreclosure or a deed in lieu of foreclosure, and such transfer is deemed approved, the transferee under a

foreclosure or deed in lieu of foreclosure shall be assigned this Agreement and shall continue paying the annual payments as stated in Paragraph 4(a) for the remaining tax years. Beginning January 2050, the Property shall no longer be exempt from the County real property taxes and the transferee under a foreclosure or a deed in lieu of foreclosure shall make all payments as stated in Paragraph 4(b).

(e) This Agreement shall terminate upon the occurrence of any of the events set forth in (e) i. through (e) v. below, and upon termination all payments then due under this Agreement, including the Cumulative Amount, shall be paid to the County within sixty (60) days thereof. In the event that payment is not received by the County within such sixty (60) days, the amount owed shall be recorded as a lien on the Property subordinate to the HUD insured Refinance Loan.

- i. The Property shall cease to be owned by the Owner (except as provided in Section 4(d) above);
- ii. The Property shall cease to be used in accordance with the provisions of the Regulatory Agreements, and an Event of Default has occurred and is continuing under the Regulatory Agreements;
- iii. The Owner or the Property shall cease to comply with the conditions of Section 7-505 of the Tax-Property Article of the Annotated Code of Maryland (2007 Replacement Volume, as amended);
- iv. The Owner shall fail to provide the audited financial statements as required by Paragraph 5 hereof, which failure shall continue for (60) days following the Owner's receipt from the County of notice of such failure;  
or
- v. 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.

(5) By March 31<sup>st</sup> of each tax year, the Owner shall submit to the Director of Finance of the County 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.

(6) The Owner shall comply with its covenants regarding the maintenance of its housing for low to moderate income persons set forth by the Regulatory Agreements.

(7) This Agreement shall be an obligation running with the Property and shall be recorded in the Land Records of the County.

(8) 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.

(9) This Agreement may not be assigned without the County's prior written consent, except as provided herein.

(10) This Agreement amends and restates in its entirety the terms of the Original PILOT and as of the date hereof, the Original PILOT shall be deemed void and of no further effect subject, however, to the Owner's obligations for taxes deferred under the Original PILOT in accordance with the terms of Section 4 above.

IN WITNESS WHEREOF, FORT WASHINGTON MANOR LIMITED PARTNERSHIP, a Maryland limited partnership has caused this Agreement to be signed in its name by its general partners, 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.

WITNESS

FORT WASHINGTON MANOR LIMITED PARTNERSHIP, a Maryland limited partnership

By: AHD Fort Washington, LLC  
a Maryland limited liability company,  
a General Partner

By: AHD, Inc. Member

\_\_\_\_\_

\_\_\_\_\_  
Name: Richard N. Tager  
Title: President

By: TRG MD, LLC  
a Maryland limited liability company,  
a General Partner

By:

\_\_\_\_\_

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

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

\_\_\_\_\_

ATTEST:

PRINCE GEORGE'S COUNTY, MARYLAND

\_\_\_\_\_

By: \_\_\_\_\_  
Thomas M. Himler

Title: Deputy Chief Administrative Officer for  
Budget, Finance and Administration

REVIEWED AS TO FORM AND LEGAL  
SUFFICIENCY

\_\_\_\_\_  
Associate County Attorney

STATE OF MARYLAND, CITY/COUNTY OF \_\_\_\_\_

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 \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, a member of AHD Fort Washington, LLC, a Co-General Partner of Fort Washington Manor Limited Partnership and stated that as an officer being authorized to do so, he has executed the foregoing instrument for the purposes herein contained by signing the name of AHD Fort Washington, LLC.

AS WITNESS my hand and Notarial Seal.

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

STATE OF MARYLAND, CITY/COUNTY OF \_\_\_\_\_

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 \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, a member of TRG MD, LLC , a Co-General Partner of Fort Washington Manor Limited Partnership and stated that as an officer being authorized to do so, he has executed the foregoing instrument for the purposes herein contained by signing the name of TRG MD, LLC

AS WITNESS my hand and Notarial Seal.

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

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

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the Subscriber, a Notary Public of said State of Maryland, in and for Prince George’s County aforesaid, personally appeared Thomas M. Himler, Deputy Chief Administrative Officer for Budget, Finance and Administration 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 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 Amended and Restated PILOT Agreement for **Fort Washington Manor Limited Partnership** was prepared by or under the supervision of the undersigned an attorney \_\_\_\_\_, Esq. admitted to practice before the Court of Appeals of Maryland.

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

**EXHIBIT A**

**Property**

Parcels A and B in the subdivision known as “Fort Washington Manor” as per the plat thereof recorded in Plat Book 206 at Plat 71 among the Land Records of Prince George’s County, Maryland together with the benefits and burdens of the Cross Access Easement dated June 21, 2005 between The Fifteenth Street Christian Church and Fort Washington Manor Limited Partnership recorded July 1, 2005 in Liber 22414, Folio 545 and as shown on recorded plat and the Cross Parking Easement dated June 21, 2005 between The Fifteenth Street Christian Church and Fort Washington Manor Limited Partnership recorded July 1, 2005 in Liber 22414, Folio 550