Amendment _2_ to Amendment 12 to Council Bill 24-2014

BY: Calvin Ball, Council Member; Greg Fox, Council Member; Mary Kay Sigaty, Council Member; Jen Terrasa, Council Member; and Courtney Watson, Council Member

Legislative Day No: __6__  
Date: May 21, 2014

Amendment No. __2_ to Amendment 12

(This amendment conditions the use of funding allocated to the Downtown Columbia Arts and Culture Commission.)

Whereas, Council Bill 58-2009, adopted in February 2010, provided a plan for the development of Downtown Columbia; and

Whereas, this plan envisioned a thriving and revitalized arts and culture center, including a state of the art event venue at Merriweather Post Pavilion (Merriweather); and

Whereas, today, Merriweather is recognized as an artistic treasure to Columbia and Howard County; and

Whereas, a renovated Merriweather is central to the Downtown Columbia Plan; and

Whereas, the Downtown Columbia Arts and Culture Commission, Inc. (DCACC), a non-profit organization established by the Howard Hughes Corporation in collaboration with Howard County, was created to assume ownership of the renovated Merriweather and to stimulate the arts in Downtown Columbia; and

Whereas, in order to accelerate and enhance the renovation and transfer of Merriweather to the DCACC, the County proposes to provide funds to the DCACC to be used as a loan to the Merriweather Post Business Trust for the renovation of Merriweather; and

Whereas, the partnership among the County, the DCACC, the Merriweather Post Business Trust (MPBT), and the Howard Hughes Corporation for the redevelopment of Merriweather is established in a non-binding memorandum of understanding (MOU) dated April 10, 2014, which

5/22/2014 9:44 AM
calls for a commercial loan to the Merriweather Post Business Trust from a private lender to provide initial funding for improvements; and

Whereas, the County Council wishes to ensure that the renovations proceed at an accelerated pace, that the need for additional parking is resolved, that the provisions of the MOU are followed, and that the DCACC and the developer received necessary assurances that the appropriated funds will be made available to the DCACC for the benefit of the renovation of Merriweather, provided that certain defined conditions are met;

Therefore, by this amendment the County Council provides for the appropriation and disbursement of $8 million in FY 2015 and this amendment conditions the grant of these funds on the establishment of a trust to receive $7,500,000 appropriated in the FY 2015 Howard County budget as well as $2,000,000 previously appropriated, and sets forth the following minimum conditions to be satisfied before the trustee may release these funds.

Before line 1 insert:

“On page 4, before line 1, insert:

“Section 12. And Be It Further Enacted by the County Council of Howard County, Maryland, that no funds appropriated by this Act may be disbursed to the Downtown Columbia Arts and Culture Commission (DCACC) until the Board of Directors of the Downtown Arts and Culture Commission and the County shall first execute a grant agreement that provides for the following:

(a) Howard County will grant to DCACC $500,000 upon execution of a grant agreement or on July 1, 2014, whichever is later; and

(b) Howard County will establish a bank managed trust (“trust”) to hold the funds appropriated by Howard County for the DCACC, including funds intended to benefit the redevelopment of Merriweather Post Pavilion. Howard County will deposit $9.5 million appropriated for this purpose on the later of July 31, 2014 or the execution of the Joint Development Agreement as called for in the MOU and execution of a trust agreement between the County and DCACC and a trustee. The trust will pay on a regular basis, but at least annually, to the DCACC any interest income on funds held in trust, less fees
associated with the trust. The trustee will release the remaining funds held in trust to the DCACC after it confirms that as a minimum the following conditions have been satisfied:

- A joint development agreement has been executed, that conforms generally to the executed MOU dated April 10, 2014 and provides for the following: a) availability of the facility to the DCACC and Howard County for use for public school and Howard Community College graduations and other civic, cultural, and community events; b) creating a permanent parking solution for Merriweather and the Crescent; c) that the commercial loan for the renovation of Merriweather be spent first; d) that the DCACC has the right to approve renovation plans and revisions; e) the property will be conveyed to the DCACC by special warranty deed, with good and marketable title, free and clear of all encumbrances; f) the renovations for Merriweather generally listed in Exhibit A and g) a preliminary schedule for required renovations to Merriweather as generally proposed in Exhibit B, attached to this amendment.

- A site development plan (SDP) has been submitted to the Department of Planning and Zoning that conforms generally to the 2004 Ziger Snead Study and to the requirements in Exhibit A attached to this amendment and that includes plans a) to raise the main roof to meet current concert standards, b) to install a sprinkler system for the 932 Club, c) for a new trash and recycling area, and d) for meeting all current building and development codes.

- The SDP has been approved as submitted or as modified by the Planning Board.

(c) The DCACC will submit an annual report to the County Council and the County Executive on the status of the redevelopment of Merriweather, the satisfaction of the terms of the grant agreement and the joint development agreement, the expenditure of funds appropriated by the County, and the activities of the DCACC to accomplish its mission of stimulating arts and culture in Downtown Columbia;
(d) Any funds in the trust that have not been disbursed by May 21, 2019, shall revert to Howard County, unless the County, the DCACC, the Merriweather Post Business Trust, and the Howard Hughes Corporation agree mutually to an extension of this time period.

Also on page 4, in line 1, strike “Section 12” and substitute “Section 13” and in line 6 strike “Section 13” and substitute “Section 14”.”
# EXHIBIT A

## Preliminary Budget

## Columbia Town Center

### Merriweather Post Pavilion Renovation - Redevelopment Budget

<table>
<thead>
<tr>
<th>Phase</th>
<th>Description</th>
<th>Phase Cost</th>
<th>TOTAL Cost</th>
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<tr>
<td>I</td>
<td>Master Plan Preparation</td>
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<td>FDP Processing</td>
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<td>Utility Infrastructure Work</td>
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<td>Dealing &amp; Rack Main Roof</td>
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<td>New Loge Roof</td>
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<td>Widen Presenium and New Stage House</td>
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<td>Soft Costs &amp; Overhead @ 20%</td>
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<td>Phase Sub-total</td>
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<td>Sprinklers in 332 Club</td>
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EXHIBIT B

Preliminary Schedule

Phase I to be noted on the Preliminary Schedule

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<td>Thu 6/26/14</td>
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<td>Preliminary Program Development</td>
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<td>FDP Process</td>
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<td>Prepare FDP &amp; Revised Design Guidelines</td>
<td>6 ewks</td>
<td>Thu 6/26/14</td>
<td>Thu 8/7/14</td>
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<td>Thu 8/7/14</td>
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<td>SDP Process</td>
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<td>Prepare SDP Submission Documents</td>
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<td>Mon 4/6/15</td>
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<td>Prepare and Process ECP</td>
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<td>Mon 4/6/15</td>
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<td>Phase 4</td>
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<td>Construction</td>
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* Contingent upon Howard County approval of SDP redline process to existing SDP