

Introduced 1/3/17
Public Hearing 1/17/17
Council Action 2/16/17
Executive Action 2/9/17
Effective Date 2/9/17

County Council Of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 1

Bill No. 2 -2017

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving a Second Amendment for the lease of space; and authorizing the County Executive to take certain actions in connection with the Agreement.

Introduced and read first time January 3, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on January 17, 2017.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on February 6, 2017 and Passed , Passed with amendments _____, Failed _____.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 9th day of February, 2017 at 3 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive Feb 9, 2017

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [text in brackets] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, the County is currently leasing property pursuant to a Maryland Multi-Tenant
2 Industrial Lease dated February 27, 2015, as amended by the First Amendment to Maryland Multi-
3 Tenant Industrial Lease dated March 8, 2016 (collectively, the “Lease”); and
4

5 **WHEREAS**, the Lease expires on February 28, 2017; and
6

7 **WHEREAS**, the County wishes to renew the Lease beginning March 1, 2017 for a term
8 of 3 years, through February 29, 2020; and
9

10 **WHEREAS**, the County and the landlord desire to enter into a Second Amendment to
11 Maryland Multi-Tenant Industrial Lease (the “Second Amendment”), substantially the form
12 attached as Exhibit A and such form of the Second Amendment is incorporated herein by
13 reference; and
14

15 **WHEREAS**, the Second Amendment requires the payment by the County of funds from
16 an appropriation in a later fiscal year and therefore requires County Council approval as a multi-
17 year agreement pursuant to Section 612 of the Howard County Charter.
18

19 **NOW, THEREFORE,**
20

21 ***Section 1. Be It Enacted** by the County Council of Howard County, Maryland that in accordance
22 with Section 612 of the Howard County Charter, it approves the form and content of the Second
23 Amendment to Maryland Multi-Tenant Industrial Lease for the 3-year term.*
24

25 ***Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that
26 the County Executive is hereby authorized to execute the Second Amendment to Maryland Multi-
27 Tenant Industrial Lease for such term in the name of and on behalf of the County.*
28

29 ***Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland that
30 the County Executive, prior to execution and delivery of the Second Amendment to Maryland*

1 *Multi-Tenant Industrial Lease, may make such changes or modifications to the form of the Second*
2 *Amendment, attached hereto and incorporated herein, as he deems appropriate in order to*
3 *accomplish the purpose of the transactions authorized by this Act, provided that such changes or*
4 *modifications shall be within the scope of the transactions authorized by this Act; and the execution*
5 *of the Second Amendment by the County Executive shall be conclusive evidence of the approval*
6 *by the County Executive of all changes or modifications to the Second Amendment, and the Second*
7 *Amendment shall thereupon become binding upon the County in accordance with its terms.*

8
9 ***Section 4. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that*
10 *this Act shall be effective immediately upon its enactment.*

**SECOND AMENDMENT TO MARYLAND MULTI-TENANT
INDUSTRIAL LEASE**

This **Second Amendment to _____ Lease** (this "Amendment") is made and entered into this ____ day of _____, 20__, by and between _____, a Maryland limited liability company, successor-in-interest to _____ ("Landlord") and **HOWARD COUNTY, MARYLAND**, a body corporate and politic ("Tenant").

W I T N E S S E T H:

WHEREAS, Landlord and Tenant are parties to a _____ Lease dated February 27, 2015, as amended by the _____ dated March 8, 2016 (collectively, the "Lease"), whereby Tenant leases from Landlord certain rental space containing approximately 5,604 square feet, known as _____ (the "Premises"), in the building known as _____ and located at _____ (the "Building"), for a Term which is currently scheduled to expire on February 28, 2017 (the "Current Term"); and

WHEREAS, Landlord and Tenant wish to amend the Lease by extending the Term by an additional thirty-six (36) months, and to make other modifications to the terms of the Lease as set forth herein.

NOW, THEREFORE, in consideration of the recitals, which are deemed to be a material and substantive part of this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **RECITALS.** The foregoing recitals are incorporated herein by this reference.
2. **CAPITALIZED TERMS.** Unless otherwise defined herein, all capitalized terms shall have the same meaning as they have been assigned in the Lease.
3. **TERM.** Notwithstanding any provision of the Lease to the contrary, the Term shall be extended by an additional thirty-six (36) months (the "Extension Term") following the expiration of the Current Term. The Extension Term shall commence on March 1, 2017 (the "Extension Term Commencement Date") and shall expire on February 29, 2020 (the "Extension Term Expiration Date"). Notwithstanding any provision of the Lease to the contrary, Tenant shall have no right to further extend the Term of the Lease beyond the Extension Term Expiration Date, unless mutually agreed to in writing by Landlord and Tenant.
4. **PREMISES.** Tenant acknowledges that Tenant is currently in possession of the Premises and Tenant agrees to accept the Premises in its "as is" condition for the remainder of the Current Term and for the duration of the Extension Term.
5. **BASIC RENT.** For the remainder of the Current Term, Tenant shall continue to

pay Annual Basic Rent in the amounts and upon the terms and conditions set forth in the Lease. During the Extension Term, Tenant shall pay Annual Basic Rent in the amounts set forth in the following schedule:

<u>Time Period</u>	<u>Per Square Foot Rate</u>	<u>Annual Basic Rent</u>	<u>Monthly Basic Rent</u>
3/1/17 – 2/28/18*	\$13.50	\$75,654.00	\$6,304.50
3/1/18 – 2/28/19	\$13.91	\$77,951.64	\$6,495.97
3/1/19 – 2/29/20	\$14.33	\$80,305.32	\$6,692.11

* Notwithstanding any provision of the Lease or this Amendment to the contrary, provided that there is no default which has not been remedied within any applicable cure period, Tenant’s obligation to pay Monthly Basic Rent shall be abated in its entirety during the first four (4) months of the Extension Term, *i.e.*, from March 1, 2017 through June 30, 2017.

6. **ADDITIONAL RENT.** For the remainder of the Current Term and throughout the Extension Term, Tenant shall continue to pay Tenant’s Share of Operating Costs pursuant to the terms set forth in the Lease, as well as all other Additional Rent specified in the Lease. In addition, Tenant shall continue to pay for utilities, janitorial and trash removal services provided to the Premises.

7. **REPRESENTATIONS.** Landlord and Tenant hereby acknowledge that the Lease is in full force and effect, and Landlord and Tenant each acknowledge that, to the best of such party’s knowledge, the other party has met all of its obligations under the Lease and is not currently in default thereunder.

8. **RATIFICATION.** Unless a term or condition of the Lease is expressly contradicted by the terms of this Amendment or modified hereby, all terms and conditions of the Lease shall remain in full force and effect and continue to bind Landlord and Tenant. In the event that a term of this Amendment is fundamentally inconsistent with a term of the Lease, the terms of this Amendment shall control. The terms of the Lease, as modified hereby, are ratified and affirmed by the parties.

9. **ENTIRE AGREEMENT.** This Amendment constitutes the entire agreement of the parties with respect to the subject matter addressed herein. No terms, conditions, representations, warranties, promises, or understandings, of any nature whatsoever, express or implied, have been made or relied upon by any party hereto. This Amendment may not be modified, waived, discharged or terminated other than by a writing executed by the parties hereto.

10. **BROKERS.** Landlord and Tenant each represent and warrant to the other that it has not employed any broker, agent or finder with regard to this Amendment, except First Potomac Management LLC and Chartwell Enterprises, which brokers will be paid solely by Landlord pursuant to separate agreements with Landlord.

11. **BINDING EFFECT.** The terms of this Amendment shall be binding upon the parties hereto and their respective successors and assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto set forth their hands and seals as of the date first set forth above.

WITNESS/ATTEST:

LANDLORD:

_____, LLC,
a Maryland limited liability company

By: _____
Partnership, Its Operating Member

By: _____
Its General Partner

Name: _____

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

TENANT:

HOWARD COUNTY, MARYLAND

Lonnie R. Robbins
Chief Administrative Officer

BY: _____ (SEAL)
Allan H. Kittleman
County Executive

APPROVED:

**APPROVED FOR FORM AND
LEGAL SUFFICIENCY**

James M. Irvin, Director
Department of Public Works

this ____ day of _____, 20__.

Gary W. Kuc
County Solicitor

**APPROVED FOR SUFFICIENCY
OF FUNDS:**

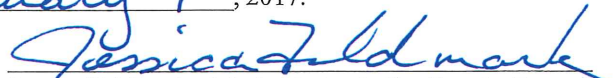
Reviewing Attorney:

Stanley J. Milesky, Director
Department of Finance

Morenike Euba Oyenusi
Sr. Assistant County Solicitor

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on February 9, 2017.


Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council