Introduced Notember 4, 2019 Public Hearing November 4, 2019 Council Action December 7, 2019 Executive Action December 7, 2019 Effective Date DECE WHEN 4, 2019

## County Council Of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 13

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## Bill No. 56 -2019

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

AN ACT pursuant to Section 612 of the Howard County Charter, approving a Third 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 Nover 9_, 2019. Ordered posted and hearing scheduled By order Make A. Male Diane Schwartz Jones, 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 Third time at a public hearing on <u>No'kernor</u> , 2019. By order <u>Diane Schwartz Jones</u> , Adprinistrator
	This Bill was read the third time on DCCCMC2019 and Passed Passed with amendments By order Diane Schwartz Jones, Admunistrator
	Scaled with the County Seal and presented to the County Executive for approval this the day of December, 2019 at 3 a.m./(n). By order Diane Schwartz Jones, Administrator
(	Approved/Vetoed by the County Executive De Cerry ber (e, 2019 Calvin Ball, 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; <u>Underlining</u> 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 and the Third Second Amendment to Maryland			
4	Multi-Tenant Industrial Lease dated March 1, 2017 (collectively, the "Lease"); and			
5				
6	WHEREAS, the Lease expires on February 29, 2020; and			
7				
8	WHEREAS, the County wishes to renew the Lease for a term of 2 years, through			
9	February 28, 2022; and			
10				
11	WHEREAS, the County and the landlord desire to enter into a Third Amendment to			
12	Maryland Multi-Tenant Industrial Lease (the "Third Amendment"), substantially the form			
13	attached as Exhibit A and such form of the Third Amendment is incorporated herein by reference;			
14	and			
15				
16	WHEREAS, the Third Amendment requires the payment by the County of funds from an			
17	appropriation in a later fiscal year and therefore requires County Council approval as a multi-year			
18	agreement pursuant to Section 612 of the Howard County Charter.			
19				
20	NOW, THEREFORE,			
21				
22	Section 1. Be It Enacted by the County Council of Howard County, Maryland that in accordance			
23	with Section 612 of the Howard County Charter, it approves the form and content of the Third			
24	Amendment to Maryland Multi-Tenant Industrial Lease for the 2-year term.			
25				
26	Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that			
27	the County Executive is hereby authorized to execute the Third Amendment to Maryland Multi-			
28	Tenant Industrial Lease for such term in the name of and on behalf of the County.			
29				
30	Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland that			
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1 the County Executive, prior to execution and delivery of the Third Amendment to Maryland Multi-2 Tenant Industrial Lease, may make such changes or modifications to the form of the Third Amendment, attached hereto and incorporated herein, as he deems appropriate in order to 3 4 accomplish the purpose of the transactions authorized by this Act, provided that such changes or 5 modifications shall be within the scope of the transactions authorized by this Act; and the execution 6 of the Third Amendment by the County Executive shall be conclusive evidence of the approval by 7 the County Executive of all changes or modifications to the Third Amendment, and the Third 8 Amendment shall thereupon become binding upon the County in accordance with its terms. 9

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10 Section 4. And Be It Further Enacted by the County Council of Howard County, Maryland that

11 *this Act shall be effective immediately upon its enactment.* 

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#### THIRD AMENDMENT TO MARYLAND MULTI-TENANT INDUSTRIAL LEASE

This Third Amendment to \_\_\_\_\_\_ Lease (this "Third Amendment") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_\_, a Delaware limited liability company, successor-in-interest to \_\_\_\_\_\_ ("Landlord") and HOWARD COUNTY, MARYLAND, a body corporate and politic ("Tenant").

### **RECITALS:**

I. \_\_\_\_\_\_, Landlord's predecessor in interest ("Original Landlord") and Tenant entered into that certain Maryland Multi-Tenant Industrial Lease dated February 27, 2015 ("Original Lease"), as amended by that certain First Amendment to Maryland Multi-Tenant Industrial Lease dated March 8, 2016 and as amended by that certain Second Amendment to Maryland Multi-Tenant Industrial Lease dated March 1, 2017 (collectively, the "Lease") for the Premises described as: \_\_\_\_\_\_\_\_, consisting of approximately 5,604 rentable square feet located in the Building, as defined in the Original Lease.

II. Original Landlord transferred the Building to the Landlord by deed dated \_\_\_\_\_, and recorded among the Land Records of Howard County, Maryland in Book \_\_\_\_\_, page \_\_\_\_.

III. The Lease expires by its terms on February 29, 2020 ("Expiration Date").

IV. Landlord and Tenant wish to amend the Lease by extending the Term by an additional twenty-four (24) months, and to make other modifications to the terms of the Lease as set forth herein.

Landlord and Tenant, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do covenant and agree as follows:

1. Unless otherwise defined herein, all capitalized terms shall have the same meaning as they have been assigned in the Lease.

2. Landlord and Tenant agree to extend the Term until **February 28, 2022** ("New Expiration Date"). The period between the Expiration Date and the New Expiration Date shall be referred to as the "Extension Term".

3. **Basic Rent:** For the Extension Term, Basic Rent payable by Tenant under the Lease, as amended, shall be as follows:

PERIOD	RATE/R.S.F.	MONTHLY BASIC RENT	ANNUAL BASIC RENT
03/01/2020 - 02/28/2021	\$14.33	\$6,692.11	\$80,305.32
03/01/2021 - 02/28/2022	\$14.76	\$6,892.87	\$82,714.44

Together with applicable sales tax and other additional rent applicable under the Lease.

4. **Condition of Premises/Landlord's Work:** Landlord shall re-paint the Premises; using building standards and at cost not to exceed \$3.00 per rentable square feet. Otherwise, Tenant is retaining the Premises in "As-Is" condition.

5. **Option to Renew:** Provided that at the time such option is exercised and at the expiration of the Term, (i) Tenant is not in default under the Lease, (ii) Tenant has not assigned this Lease or sublet the Premises, other than to permitted subleases or assignees as permitted in the Lease, (iii) Tenant continues to occupy the Premises, (iv) Tenant's use is consistent with the general quality of the tenants and uses in the Project, and (v) Tenant remains creditworthy, Tenant shall have one (1) option for an additional one (1) year term ("Renewal Option"). For the year exercised, the Basic Rent shall increase three percent (3%) over

the prior year. The Renewal Option shall not be cumulative and shall not renew as an option once exercised. If Tenant shall elect to exercise the option, it shall do so by giving Landlord written notice at least one hundred eighty (180) days prior, and no more than two hundred seventy (270) days prior to the expiration of the primary term of the Lease. Failure to provide proper notice within the time required shall terminate the pending option right of the Tenant.

6. Except as otherwise expressly set forth herein, this Third Amendment shall not be construed as (i) granting Tenant additional rights, including, but not limited to, any express or implied right to remain in the Premises after the Extension Term or (ii) a modification of any holdover provisions in the Lease.

7. **Brokerage:** Each of the parties represents and warrants that it has dealt with no broker or brokers in connection with the negotiation or execution of this Third Amendment, except \_\_\_\_\_\_ and \_\_\_\_\_, which brokers will be paid solely by Landlord pursuant to separate agreements with Landlord.

8. Security Deposit: Landlord is currently not holding a Security Deposit and no deposit is required for this Third Amendment.

9. Tenant represents that it has not made any assignment, sublease, transfer or conveyance of the Lease or any interest therein or in the Premises unless explicitly recited herein.

## 10. Landlord Notice Address: \_\_\_\_\_

11. The person executing this Third Amendment on behalf of Tenant hereby represents that Tenant and any entity signing on behalf of Tenant are valid and existing entities authorized to do business in the State of Maryland and that the actual signatory is fully authorized to act on behalf of the entity(ies) for which the individual is purportedly signing. The person executing this Third Amendment on behalf of Landlord hereby represents that Landlord and any entity signing on behalf of Landlord are valid and existing entities authorized to do business in the State of Maryland and that the actual signatory is fully authorized to act on behalf of the entity(ies) for which the individual is purportedly signing.

12. To the extent not inconsistent or in conflict with the terms of this Third Amendment, the terms of the Lease shall remain in full force and effect. In the event of any inconsistency or conflict, the terms of this Third Amendment shall govern.

THIS THIRD AMENDMENT shall be binding upon and inure to the benefit of Landlord and Tenant and their respective successors and assigns. This Third Amendment may be executed in counterparts.

## LANDLORD:

Ву: \_\_\_\_\_

, Authorized Signatory

(County signatures begin on the following page)

## TENANT:

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## ATTEST:

### HOWARD COUNTY, MARYLAND

Lonnie R. Robbins Chief Administrative Officer By: \_\_\_\_\_(SEAL)
Calvin Ball
County Executive
Date: \_\_\_\_\_

## APPROVED:

James M. Irvin, Director Department of Public Works

### **APPROVED** FOR SUFFICIENCY OF FUNDS:

Janet R. Irvin, Director Department of Finance

**APPROVED** FOR FORM AND LEGAL SUFFICIENCY this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

( )

Gary W. Kuc County Solicitor

**Reviewing Attorney:** 

Morenike Euba Oyenusi Sr. Assistant County Solicitor

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#### BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December to , 2019, Diane Schwartz Jones, Agministrator 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 \_\_\_\_\_\_, 2019.

Diane Schwartz Jones, 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 \_\_\_\_\_\_, 2019.

Diane Schwartz Jones, 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 \_\_\_\_\_\_, 2019.

Diane Schwartz Jones, 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 \_\_\_\_\_\_, 2019.

Diane Schwartz Jones, 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 \_\_\_\_\_\_, 2019.

Amendment \_\_\_\_\_ to Council Bill No. 56-2019

**BY:** The Chairperson at the request of the County Executive

Legislative Day <u>14</u> Date: December 2, 2019

( )

Amendment No.

(This amendment corrects a reference.)

1 On page 1, in line 3, strike "Third" and substitute "Second".

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NOOPTED December 7,209 FAHLED \_\_ FAILED STODISTORS Deane A Jone



- Subject:
   Testimony & Fiscal Impact Statement

   Council Bill No.
   2019, an Act pursuant to Section 612 of the Howard

   County Charter, approving a Third Amendment for the lease of space; and

   authorizing the County Executive to take certain actions in connection with

   the Agreement.
- To: Lonnie R. Robbins, Chief Administrative Officer

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- From: James M. Irvin, Director Department of Public Works
- **Date:** October 18, 2019

The Department of Public Works has been designated coordinator for preparation of testimony relative to approval of a Third Amendment for the leased space.

The County is currently leasing property pursuant to a Maryland Multi-Tenant Industrial Lease dated February 27, 2015, as amended by the First Amendment to Maryland Multi-Tenant Industrial Lease dated March 8, 2016, and the Second Amendment to Maryland Multi-Tenant Industrial Lease dated March 1, 2017 (collectively "the Lease").

The Lease expires February 29, 2020, and the County wishes to renew the Lease beginning on March 1, 2020 for a term of two years, through February 28, 2022, with a one-year renewal option. The County and the landlord desire to enter into a Third Amendment to Maryland Multi-Tenant Industrial Lease (the "Third Amendment"), substantially the form attached as Exhibit A, and such form of the Third Amendment is incorporated herein by reference.

The Third Amendment requires the payment by the County of funds from an appropriation in a later fiscal year and therefore requires County Council approval as a multi-year agreement pursuant to Section 612 of the Howard County Charter.

The two-year lease schedule starts at a base rental rate of \$14.33/sf, and then escalates 3% yearly and continues every twelve-month period thereafter.

Γ	PERIOD	RATE/R.S.F.	MONTHLY BASIC RENT	ANNUAL BASIC RENT
	03/01/2020 - 02/28/2021	\$14.33	\$6,692.11	\$80,305.32
	03/01/2021 - 02/28/2022	\$14.76	\$6,892.87	\$82,714.44

Representatives of this department will be present at the public hearing to answer any questions or concerns. If you require any further information concerning this matter or have any additional questions, please do not hesitate to contact me at your convenience.

cc: Jennifer Sager

Introduced	
Public Hearing -	
Council Action -	
Executive Action	
Effective Date -	

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# **County Council Of Howard County, Maryland**

2019 Legislative Session

Legislative Day No. 13

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Diane Schwartz Jones, Administrator
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By order Diane Schwartz Jones, Administrator
Sealed with the County Seal and presented to the County Executive for approval thisday of, 2019 ata.m./p.m.
By order
Diane Schwartz Jones, Administrator
Approved/Vetoed by the County Executive, 2019
Calvin Ball, County Executive
NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITAL indicates additions to existing law; Strike out

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12	Maryland Multi-Tenant Industrial Lease (the "Third Amendment"), substantially the form
13	attached as Exhibit A and such form of the Third Amendment is incorporated herein by reference;
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16	WHEREAS, the Third Amendment requires the payment by the County of funds from an
17	appropriation in a later fiscal year and therefore requires County Council approval as a multi-year
18	agreement pursuant to Section 61/2 of the Howard County Charter.
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# Amendment \_\_\_\_\_ to Council Bill No. 56-2019

**BY:** The Chairperson at the request of the County Executive

( )

Legislative Day <u>14</u> Date: December 2, 2019

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Amendment No.

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