

Introduced 6-7-2021
Public Hearing 6-21-2021
Council Action 7-6-2021
Executive Action 7-7-2021
Effective Date 7-7-2021

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No 10

Bill No. 462021

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

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year Lease between Howard County, Maryland and FV 9017 Red Branch, LLC, for the lease of 8,125 square feet of leasable space, commonly known as Suite E, located at 9017 Red Branch Road, Columbia, Maryland 21045; authorizing the County Executive to make changes to the Agreement, under certain conditions; authorizing the County Executive to execute the Agreement; and generally relating to the Agreement.

Introduced and read first time June 7, 2021. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, 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 June 21, 2021.
By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on July 6, 2021 and Passed , Passed with Agreements _____ Failed _____.
By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7 day of July, 2021 at 12 a.m. (p.m.)
By order Michelle Harrod
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive July 7, 2021
Calvin Ball
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 Agreement; Underlining indicates material added by Agreement

1 **WHEREAS**, FV 9017 Red Branch, LLC, a Maryland limited liability company,
2 is the fee simple owner of approximately 8,125 square feet of leasable space, commonly
3 known as Suite E, located at 9017 Red Branch Road, Columbia, Maryland 21045, (the
4 “Leased Premises”); and

5
6 **WHEREAS**, the County is in need of warehouse space and wishes to enter into a
7 Lease Agreement, substantially in the form attached hereto as Exhibit 1, for a term of 10
8 years and two months; and

9
10 **WHEREAS**, such a Lease requires the payment by the County of funds from an
11 appropriation in a later fiscal year and therefore requires County Council approval as a
12 multi-year agreement pursuant to Section 612 of the Howard County Charter.

13
14 **NOW, THEREFORE,**

15
16 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in*
17 *accordance with Section 612 of the Howard County Charter, it approves the multi-year*
18 *Lease Agreement between Howard County, Maryland and FV 9017 Red Branch, LLC,*
19 *substantially in the form attached as Exhibit 1.*

20
21 *Section 2. And Be It Further Enacted by the County Council of Howard County,*
22 *Maryland that the County Executive is hereby authorized to execute the Lease Agreement*
23 *for such term in the name of and on behalf of the County.*

24
25 *Section 3. And Be It Further Enacted by the County Council of Howard County,*
26 *Maryland that the County Executive, prior to execution and delivery of the Lease*
27 *Agreement, may make such changes or modifications to the Agreement as he deems*
28 *appropriate in order to accomplish the purpose of the transactions authorized by this Act,*
29 *provided that such changes or modifications shall be within the scope of the transactions*
30 *authorized by this Act; and the execution of the Agreement by the County Executive shall*
31 *be conclusive evidence of the approval by the County Executive of all changes or*

1 *modifications to the Agreement, and the Agreement shall thereupon become binding upon*
2 *the County in accordance with its terms.*

3

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

Exhibit 1

LEASE AGREEMENT

FV 9017 RED BRANCH, LLC

Landlord

HOWARD COUNTY, MARYLAND

Tenant

9017 RED BRANCH RD

COLUMBIA, MARYLAND 21045

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LEASE AGREEMENT

THIS **LEASE AGREEMENT** (the or this "Lease") is made this _____ day of _____, 2021 (the "Effective Date"), by and between **FV 9017 RED BRANCH, LLC**, a Maryland limited liability company (the "Landlord"), registered with and in good standing with the Maryland State Department of Assessments and Taxation and **HOWARD COUNTY, MARYLAND** (the "County" or the "Tenant"), a body corporate and politic.

WITNESSETH, that County covenants and agrees with Landlord as follows:

1. **LEASED PREMISES.** Landlord by the deed dated February 13, 2020 and recorded among the Land Records of Howard County, Maryland (the "Land Records") at Book: 19188, Page: 141 is the owner of that certain building known as 9017 Red Branch Road, Columbia, Maryland 21045 (the "Building") located on the certain real property shown as Lot 77 on Plat Book 29, folio 57 in the Land Records and Lot 77. The Building has 51,568 square feet of leasable space including related amenities and any additional facilities in subsequent years as may be determined by Landlord to be reasonably necessary or desirable for the management, maintenance or operation of the Building including the improvements constructed for the County herein (collectively the "Property").

Landlord hereby leases unto County, and County hereby leases from Landlord, a portion of the Building described as Suite E, and comprising a total of approximately 8,125 square feet of rentable space in the Building, and associated parking areas, pedestrian walkways, driveways and access roads, entrances and exits and other related amenities as set forth in this Lease (the "Leased Premises"), as identified on **Exhibit A** attached hereto and incorporated herein. County shall have the right of access to the Leased Premises twenty-four (24) hours per day, seven (7) days per week during the Term.

2. **TERM.** The initial term of this Lease (the "Initial Term") shall commence on the later of (i) August 1, 2021 or (ii) the date the Landlord delivers the Leased Premises with the Tenant Improvements by Landlord substantially complete in accordance with the terms herein (the "Commencement Date"), and ends at 11:59 p.m. on the last day of the 122nd full month following the Commencement Date (the "Initial Term Expiration Date"), unless the Lease is earlier terminated or extended pursuant to any other provision of this Lease or applicable law. The parties acknowledge that this Lease has been approved by the County Council of Howard County as a multi-year obligation in accordance with Council Bill __-2021. The Landlord and the County shall execute the Declaration of Commencement Date (the "Declaration") the form of which is attached hereto as **Exhibit B** to confirm, among other things, the Commencement Date, the Initial Term and the Initial Term Expiration Date. The Landlord shall complete and execute the Declaration after the Commencement Date and, if true and correct, Tenant shall execute and return the Declaration to Landlord within twenty (20) days following Tenant's receipt of same; otherwise Tenant shall notify Landlord of its objections to the information contained in the Declaration within such twenty (20)-day period. Failure to execute the Declaration shall not affect the commencement or expiration of the Initial Term.

a. **Extension Option.** If, at the end of the Initial Term, (a) County is not in default of any of the terms, conditions or covenants of this Lease, beyond any applicable notice and cure period, and (b) County has not assigned or sublet the Leased Premises, except as permitted herein, then County shall have the option to extend the Term (the "Extension Option" for one (1) additional period of five (5) years (the "Option Period") upon the same terms and conditions contained in this Lease. The Extension Option is personal to the County and may not be exercised or assigned, voluntarily or involuntarily, by or to any person or entity other than the County or another governmental or quasi-governmental department, division or agency of Howard County, Maryland or the State of Maryland (a "Government Agency").

b. **Extension Notice.** If County desires to exercise the Extension Option to extend the Term (subject to County's compliance with the standards set forth herein), County shall notify Landlord in writing of County's intention to do so at least three hundred sixty-five (365) calendar days prior to the expiration date of the Term. After proper and timely exercise of the Extension Option by County, all references in this Lease to "Term" shall be considered to mean the Initial Term or Option Period as extended, and all references in this Lease to the expiration date or to the end of the Term shall be considered to mean the termination or end of the Option Period.

c. **Surrender of Leased Premises.** County shall, at the expiration of the Term or at the sooner termination thereof by forfeiture or otherwise, surrender the Leased Premises in the same good order and condition as existed at the beginning of the tenancy, reasonable wear and tear excepted and the Tenant Improvements shall remain.

3. RENT.

a. **Annual Rent and Payment.** In consideration for the use of the Leased Premises under the Lease, the County shall pay to Landlord, in twelve equal monthly installments, an annual rent ("Annual Rent") as shown in the rent schedule below which includes the base rent per square foot and the County's Proportionate Share of the Operating Expenses (as further defined herein) for the base year. The base rent per square foot portion of the Annual Rent shall be increased annually at the rate of two point seven five percent (2.75%) after the 1st full year of the Initial Lease Term, including during the Option Period. The County's Proportionate Share of Operating Expenses shall be payable as set forth in Section 4 herein. The County shall receive two (2) months of Annual Rent abatement as to the Leased Premises following the Commencement Date (i.e. Annual Rent for the initial Leased Premises abates for the first two (2) months following the Commencement Date). As may be set forth in the Work Agreement, the County shall be granted early access to the Leased Premises at least four (4) weeks prior to the Commencement Date, free of charge, for the installation of the County's furniture, fixtures, and equipment; provided, however, such entry or installation shall not unreasonably interfere with or delay the orderly construction and completion of the Leased Premises by Landlord. Upon any such entry, all provisions of this Lease shall apply to County's use and

occupancy of the Leased Premises, including, but not limited to, County's obligation to ensure that all required insurance is in effect.

County shall pay each monthly installment of the Annual Rent in advance on the first (1st) day of each month without demand, deduction or set-off. Said rental shall be paid to: c/o Mackezie Management, 2328 W. Joppa Road, Suite 200, Lutherville, Maryland 21093, or in such manner and at such other place or to such appointee of Landlord, or as Landlord may from time to time designate on the invoice.

Period	Base Rent per square foot	Monthly Installment of Annual Rent Based on 8,125 square feet	Annual Rent Based on 8,125 square feet
Commencement Date to End Year 1	\$9.80	\$6,635.42	\$66,354.20 (indicates only 10 months of payment because of abatement)
Year 2	\$10.07	\$6,817.89	\$81,814.69
Year 3	\$10.35	\$7,005.38	\$84,064.59
Year 4	\$10.63	\$7,198.03	\$86,376.37
Year 5	\$10.92	\$7,395.98	\$88,751.72
Year 6	\$11.22	\$7,599.37	\$91,192.39
Year 7	\$11.53	\$7,808.35	\$93,700.18
Year 8	\$11.85	\$8,023.08	\$96,276.94
Year 9	\$12.18	\$8,243.71	\$98,924.55
Year 10	\$12.51	\$8,470.41	\$101,644.98
Year 11 (Partial) 2 months	\$12.85	\$8,703.25	\$17,406.50

b. **Late Payment Charge.** Except for the rent due on July 1 of each lease year, if County fails to pay, when due and properly invoiced by Landlord, the monthly installment of Annual Rent, Operating Expenses or any other sum required by the terms of this Lease to be paid by County, then, the Landlord shall promptly notify the County that the payment of such amount has not been received and if the County does not remit the amount due within ten (10) days after such notice, Landlord may assess a late payment fee of \$300.00. The Landlord and the County agree that the rent due on July 1 of each lease year may be paid on or before July 20th without penalty, in order to accommodate the start of the new fiscal year of the County. In no event shall the County be subject to interest on any portion of the Annual Rent herein.

4. OPERATING EXPENSES.

a. **General.** The County shall pay, in monthly installments, in advance on the first (1st) day of each month, the County's Proportionate Share of Operating Expenses for the calendar year in question. If any portion of the Buildings is not fully occupied during the calendar year, Landlord shall gross up Operating Expenses which vary

with occupancy for such period so that Operating Expenses are computed as though the Buildings had been fully occupied. By April 30th of each year (and as soon as practical after the expiration or termination of this Lease or, at Landlord's option, after a sale of the Property), Landlord shall provide the County with a statement of Operating Expenses for the preceding calendar year or part thereof including copies of invoices for the actual Operating Expenses incurred. Within sixty (60) days after delivery of the statement of Operating Expenses (including invoices for the Operating Expenses incurred) to the County and after any questioned expenses have been satisfactorily explained or disputed as set forth below, County shall pay to the Landlord the remaining portion of the County's Proportionate Share of the actual Operating Expenses for the Leased Premises. In the event the County's Proportionate Share of the actual Operating Expenses incurred is less than the total payments of Operating Expenses made by the County for the preceding calendar year, the Landlord shall refund such overpayment within fifteen (15) business days. Commencing on January 1, 2022, the Landlord specifically agrees that Controllable Operating Expenses shall not increase by more than three percent (3%) per year over the immediately preceding calendar year on a non-cumulative basis. In the event of a partial calendar year, in order to calculate the above limitation, the amounts payable by Tenant shall be projected over and increased to cover a full calendar year. Controllable Operating Expenses shall mean Operating Expenses other than taxes, insurance, utilities, snow and ice removal and security. Landlord's and the County's obligation to reconcile the Operating Expenses due the other pursuant to this Section shall survive the expiration or termination of this Lease.

b. **Inclusions in Operating Expense.** "Operating Expenses" means all costs, fees, charges and expenses incurred or charged by Landlord in connection with the ownership, operation, maintenance and repair of, and services provided to, the Property, including, but not limited to:

- (i) The actual charges to Landlord for the operation and maintenance of Buildings' mechanical (HVAC), plumbing, electrical, and fire suppression systems.
- (ii) The cost of insurance premiums carried by Landlord for the Building.
- (iii) Landlord's cost to maintain the Property.
- (iv) To the extent not otherwise payable by the County pursuant to this Lease, all real estate taxes with respect to the Building and the Property.

Landlord shall have the right to directly perform (by itself or through an affiliate) any services provided under this Lease provided that the Landlord's charges included in Operating Expenses for any such services shall not exceed competitive market rates for comparable services in Howard County, Maryland.

c. **Exclusions from Operating Expenses.** Notwithstanding anything to the contrary in this Lease, Operating Expenses described above shall not include:

- (i) Interest on and amortization of mortgages or other loans of Landlord or the costs of refinancing the Building, Property or portion thereof.

(ii) Salaries of Landlord's employees not engaged in the operation, management, maintenance or repair of the Building.

(iii) Leasing commissions, advertising expenses and other such expenses incurred in leasing or marketing space within the Building or Property.

(iv) Expenses incurred by Landlord to prepare, renovate, repaint or redecorate any space leased to any other tenant or other occupant of the Building or Property.

(v) Expenses for the replacement of any item covered under warranty, Landlord shall make commercially reasonable efforts to enforce any such warranty.

(vi) Costs of correcting any penalty or fine incurred by Landlord due to Landlord's violation of any federal, state, or local law or regulation and any interest or penalties due for late payment by Landlord of any of the Operating Expenses.

(vii) Expenses for any item or service which County pays directly to a third party (i.e., electricity, janitorial, trash collection and security for the Leased Premises) or separately reimburses Landlord, and expenses incurred by Landlord to the extent the same are reimbursable (pursuant to the terms of leases or contracts at the Property) or reimbursed from any other tenants, occupants of the Building, or third parties (other than through the payment of Operating Expense under other leases).

(viii) Landlord's general overhead and administrative expenses.

(ix) Any cost or other sum incurred as a result of the gross negligence of Landlord or any agent, employee, contractor or invitee of Landlord.

(x) Landlord's legal fees.

(xi) Depreciation expense of the Building and amortization expenses, subject to Section 4(b)(iv) of this Lease.

(xii) Income, excess profits or corporate capital stock tax imposed or assessed upon Landlord.

(xiii) Cost of any service provided by Landlord for a tenant or former tenant or for other premises in the Building or Property which service is not provided by Landlord to the Leased Premises pursuant to the terms of this Lease.

(xiv) Any cost to repair the common areas which are covered by insurance of Landlord or any other insured party (but only to the extent of amounts recovered from the insurer).

(xv) Interest or penalties resulting from delinquent payments by Landlord.

(xvi) Any costs of work covered by a warranty or guaranty for which the Landlord is liable.

(xvii) Any costs not associated with the Property, such as travel costs, entertainment costs, expenses and fees to remain in good standing in the state of Maryland, and any costs incurred by an affiliate of Landlord.

(xviii) The cost of any improvements to the Property that are capital improvements.

(xix) The cost of trash collection or recycling programs instituted at the Building if County pays for such services directly to a provider.

d. **County's Proportionate Share.** "The County's Proportionate Share" means the percentage obtained by dividing the rentable square feet of the Leased Premises by the rentable square feet of the Buildings or 15.76%. If the rentable square feet of the Buildings and Leased Premises is re-measured by Landlord, then the County's Proportionate Share may be decreased, but not increased, accordingly.

e. **Invoices, Right to Audit.** The invoices shall include, as backup, true copies of invoices for the services for which Operating Expenses are requested. For costs where such invoices are confidential, (i.e. salaries paid to Landlord's employees) the Landlord must certify and warrant that such payments for such costs were made. The County may physically audit the Landlord's records to determine the validity of reimbursement or credits due under this Lease. All financial records and tenant statements shall be prepared in accordance with generally accepted accounting principles (GAAP) consistently applied and made available to County as reasonably requested from time to time. No such audit shall be performed on a contingency basis. If County exercises the right to audit the books and records associated with this Lease, County shall pay the expense of auditing the books and records. However, Landlord shall pay all audit expenses (not to exceed \$2,500.00 in the aggregate) if County is found to have been overcharged by 5% or more in any calendar year related to Operating Expenses. The Landlord shall credit the amount of the overpayment of such expenses to the County and, if applicable, reimburse the County for the cost of the audit.

5. **DELIVERY OF POSSESSION.** Landlord agrees to deliver to County, and County agrees to accept from Landlord, possession of the Leased Premises when Landlord advises County in writing that the Tenant Improvements are completed as set forth herein. The parties intend for the Leased Premises to be delivered to the County for the intended use as warehouse storage.

6. **TENANT IMPROVEMENTS.** The Landlord and the County have entered into a Work Agreement hereby incorporated herein and attached hereto as **Exhibit C** for the completion of the improvements to the Leased Premises for the County's use of the Leased Premises throughout the Term. The improvements to the Leased Premises as specified in the Work Agreement and any plans or drawings referenced in the Work Agreement are the "Tenant Improvements".

a. **Timely Completion of Tenant Improvements.** The Landlord agrees that the timely completion of the Tenant Improvements is a material term of this Lease as the County requires warehouse space to accommodate storage needs. Accordingly, the Landlord agrees that the Tenant Improvements shall be Substantially Complete on or before the Completion Date as set forth in the Work Agreement. For purposes of this Lease, the Tenant Improvements shall be considered "Substantially Complete" on the date the certificate of use and occupancy is issued by the Department of Inspections, Licensing and Permits of Howard County, Maryland. If Landlord encounters delays in delivering possession of the Leased Premises to County due to Events of Force Majeure, this Lease will not be void or voidable, nor will Landlord be liable

to County for any loss or damage resulting from such delay. As used herein, the term "Events of Force Majeure" shall mean any delay encountered by Landlord in carrying out its obligations under this Section 6 resulting from strikes, lockouts, earthquakes, floods, unavailability of labor, inclement weather, unavailability of standard materials, customary facilities, equipment or supplies, governmental building moratoriums, governmental or administrative action or inaction, riot, insurrection, mob violence or civil commotion, war, acts of God, delays or inaction by utility providers, or other acts beyond the reasonable control of Landlord and not due to Landlord's acts or omissions or financial condition (individually or collectively "Events of Force Majeure").

b. **Landlord's Work**. As used herein, the term "Landlord's Work" shall mean (i) the Tenant Improvements to be completed by Landlord under the terms of the Work Agreement and (ii) other amenities or improvements to the Building or Property at the Landlord's expense, as defined herein, including such improvements required in order for the Building or Property to comply with the Legal Requirements, as shown in **Exhibit D**, attached hereto and hereby incorporated herein. All of Landlord's Work shall be performed by Landlord and shall comply with all Legal Requirements, as defined herein. Landlord shall obtain, at Landlord's expense, and comply with all permits required by the Legal Requirements in connection with the performance of the Landlord's Work (collectively, the "Building Permits"). "Punch list" items, as referred to in this Section 6 are items that will require correction but that will not materially interfere with, or cause a delay to, County's occupancy of the Leased Premises as contemplated herein. Within fifteen (15) days following the date of delivery of possession of the Leased Premises, County shall deliver a punch list, if any, to Landlord. Landlord agrees to correct all such punch list items as soon as reasonably practicable, but in any event no later than twenty (20) business days from the date of the punch list. The Landlord's Work shall be warranted for a repair and replacement for a period of one (1) year. Landlord shall assign to the County all warranties associated with the Tenant Improvements. Such assignment of warranties shall not relieve the Landlord from its obligation to promptly correct any Punch List items or Latent Defects, as defined herein, at no expense to the County.

In the event a Latent Defect is discovered by the County and written notice thereof is received by the Landlord within two hundred seventy (270) days following the Commencement Date, the Landlord will use commercially reasonable efforts to pursue and seek to enforce any warranties provided by the contractor with respect to such Latent Defect. Notwithstanding the foregoing, in the event a Latent Defect within the HVAC equipment and systems serving the Leased Premises is discovered by County and written notice thereof is received by Landlord within one hundred eighty (180) days following the Commencement Date or to the extent of any warranties available to the Landlord, Landlord will use commercially reasonable efforts to pursue and seek to enforce any warranties provided by the supplier or contractor with respect to such Latent Defect. As used herein, the term "Latent Defect" means any failure of the Tenant Improvements in any material respect, which failure was not discoverable with reasonably diligent inspection and inquiry prior to the Commencement Date.

c. **Intentionally Deleted**

7. **USE.** County shall use and occupy the Leased Premises for conditioned warehouse storage, office space and legally permitted uses by a government. The County may allow the State's agencies, quasi-governmental agencies, or non-profit entities to use a portion of the Leased Premises from time to time, in the County's sole discretion, and such uses shall not be deemed an assignment or subletting of this Lease.

8. **LAWS AND REGULATIONS.** Landlord and County shall observe and comply with all laws, orders, rules, requirements, ordinances and regulations of the United States and the State and City or County in which the Leased Premises are located, and of all governmental authorities or agencies and of any board of the fire underwriters or other similar organization (collectively the "Legal Requirements"), with respect to the Property, Building and the Leased Premises and the manner in which the Property, Building and Leased Premises are used by Landlord, County and, as applicable, other tenants of the Building. In no way limiting the generality of this section, Landlord and County shall complete all improvements or alterations to the Property, Building and/or Leased Premises, as applicable, in accordance with the Americans with Disability Act of 1990 (42 U.S.C., Section 12101 *et seq.*) and regulations and guidelines promulgated thereunder, as amended and supplemented from time to time, (collectively the "ADA").

9. **ASSIGNMENT BY COUNTY.** Landlord acknowledges that the County may allow agencies of the state of Maryland, quasi-governmental agencies and non-profits entities serving the citizens of the County to utilize a portion of the Leased Premises from time to time, subject to the terms and conditions of Section 7 above.

10. **INSURANCE, SUBROGATION and INDEMNIFICATION.**

a. **County's Self-Insurance.** Landlord acknowledges that County is self-insured and will maintain or appropriate reasonable reserves or funds, as the case may be, to cover claims, losses and damages that might arise or be incurred during its occupancy of the Leased Premises which otherwise may be covered by Business Personal Property Insurance covering Special Causes of Loss, Commercial General Liability insurance (written on an occurrence basis) which, unless approved by Landlord in writing, in no event shall be for coverage less than One Million Dollars (\$1,000,000) combined single limit per occurrence with a One Million Dollar (\$1,000,000) annual aggregate, and Workers' Compensation insurance including Employer's Liability insurance, which, unless approved by Landlord in writing, such Workers' Compensation insurance shall be for the statutory benefits in the jurisdiction in which the Leased Premises are located.

b. **Landlord's Insurance.** Throughout the term of this Lease, Landlord shall obtain and maintain:

(i) Real Property Insurance against Special Causes of Loss and said insurance shall be subject to Replacement Cost valuation covering the Building and all of

Landlord's property therein in an amount required by its insurance company to avoid the application of any coinsurance provision, and

(ii) Commercial General Liability insurance (written on an occurrence basis) and said insurance shall include Contractual Liability coverage insuring the obligations assumed by Landlord under this Lease, Leased Premises and Operations coverage, Personal Injury Liability coverage, Independent Contractor's Liability coverage. Such Commercial General Liability insurance shall be in amounts not less than One Million Dollars (\$1,000,000) combined single limit per occurrence with a Two Million Dollar (\$2,000,000) annual aggregate.

c. **Waiver of Subrogation and Indemnity.**

(i) If either party hereto is paid any proceeds under any policy of insurance naming such party as an insured on account of any loss or damage, then such party and its insurer hereby releases the other party, to the extent of the amount of such proceeds including applicable deductibles, from any and all liability for such loss or damage, notwithstanding that such loss, damage or liability may arise out of the negligent or intentionally tortious act or omission of the other party, its agents, invitees or employees; provided that such release shall be effective only as to loss or damage occurring while the appropriate policy of insurance of the releasing party provides for the insured's ability to recover thereunder. Each party shall assure that its insurance carriers agree to waive subrogation in the event of a loss.

(ii) Subject to Maryland's Local Government Tort Claims Act, approved budget appropriations and applicable law, County shall indemnify and hold harmless Landlord from and against all claims, damages, losses, liabilities, judgments, costs and/or expenses (i) relating to or arising out of County's negligence, acts or omissions from the use and occupancy of the Leased Premises, or (ii) due to or arising out of any mechanic's lien filed against the Building, or any part thereof, for labor performed or for materials furnished or claimed to be furnished to County, which have not been bonded by the County or contested by the County in accordance with the State court procedures. The provisions of this Section shall survive the termination of this Lease for a period of one (1) year with respect to any claims or liability accruing prior to such termination. Nothing contained in this Section 10(c)(2) or this Lease shall be construed as the County having waived any of the defenses of immunity provided to it under law. As a condition of indemnification, Landlord agrees to notify the County of any suits, claims or potential claims within fifteen (15) business days of its own notice of such suits, claims or potential claims.

11. **ALTERATIONS.** Except for any improvements required to maintain and repair the interior of the Leased Premises in accordance with this Lease or the installation of trade fixtures, furniture and equipment necessary for the County use of the Leased Premises, the County shall make no alterations, additions or improvements beyond the Landlord's Work in the Leased Premises (herein collectively referred to as "Alterations") in or to the Leased Premises without the Landlord's prior written consent, which consent

shall not be unreasonably withheld, conditioned or delayed in the case of non-structural alterations, and may be withheld in Landlord's sole and absolute discretion in the case of structural alterations, and then only by contractors or mechanics reasonably approved by Landlord, and at such times and in such manner as Landlord may from time to time reasonably designate.

12. REPAIRS AND MAINTENANCE.

a. **Maintenance of Interior of Leased Premises.** County shall maintain the interior of the Leased Premises in good order and condition, ordinary wear and tear excepted. The County shall be responsible for the repair and maintenance of any security system serving the Leased Premises. County shall, at its own cost, have the right, to (i) extend the County's fiber optic service to the Leased Premises (provided, however, Landlord's prior written approval shall be required for any work to be done in the common areas and/or parking areas of the Property, such approval not to be unreasonably withheld, conditioned or delayed); and (ii) obtain cable service in the County's own name to the Leased Premises.

b. **Maintenance of Building and Exterior of Leased Premises.** Landlord shall maintain, repair and replace, as applicable, all (i) exterior windows and walls, (ii) common areas, the roof and the exterior of the Building, as well as the structure thereof, and (iii) the parking facilities, private drives and ways and sidewalks, so that the Leased Premises, the Building and the Property remain in good order and repair, reasonable wear and tear excepted, and safe for occupancy and use. Such repair and maintenance shall include the seasonal services of landscaping and grass cutting of the Property and the removal of snow and ice from driveways, parking areas and sidewalks, as needed. If Landlord does not initiate any required maintenance, repairs, or replacements within one (1) day following written notice from the County and thereafter diligently pursue such required maintenance, repairs, or replacements to completion County shall have the right to perform such maintenance, repair or replacement, and recoup the cost of such work.

c. **Intentionally Deleted.**

13. **SERVICES.** All Landlord's services to be provided to the Leased Premises twenty- four (24) hours per day three hundred sixty-five (365) days per year.

a. **Electricity.** Landlord shall furnish the Property, Building and Leased Premises with electricity and the electricity supplied to the Leased Premises shall be suitable for County's intended use. The electricity for the Leased Premises shall be separately metered (or sub-metered) at Landlord's expense and the cost of the electricity supplied paid for directly by County.

b. **HVAC.** Landlord shall maintain, repair and replace the HVAC system and equipment for the Leased Premises such that heating and air conditioning are supplied for the comfortable use and occupancy of the Leased Premises twenty- four

(24) hours per day, seven (7) days a week, three hundred sixty-five (365) days per year. County shall have sole control over the temperature of the Leased Premises to regulate heating and air conditioning from within the Leased Premises. The County shall reimburse the Landlord within thirty (30) days following receipt of an invoice for the costs incurred by the Landlord pursuant to this Section 13.b., including, without limitation, the cost of the preventative maintenance contract. Landlord, at its sole discretion, may purchase an additional one (1) year warranty, above and beyond the standard one (1) year warranty. Notwithstanding the foregoing, the Landlord, at Landlord's sole cost, shall be responsible for the repair and replacement costs in excess of \$3,000.00 (excluding the cost of the maintenance contract) in a calendar year of any particular HVAC unit serving the Leased Premises, unless such repair or replacement results from or arises in connection with County's negligence and/or intentional misconduct, in which case County shall be solely responsible for all costs and expenses associated with such repair or replacement.

c. **Water and Sewer.** Landlord shall maintain and supply adequate water and sewer services for the Building, including without limitation the Leased Premises.

d. **Voice and Data.** County shall contract directly for the installation and maintenance of its voice and data systems and a telecommunications service provider for all phone, internet, security devices and network services, including the use of the roof of each Building. County and Landlord shall coordinate during the period of Landlord's Work to determine if voice and data installation should take place during this time. Landlord shall have reasonable approval rights for wiring installation.

e. **Miscellaneous.** Landlord shall furnish, supply and maintain, repair and replace, as applicable, all hallways, light fixtures (including light bulbs), stairways, lobbies, restroom facilities and maintain the Building grounds, parking facilities and other common areas of the Property at its sole cost and expense (subject to inclusion in Operating Expenses), in a safe and sanitary condition and the County's share of cost for maintenance and repairs incurred during the calendar year shall be passed through to the County as an Operating Expense as set forth herein. The Landlord shall use its commercially reasonable efforts to clear snow and ice from the driveways and sidewalks within the Property in a manner to allow the continued business operations of the County. Janitorial services for the Leased Premises shall be provided by the County, at its sole cost and expense, and therefore not included as an Operating Expense charged to the County.

f. **Loss of Service.** Landlord shall have no liability or responsibility to supply heat, air conditioning, plumbing, cleaning, and/or electric service, when prevented from so doing by laws, orders or regulations of any Federal, State, County or Municipal authority or by strikes, accidents, or by any other cause whatsoever, beyond Landlord's control and shall have no liability whatsoever for any interruptions in utility services. Notwithstanding the foregoing, if any of the foregoing services is interrupted due solely to the non-payment, gross negligence or willful misconduct of Landlord such that the County cannot and does not reasonably conduct its permitted use in the Leased Premises from the standpoint of prudent business management and the interruption continues for more

than two(2) business days following Landlord's receipt of notice from the County, then Annual Rent shall abate as to the portion of the Leased Premises rendered unusable during the period beginning on business day of the interruption and ending on the date the service is restored. County shall have the right to install a portable generator on the Property in the event of loss of electric service.

14. **DEFAULT.** If County fails (i) to pay installments of Annual Rent and such failure continues for ten (10) days after Landlord has given written notice to County, or (ii) to pay installments of Operating Expenses and such failure continues for ten (10) days after Landlord gives written notice to County or (iii) to perform any other material obligation of County under this Lease and such failure continues for thirty (30) days after Landlord has given written notice to County then, upon the happening of such event Landlord may terminate the Lease and repossess the Leased Premises and be entitled to recover as damages a sum of money equal to the total of the following amounts: (i) any unpaid rent or any other outstanding monetary obligation of County to Landlord under the Lease for the remainder of the then current Term of the Lease and (ii) all reasonable costs incurred in recovering the Leased Premises, and restoring the Leased Premises to good order and condition. The foregoing shall not limit any other remedies Landlord may have as a result of such default, it being acknowledged and agreed that Landlord shall be entitled to all remedies available at law and equity for any default by the County hereunder.

15. **DAMAGE.** In the case of the total destruction of the Leased Premises by fire, other casualties, the elements, or other cause, or of such damage thereto as shall render the same totally unfit for occupancy by County for more than one hundred twenty (120) days, this Lease, upon surrender and delivery to Landlord by County of the Leased Premises, together with the payment of the Annual Rent to the date of such occurrence and a proportionate part thereof to the date of damage, shall terminate, and the parties shall have no further obligations or liabilities under this Lease from the date of said termination, except as provided for in provisions of this Lease which by their terms survive the expiration or earlier termination of the Term. If the Leased Premises are rendered partly untenable by any cause mentioned in the preceding sentence, Landlord shall, at its own expense, within one hundred twenty (120) days from the date of the damage restore the Leased Premises with reasonable diligence, including without limitation modifications required by zoning and building codes and other laws or by the holder of a mortgage on the Building, and the rent shall be abated proportionately for the period of said partial untenability and until the Leased Premises are fully restored by Landlord to the prior or better condition.

Notwithstanding the terms of the foregoing paragraph, Landlord may elect not to rebuild and/or restore the Leased Premises and/or Building and instead terminate this Lease by notifying County in writing of such termination within sixty (60) days after the date of damage, such notice to include a termination date giving County ninety (90) days, from the date of said notice, to vacate the Leased Premises. Notwithstanding the foregoing, Landlord may elect this option of termination only if the Building is damaged by fire or other casualty or cause, whether or not the Leased Premises are affected, and one or more of the following conditions is present: (i) repairs cannot reasonably be completed within one

hundred twenty (120) days from the date of damage (when such repairs are made without the payment of overtime or other premiums), (ii) the holder of any mortgage on the Building or ground or underlying lessor with respect to the Property and/or the Building shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground or underlying lease, as the case may be, or (iii) the damage is not fully covered, except for deductible amounts, by Landlord's insurance policies. In addition, if the Leased Premises or the Building is destroyed or damaged to any substantial extent during the year of the Term, then notwithstanding anything contained in this Section, Landlord or County shall have the option to terminate this Lease by giving written notice to the other of the exercise of such option within thirty (30) days after such damage or destruction, in which event this Lease shall terminate as of the date of such notice. Upon any such termination of this Lease pursuant to this section, County shall pay the Annual Rent and Operating Expenses properly apportioned up to such date of termination, and thereafter both parties shall be released and discharged of all further obligations hereunder, except as provided for in provisions of this Lease which by their terms survive the expiration or earlier termination of the Term.

16. **PARKING AND GROUNDS.** During the Term, County, at no additional charge, shall have the right to use a minimum of seven (7) parking spaces in the parking lot serving the Building and the right to use the remainder of the parking lot serving the Building and Property. County may park operable vehicles in areas of the Property designated for non-reserved parking and park operable vehicles and trailers overnight at the truck loading docks and truck and trailer parking areas for the Leased Premises in the areas outlined in red on Exhibit A-1 attached hereto, provided there is no interference with the access of other tenants to the Building to parking lots and truck courts. Landlord shall permit the County to install two (2) electric car parking and plug-ins (but subject, however, to Landlord's review of the County's plans and specifications therefor and Landlord's approval of the proposed location thereof).

17. **SIGNS.** County, at County's sole expense, shall have the right to provide building-signage on the Building's entrance directory and/or suite entry door if required by the County. The County may provide, install and maintain exterior signs (with an electronic display and County logo) in a location approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. Additionally, if such signage is illuminated and the electricity serving such signage is not separately metered to the County, then the County shall reimburse Landlord within thirty (30) days following receipt of an invoice for all electricity costs associated with such illuminated signage.

18. **LANDLORD'S RIGHT OF ENTRY.** Upon twenty-four (24) hours prior notice (except in the event of an emergency for which prior notice shall not be required) and provided that a Police employee of the County shall have the right to be present on the Leased Premises (except in the event of an emergency), the Landlord, and its agents, servants, and employees, including any builder or contractor employed by Landlord, shall have, upon reasonable advance notice to County, the right, license and permission, at any and all reasonable times, (i) to inspect the Leased Premises for maintenance and repair, (ii) to make any alteration, improvement or repair to the Leased Premises, or (iii) to exhibit

the same to prospective purchases or mortgagees, or to exhibit the same to prospective tenants during the last year of the Term. Notwithstanding the foregoing, (i) Landlord, and its agents, servants, and employees, including any builder or contractor employed by Landlord, shall not interfere with the business or operations of County, and (ii) if County is conducting sensitive, confidential matters, or case work at the time planned for an entry by Landlord or anyone acting by, through or under Landlord, then Landlord shall reschedule such entry with County to a mutually agreeable date and time.

19. **EXPIRATION.** It is agreed that the Term expires on the Term Expiration Date, without the necessity of any notice by or to any of the parties hereto. If County occupies the Leased Premises after such expiration, it is understood that, in the absence of any written agreement to the contrary, County shall hold the Leased Premises as a holdover "Tenant from month to month", subject to all the other terms and conditions of this Lease, at one hundred fifty percent (150%) of the highest monthly rental installments reserved in this Lease or agreed to by Landlord and County in writing with respect to the Option Period, if applicable; provided that Landlord shall, upon such expiration, be entitled to the benefit of all public general or public local laws relating to the speedy recovery of the possession that may be now in force or may hereafter be enacted, excluding the recovery of consequential damages. As used in this Lease, a "month-to-month" tenancy shall mean that during such period either Landlord or County may terminate this Lease upon thirty (30) days' notice to the other party.

Not more than seven (7) days prior to expiration, County agrees to schedule an inspection with Landlord to confirm that the Leased Premises will be in the condition as provided in this Lease.

20. **CONDEMNATION.** It is agreed in the event that condemnation proceedings are instituted against a material portion of the Leased Premises and title taken by any Federal, State, or the County, then this Lease shall become null and void at the date of settlement of condemnation proceedings and County shall not be entitled to recover any part of the award which may be received by Landlord.

21. **SUBORDINATION; RECORDATION OF LEASE.** Landlord shall use commercially reasonable efforts to obtain a subordination, non-disturbance and attornment agreement from its current lender holding a deed of trust on the Leased Premises on such lender's standard form, subject to such commercially reasonable modifications as the County and such lender shall mutually agree upon. The parties agree that this Lease shall not be recorded among the Land records of Howard County; however, a memorandum of this Lease in the form attached hereto as **Exhibit G** may be recorded in the land records of Howard County at the County's sole cost and expense.

22. **NOTICES.** Any written notice required by this Lease shall be deemed sufficiently given, on the day it is hand delivered if there is a verified signed receipt, or within three (3) business days if sent via first class mail, postage pre-paid, certified mail and there is a signed return receipt, or on the next business day if sent by overnight courier service if there is a verified signed receipt.

Any notice required by this Lease is to be sent to Landlord at:

FV 9017 Red Branch, LLC
2201 Wisconsin Avenue, NW, Suite 200
Washington, D.C. 20007

Any notice required by this Lease is to be sent to County at the Leased Premises with a copy to:

Chief, Real Estate Services Division
Department of Public Works
George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043

Chief of Bureau of Facilities
Department of Public Works
9200 Berger Road
Columbia, Maryland 21046

23. **REMEDIES NOT EXCLUSIVE.** No remedy conferred upon either Landlord or County at law or in equity shall be considered exclusive of any other remedy, but shall be in addition to every other remedy available to Landlord or County as to claims arising under this Lease. Every remedy available to Landlord or County may be exercised concurrently or from time to time, as often as the occasion may arise.

24. **WAIVERS.** It is understood and agreed that nothing shall be construed to be a waiver of any of the terms, covenants and conditions herein contained, unless the same be in writing, signed by the party to be charged with such waiver, and no waiver of the breach of any covenant shall be construed as the waiver or the covenant of any subsequent breach thereof.

25. **PERFORMANCE.** It is agreed that the failure of either Landlord or County to insist in any one or more instances upon a strict performance of any covenant of this Lease or to exercise any right provided for herein shall not be construed as a waiver or relinquishment for the future of such covenant or right, but the same shall remain in full force and effect, unless otherwise expressed in writing by Landlord or County.

26. **FINAL AGREEMENT.** This Lease contains the final and entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

27. **QUIET ENJOYMENT.** County, upon paying the Annual Rent and Operating Expenses, and other charges herein provided, and observing and keeping all of its

covenants, agreements, and conditions in this Lease, shall have the right of quiet enjoyment to the Leased Premises during the Term without hindrance or molestation by anyone claiming by, through or under Landlord

28. **ESTOPPEL CERTIFICATE.** Within fifteen (15) business days following a request in writing by Landlord, County shall execute and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of **Exhibit E** attached hereto and incorporated herein (or such other form as reasonably may be required by any prospective mortgagee or purchaser of the Property, or any portion thereof), indicating any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee or purchaser.

29. **ENVIRONMENTAL REQUIREMENTS.** Except for Hazardous Materials contained in products used by County in de minimis quantities for ordinary cleaning and office purposes and the items listed in **Exhibit E** County shall not permit or cause any party to bring any Hazardous Material upon the Leased Premises or transport, store, use, generate, manufacture or release any Hazardous Material in or about the Leased Premises without Landlord's prior written consent. County, at its sole cost and expense, has the right to install carbon monoxide detectors, and shall operate its business in the Leased Premises in compliance with all Environmental Requirements. Landlord agrees that the use of such products in the Leased Premises in the manner in which such products are designed to be used and in compliance with applicable laws shall not be a violation by County of this section. As used in this Lease, the term "Hazardous Materials" shall mean any substance that is or contains petroleum, asbestos, polychlorinated biphenyls, lead, or any other substance, material or waste which is now or is hereafter classified or considered to be hazardous or toxic under any federal, state or local law, rule, regulation or ordinance relating to pollution or the protection or regulation of human health, natural resources or the environment.

Notwithstanding anything to the contrary in this paragraph, County shall have no liability of any kind to Landlord as to Hazardous Materials on the Leased Premises caused or permitted by (i) Landlord, its agents, employees, contractors or invitees; or (ii) any other tenants in the Property or their agents, employees, contractors, subtenants, assignees or invitees.

30. **BROKERS:** Landlord and County hereby warrant to each other that it has not dealt with any broker, agent or finder entitled to any commission, fee or others compensation by reason of the execution of the Lease, except that the County has retained Chartwell Enterprises, LLC as the County's broker ("County's Broker"), and that the Landlord has retained Newmark Knight Frank as the Landlord's broker ("Landlord's Broker) and that they know of no other real estate agent broker or agent who is entitled to a commission or fee in connection with this Lease. Landlord shall pay County's Broker in accordance with the terms of a separate commission agreement entered into between the Landlord and County's Broker. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses,

liabilities, lawsuits, judgments, and costs and expenses with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Broker.

31. **GENERAL.**

a. **Governing Law.** The provisions of the Lease shall be governed by the laws of the Howard County and the State of Maryland. The Landlord agrees that any dispute arising under this Lease shall be filed in the Circuit Court of Maryland for Howard County.

b. **Intentionally Deleted.**

c. **Political Contribution Disclosure.** The Landlord shall comply with Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland.

d. **Retention of Records.** The Landlord shall retain and maintain all records and documents relating to this Lease for three years after final payment by the County hereunder or for such time period specified under any applicable statute of limitations, whichever is longer, and shall make said records available for inspection and audit by authorized representatives of the County or its designee, at all reasonable times.

e. **Representations and Warranties.** The Landlord hereby represents and warrants that:

(i) It is qualified to do business in and in good standing with the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

(ii) It is not in arrears with respect to the payment of any monies due and owing Howard County, Maryland or the State of Maryland, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Lease;

(iii) It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Lease; and

(iv) It shall obtain at its expense; all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Lease.

f. **Addendum.** As applicable, the Landlord and the County agree to fully complete, execute and/or comply with the exhibits, affidavits and addenda that are attached to the Lease and fully incorporated as a part of the Lease by reference thereto.

g. **Lease Amendments**. The Lease may be amended, but only in writing, signed and executed with all formalities and signatures with which this Lease is signed and executed.

h. **Interpretation**. As used herein, all references made (a) in the neuter, masculine or feminine gender shall be deemed made in all such genders, (b) in the singular or plural number shall be deemed made in the plural or singular number as well, (c) to Landlord or County shall be deemed to refer to each person so named above and its successors and assigns, and (d) to a Section, subsection, paragraph or subparagraph shall, unless expressly stated to the contrary therein, be deemed made to such part of this Lease. The headings of such parts are provided herein only for convenience of reference, and shall not be considered in construing their contents. Any writing or plat referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof. The Lease may be signed in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document.

i. **Public Information Act**. The County is subject to the Maryland Public Information Act, which requires public access to most of the County's records and documents, such as this Lease.

32. **RIGHT OF FIRST OFFER TO LEASE.**

a. Provided no default has occurred and further provided that the Building remains under common ownership with the Leased Premises, and subject to the rights of any existing tenants, the County shall have a right of first offer with respect to any vacant immediately adjacent suite that comes available for lease in the Building (the "Offered Space"), subject to the same terms and conditions of this Lease, before such space is leased to any third party, and provided at least three (3) years remain under the Term of the Lease.

b. Landlord shall offer the Offered Space to the County upon the same terms, covenants and conditions as provided in this Lease for the Leased Premises, except that (a) the Annual Rent, the County's payment of expenses, and other economic terms shall be the then current market rent and, (b) the parties shall negotiate a work letter addressing the procedure for preparation and approval of the plans for any tenant improvements in the Offered Space, as well as the construction thereof (the "Offer"). If the Offer is for a longer period than remaining under this Lease, the term of the lease of the Offered Space shall be co-terminous with the Term of the Lease, and the Annual Rent rates, tenant improvement allowances and other concessions set forth in the Offer shall be adjusted, as Landlord shall determine, to reflect any lesser term remaining under the Term of the Lease. Except for any tenant allowance contained in the Offer, the County shall accept the Offered Space "As-Is," and the County shall have no further rights with respect to the Offered Space. For avoidance of doubt, if the County exercises this Right of First Offer, the County shall be required to lease the entire space referred to in the Offer, not just the portion thereof which is part of the Offered Space, unless Landlord elects, in its sole

and absolute discretion, to only lease the County the portion thereof located within the Offered Space.

c. If the County notifies Landlord in writing of the acceptance of the Offer within ten (10) business days (the "Offer Period") after Landlord has delivered the Offer to the County, Landlord and the County shall enter into a written agreement modifying and supplementing the Lease and specifying that such Offered Space accepted by the County is a part of the Leased Premises, and containing other appropriate terms and conditions relating to the addition of the Offered Space to this Lease (including specifically any increase or adjustment of the rent as a result of such addition). If the County exercises the right to lease the Offered Space, said lease and the rent on the Offered Space shall commence the later of thirty (30) days after the County's notice exercising the right, or the date the Offered Space is available for occupancy, and shall continue for the duration of the Term of the Lease.

d. If the County does not notify Landlord in writing of its acceptance of the Offer in the Offer Period, Landlord shall thereafter be able to lease the Offered Space to others upon such terms and conditions as Landlord may determine.

33. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary, the obligations of Landlord under this Lease do not constitute personal obligations of the individual partners, shareholders, directors, officers, employees or agents of Landlord, and County shall look solely to Landlord's interest in the Building and to no other assets of Landlord for satisfaction of any liability in respect of this Lease. Notwithstanding anything to the contrary, County will not seek recourse against the individual partners, shareholders, directors, officers, employees or agents of Landlord or any of their personal assets for such satisfaction. Notwithstanding anything to the contrary, Landlord shall not be liable to County, its contractors, agents or employees for any consequential damages or damages for loss of profits.

[Signatures follow on next page.]

IN WITNESS WHEREOF, the parties execute this lease, under seal, the day and year first above written:

WITNESS/ATTEST:

LANDLORD:

FV 9017 RED BRANCH, LLC
a Maryland limited liability company

By: Authorized Person

By: _____ (SEAL)

Name: _____

Title: _____

[County signatures on the following page.]

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____ (SEAL)
Calvin Ball
County Executive

RECOMMENDED FOR APPROVAL:

Thomas J. Meunier, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

Rafiu Ighile, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 20__:

Gary W. Kuc
County Solicitor

Norman E. Parker, Jr.
Assistant Deputy County Solicitor

EXHIBIT A
DEPICTION OF LEASED PREMISES, BUILDING, AND PROPERTY

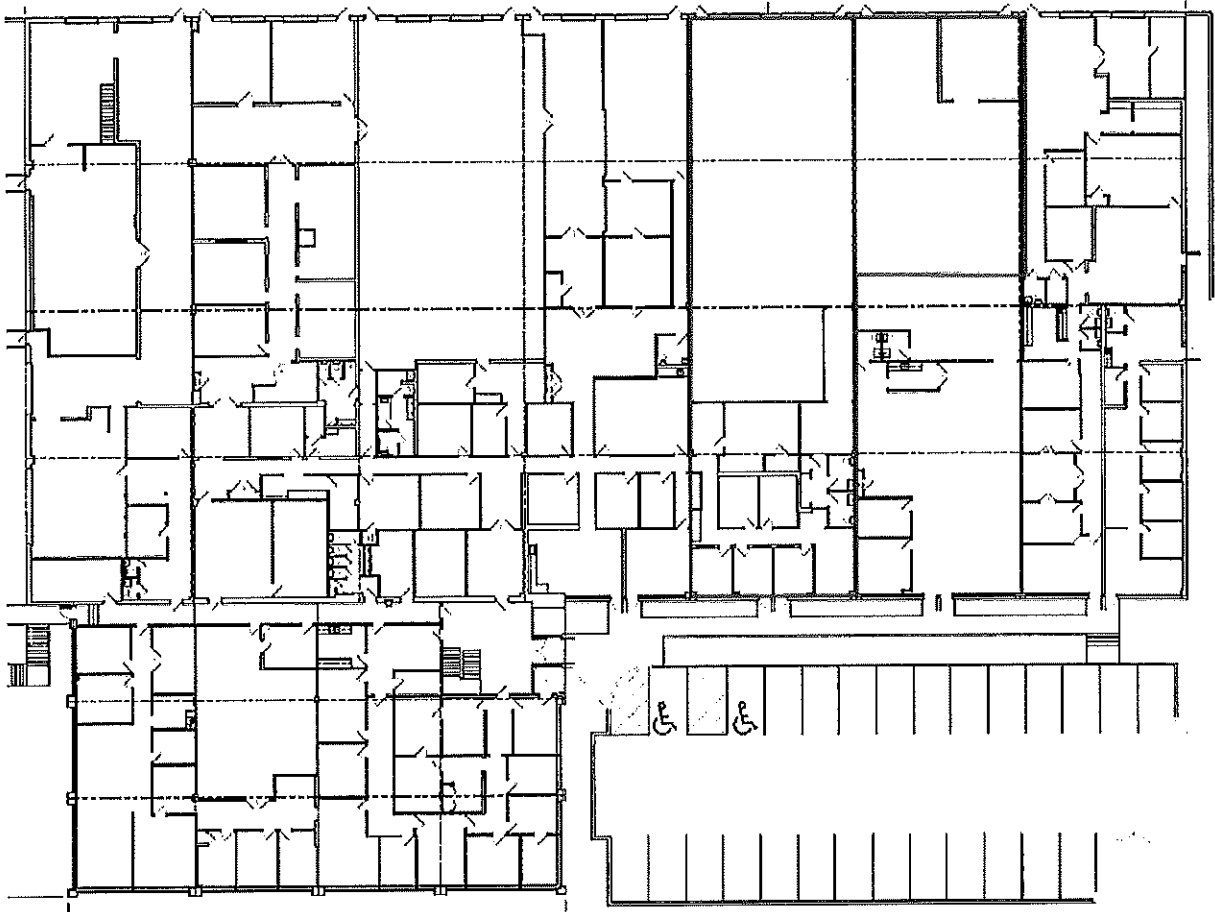


EXHIBIT B
DECLARATION OF COMMENCEMENT DATE

This Declaration of Commencement Date is made as of _____, 20__, by _____ ("Landlord"), and _____ ("County"), who agree as follows:

1. Landlord and County entered into a Lease Agreement dated _____, 20__ (the "Lease"), in which Landlord leased to County, and County leased from Landlord, certain Leased Premises described therein in the building located at _____ (the "Building"). All capitalized terms herein are as defined in the Lease.

2. Pursuant to the Lease, Landlord and County agreed to and do hereby confirm the following matters as of the Commencement Date of the Term:

- a. the Commencement Date of the Lease is _____;
- b. the Initial Term Expiration Date of the Lease is _____;
- c. the number of rentable square feet of the Leased Premises is _____;
- d. Tenant's Proportionate Share of Operating Expenses is _____ %;

3. County confirms that:

- a. it has accepted possession of the Leased Premises as provided in the Lease but subject to all the terms thereof;
- b. Landlord has fulfilled all of its obligations under the Lease as of the date hereof except as follows: _____; and
- c. the Lease is in full force and effect and has not been modified, altered, or amended, except as follows.

4. The provisions of this Declaration of Commencement Date shall inure to the benefit of, or bind, as the case may require, the parties and their respective successors and assigns, and to all mortgagees of the Building, subject to the restrictions on assignment and subleasing contained in the Lease, and are hereby attached to and made a part of this Lease.

LANDLORD:

_____,
a limited liability company

EXHIBIT C
WORK AGREEMENT

Landlord shall, at Landlord's sole cost and expense, perform the following improvements detailed on the Design Intent Plan (the "Plan") shown below as **Exhibit C-1**, and will provide all HVAC, mechanical, plumbing, electrical systems, roof, dock doors and dock levelers in good working order (collectively the "Tenant Improvements"):

1. File and obtain Building Alterations Permit
2. Modify existing office space indicated on the Plan and deliver open warehouse space; adjust sprinkler, HVAC and lighting to allow for maximum use of warehouse space (i.e., full 18-foot ceiling height)
3. Retain the first row of office space. To include the following; however, refer to Plan for complete details:
 - Office space finished appropriately with paint and ceiling in good structural and cosmetic order (County, at County's sole cost and expense, responsible for installing carpet in offices)
 - Tint applied on the front glass doors to restrict visibility into the suite
 - Blinds hung on all other windows (good working order)
 - Doors on all office space areas that lead to the warehouse (preferably keyed the same)
4. Install one (1) eyewash/shower station, see cut sheet shown on **Exhibit C-2**, and floor drain
5. Demolish two existing bathrooms and consolidate into one (1) new ADA compliant unisex restroom with exhaust fan (refer to Plan)
6. Create one (1) 10' wide x 12' high cutout in the demising wall to make the suite contiguous
7. Deliver all dock doors in good working order (replace, as necessary); provide a dock leveler for one of the loading docks identified on the Plan.
8. Replaced door(s) shall be steel insulated sectional door(s); the dock door with the dock leveler and the dock door with the drive-in ramp shall both be motorized doors,
9. Walk-up stairs/platform to loading dock/entrance replaced/repared (currently rusted)
10. Provide a 12' drive-in ramp
11. Place solid sealer over concrete slab
12. Install utility sink with foot pedal with epoxy countertop space (6' long x 2' deep)
13. Provide LED lighting throughout the warehouse
14. Paint warehouse walls
15. Provide ventilation to the space; add as required exhaust fan on rooftop; space needs to be at negative pressure

16. Replacement of glass personnel doors in the back/warehouse space with solid doors (transom to remain for natural light)
17. Seal and insulation of one existing personnel door and one overhead door identified on the Plan (far right doors)
18. Provide electrical outlets in accordance with the attached Plan

(a) If County shall desire any changes, County shall advise Landlord in writing and Landlord shall determine whether such changes can be made in a reasonable and feasible manner. All costs of reviewing any requested changes, and all costs of making any changes to the Tenant Improvements which County may request and which Landlord may agree to shall be at County's sole cost and expense and shall be paid to Landlord upon demand and before execution of the change order.

(b) Subject to applicable Legal Requirements, County shall be allowed to install its improvements, Trade Fixtures or other property on the Leased Premises during the final stages of Landlord's construction provided that County does not interfere with completion of construction or cause any labor dispute.

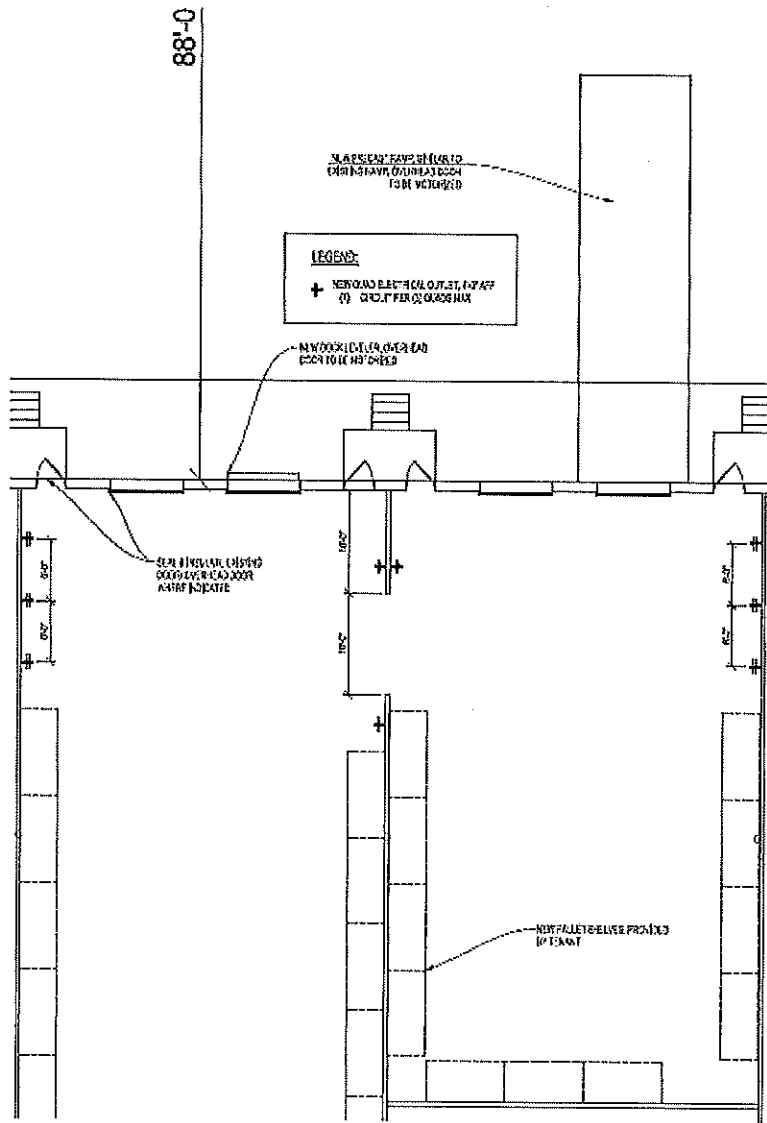
(c) The Landlord agrees that time is of the essence for the completion of the Tenant Improvements and delivery of the possession of the Leased Premises to the County.

(d) All items of the Tenant Improvements, whether or not the cost is covered by the Improvement Allowance, shall become the property of Landlord upon expiration or earlier termination of the Lease and shall remain on the Leased Premises upon the termination of the Lease.

(e) County hereby designates Mark Stromdahl, Chief Bureau of Facilities, Department of Public Works, whose email address is mcstromdahl@howardcountymd.gov and whose telephone number is 410-313-5757 and his designated project manager for the Leased Premises, to act as County's representative for purposes of authorizing and executing any and all documents, workletters, plans, specifications, cost estimates, or other writings and changes thereto needed to effect this Work Agreement, and any and all changes, additions or deletions to the work contemplated herein, and Landlord shall have the right to rely on any documents executed by such authorized party. Landlord shall not be required to proceed with any Tenant Improvements without written authorization from County's Representative. Neither County nor County's Representative shall be authorized to direct Landlord's contractors or subcontractors in the performance of the Tenant Improvements, and in the event that Landlord's contractors or subcontractors perform any of the Tenant Improvements under the direction of County or County's Agent, then Landlord shall have no liability for the cost of such Tenant Improvements, for the cost of corrective work required as a result of such Tenant Improvements, for any legal noncompliance or for any delay that may result from the performance of such Tenant Improvements.

(f) Architect. Landlord shall cause the Architect and, together with the Engineers (hereinafter defined), to design the Tenant Improvements and prepare the Construction Documents (hereinafter defined) consistent with the Plan. The parties expressly acknowledge and agree that, unless expressly provided to the contrary in the Plan with respect to particular components of the Tenant Improvements, all Tenant Improvements depicted in the Construction Documents shall be in conformance with the Building Standards. The cost of preparation of the Construction Documents shall be borne by Landlord.

(g) Engineers. Landlord may retain the services of an engineering firm selected by Architect (the "Engineers"; and, together with the Architect, the "Design Professionals") to: (i) design the type, number and location of all mechanical systems in the Leased Premises, including without limitation the heating, ventilating and air conditioning system therein, and to prepare all of the mechanical plans; (ii) assist with the electrical design of the Leased Premises, including the location and capacity of light fixtures, electrical receptacles and other electrical elements, and to prepare all of the electrical plans; (iii) assist with plumbing-related issues involved in designing the Leased Premises and to prepare all of the plumbing plans; (iv) assist with the structural elements of the Design Professionals' design of the Leased Premises and to prepare all the structural plans; and (v) prepare the fire suppression and life-safety systems for the Leased Premises.



HOWARD COUNTY POLICE
 9017 RED BRANCH ROAD
 COLUMBIA, MD

PROPOSED
 IMPROVEMENTS

SI-210031

A-2

EXHIBIT C-2
CUT SHEET FOR
EYE/FACE WASH SHOWER SAFETY STATION

EXHIBIT D
LANDLORD'S WORK

Landlord, at its sole cost and expense, shall construct the following improvements:

- Replace with adequately sized all new HVAC rooftop units and equipment serving the Leased Premises.

EXHIBIT E
LIST OF HAZARDOUS MATERIALS

1. Odoban Disinfectant
2. Lysol Disinfectant Spray
3. Clorox Bleach
4. Clorox Wipes
5. Grainger Hand Sanitizer Gel
6. Germs Be Gone Hand Sanitizer
7. By P'ure Hand Sanitizer
8. Germ-X hand sanitizer
9. Suave Brand hand sanitizer

EXHIBIT F
FORM OF TENANT ESTOPPEL CERTIFICATE

The undersigned (the "Tenant") hereby certifies that it is the County under the Lease described in **Exhibit A**, attached hereto and made a part hereof. Tenant hereby further acknowledges that it has been advised that the Lease may be assigned to a purchaser of, and/or collaterally assigned in connection with a proposed financing secured by, the property on which the "Leased Premises" under the Lease are located, and certifies both to the landlord under the lease (the "Landlord") and to any and all prospective purchasers (the "Purchasers") and mortgagees of such property, including any trustee on behalf of any holders of notes or other similar instruments, and any holders from time to time of such notes or other instruments, and their respective successors and assigns (collectively the "Mortgagees") that as of the date hereof:

1. The information set forth in **Exhibit A** is true and correct.
2. Tenant is in occupancy of the Leased Premises and the Lease is in full force and effect and, except as set forth in **Exhibit A**, has not been modified, assigned, supplemented or amended since its original execution, nor are there any other agreements between Landlord and Tenant concerning the space rented under the Lease, oral or written.
3. All material conditions and agreements under the Lease to be satisfied or performed by Landlord have been satisfied and performed.
4. Tenant is not in default under the Lease, Tenant has not received any notice of default under the Lease, and, to Tenant's knowledge, there are no events which have occurred that with the giving of notice or the passage of time or both, would result in a default by Tenant under the Lease.
5. Tenant has not paid any rents or sums due under the Lease more than 30 days in advance of the date due under the Lease and Tenant has no rights of setoff, counterclaim, concession or other rights of diminution of any rent or sums due and payable under the Lease except as set forth in **Exhibit A**.
6. To Tenant's knowledge, there are no uncured defaults on the part of the Landlord under the Lease, Tenant has not sent any notice of default under the Lease to the Landlord, and there are no events which have occurred that, with the giving of notice or the passage of time or both, would result in a default by Landlord thereunder, and at the present time Tenant has no claim against Landlord under the Lease.
7. Except as expressly set forth in **Exhibit A**, there are no provisions for, and Tenant has no rights with respect to, renewal or extension of the initial term of the Lease, terminating the term, or leasing or occupying additional space or purchasing the Leased Premises.
8. No action, voluntary or involuntary, is pending against Tenant under federal or state bankruptcy or insolvency laws.

9. Tenant has the authority to execute and deliver this estoppel certificate.

10. This estoppel certificate shall be binding upon the successors, assigns and representatives of Tenant and shall inure to the benefit of all Purchasers and Mortgagees.

IN WITNESS WHEREOF, Tenant has duly executed this Certificate this _____ day of _____, 20__.

ATTEST:

HOWARD COUNTY, MARYLAND

Chief Administrative Officer

By: _____(SEAL)

County Executive

RECOMMENDED FOR APPROVAL:

_____, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

_____, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 20__:

County Solicitor

Senior Assistant County Solicitor

EXHIBIT A TO TENANT ESTOPPEL CERTIFICATE

Lease, Lease Terms and Current Status

- A. Date of Lease:
- B. Parties:
 - 1. Landlord:
 - 2. Tenant d/b/a:
- C. Leased Premises known as:
- D. Modifications, Assignments, Supplements or Amendments to Lease:
- E. Commencement Date:
- F. Expiration of Current Term:
- G. Rights to renew, to extend, to terminate, to rent or occupy additional space or to purchase any portion of the property:
- H. Security Deposit Paid to Landlord: None
- I. Current Annual Rent (Annualized): \$
- J. Current Operating Expenses (Annualized):\$
- K. Current Total Rent: \$
- L. Square Feet Demised:

()

()

EXHIBIT G
FORM OF MEMORANDUM OF LEASE

Exempt from Recordation Tax and Transfer Tax under Annotated Code of Maryland, Tax Property Article, Sections 12-108 (a) and 13-207(a), respectively, and exempt from Recording Fees under Annotated Code of Maryland, Real Property Article, Section 3-603

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is effective as of _____, 20____, by and between **FV 9017 RED BRANCH, LLC**, a Maryland limited liability company (the "Landlord"), whose address is _____ and **HOWARD COUNTY, MARYLAND** (the "County"), a body corporate and politic, whose address is 3430 Courthouse Drive, Ellicott City, Maryland 21043.

1. Landlord and County are parties to a Lease Agreement dated as of _____, 2021 (the "Lease"); the terms and provisions of which are incorporated herein by this reference.

2. Landlord by the deed dated February 13, 2020 and recorded among the Land Records of Howard County, Maryland (the "Land Records") at Book: 19188, Page: 141 is the owner of that certain building known as 9017 Red Branch Road, Columbia, Maryland 21045 (the "Building") located on that certain real property shown as Lot 77 on Plat Book 29, folio 57 in the Land Records and Lot 77. The Building has 51,568 square feet of leasable space including related amenities and any additional facilities in subsequent years as may be determined by Landlord to be reasonably necessary or desirable for the management, maintenance or operation of the Building including the improvements constructed for the County therein.

3. The premises covered by the Lease comprise approximately 8,125 square feet of rentable space in in the Building, associated parking areas, and other related amenities as set forth in this Lease (the "Leased Premises").

4. The initial term of the Lease commences on the later of (i) August 1, 2021 or (ii) the date the Landlord delivers the Leased Premises with the tenant improvements by Landlord substantially complete in accordance with the terms set forth in the Lease (the "Commencement Date") and ends at 11:59 p.m. on the last day of the 122nd full month following the Commencement Date, unless the Lease is terminated or extended pursuant to any other provision set forth in the Lease or applicable law. The Lease provides for an initial term of ten (10) years and two (2) months with one (1) extension option for an additional term of five (5) years, which shall occur if the County notifies the Landlord in writing at least three hundred sixty-five (365) calendar days prior to the expiration date of the initial term.

5. The Lease grants the County a Right of First Offer to Lease with respect to any vacant immediately adjacent suite that comes available for lease in the Building, subject

to the same terms and conditions as set forth in the Lease, before such space is leased to any third party, and provided at least three (3) years remain under the term of the Lease, as more fully set forth in the Lease.

6. I In the event that County has not signed and returned to Landlord, within thirty (30) days after the cancellation, termination or expiration of the Lease in accordance with the terms thereof, a signed termination of this Memorandum, then Landlord may sign and record said termination.

Pursuant to the Lease and Section 3-101(e) of the Real Property Article, Annotated Code of Maryland, the parties have executed this Memorandum of Lease on this ___ day of _____, 20__ effective as of the date first written above.

LANDLORD:

FV 9017 RED BRANCH, LLC
a Maryland limited liability company

By: Authorized Person

By: _____

Name: _____

Title: _____

WITNESS/ATTEST:

(SEAL)

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this _____ day of _____, 20__, before me, the subscriber, a Notary Public in and for the aforesaid State and County, personally appeared _____, the _____ of the within named Landlord, known to me or satisfactorily proven to be the person who executed this Memorandum of Lease, and who in my presence signed the same and acknowledged the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have sent my hand and affixed my Notarial Seal.

Notary Public: _____

[NOTARY SEAL]

My commission expires: _____

(County signatures begin on following page)

ATTEST:

HOWARD COUNTY, MARYLAND

Lonnie Robbins
Chief Administrative Officer

By: _____(SEAL)
Calvin Ball
County Executive

RECOMMENDED FOR APPROVAL:

Thomas J. Meunier, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:

Rafiu Ighile, Director
Department of Finance

Approved for Form and Legal Sufficiency
on this ____ day of _____, 20__:

Gary W. Kuc
County Solicitor

Norman E. Parker, Jr.
Assistant Deputy County Solicitor

STATE OF MARYLAND: COUNTY OF _____

I HEREBY CERTIFY that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public of the State of Maryland, in for _____ County/City, personally appeared Calvin Ball, the County Executive of Howard County, Maryland, known to me or satisfactorily proven to be the person who executed this Memorandum of Lease, and who in my presence signed the same and acknowledged the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have sent my hand and affixed my Notarial Seal.

Notary Public: _____

[NOTARY SEAL]

My commission expires: _____

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on July 7, 2021.

Michelle Harrod
Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, Administrator to the County Council

**Office of the County Auditor
Auditor's Analysis**

Council Bill No. 46-2021

Introduced: June 7, 2021

Auditor: Melanie A. Bishop

Fiscal Impact:

The total fiscal impact of this lease agreement is an increased expense of approximately \$2.62 million which is composed of the following costs:

Funding Source	Pre-Occupancy	10-year, 2-month Initial Term	Optional 5-year Renewal Term
General Fund	\$ -	\$ 1,466,116	\$ 916,778
Earmarks	192,938	42,000	-
Total	\$ 192,938	\$ 1,508,116	\$ 916,778

See **Attachment A** for details of the three cost components noted above.

Purpose:

Council Bill 46-2021 would authorize the County Executive to enter into a 10-year, 2-month lease agreement for 8,125 square feet of space at 9017 Red Branch Road, Suite E, Columbia, Maryland for storage of personal protective equipment ("PPE"), to be used by the Howard County Police Department ("Police"). The County may take possession of this space on or after August 1, 2021.

This agreement contains one option for a five (5) year extension negotiated with the County at the prevailing market rate.

Other Comments:

The Administration indicated the use of this space will provide:

- A centralized warehouse consisting of 7,816 square feet to store emergency operational preparedness equipment and supplies.
 - Supplies include bulk palletized PPE gear, N95 masks, surgical masks, latex gloves, safety glasses/goggles, face shields, gowns, hand sanitizer, cleaning supplies, and disinfectants.
 - Emergency preparedness equipment includes riot gear, shields, batons, helmets, Tyvek suits, rubber boots, gas masks, filters, Meal, Ready to Eat ("MRE"), canned water, and portable folding cots.

- A small office area of 309 square feet exists for any staff that is visiting while working in the space – no personnel are being relocated to this space.

The Administration offered the following information concerning the potential use of alternative warehouse space:

- Police requires warehouse space because of the sizable quantity of pallet-able supplies and equipment. Any storage space at current police facilities is very limited and was never to be considered as a long-term solution.
- As a temporary solution, Police utilized its Property and Evidence warehouse; however, the amount of space is insufficient and considered “operationally inappropriate” since official police evidence areas are restricted, and bulk supplies require easy access by its officers.
- In December 2020, Police started utilizing a temporary warehouse, with the overflow supplies and equipment being stored at the Police Tactical Building, an enclosed trailer, and the Northern Police District. The temporary warehouse space consists of approximately 4,956 square feet and is located on Patuxent Woods Drive in Columbia.
- No space is available in the Oracle Building or any other County building. The space at the Oracle Building was designed for administrative needs and not warehouse needs. In addition, the Warfield Building was renovated for office space to support Operations – Major Crimes and Special Crimes Bureaus, so no warehouse area exists at the Warfield Building.

Attachment A
Council Bill No. 46-2021 – Red Branch Road Police Warehouse Lease

Pre-Occupancy Costs

Cost Type	Amount
Shelving	\$ 80,946
County Fiber, Telephone, Cabling Installation	63,892
Forklift	27,400
Security Install	20,700
Total	\$ 192,938

Initial Term - Base Rent and Operating Expense

The County would enter into a 122-month lease agreement that would result in estimated costs as noted below:

Fiscal Year	Base Rent	Operating Expense	Total
2022 (11 months)	59,719	47,741	107,460
2023	81,632	53,394	135,026
2024	83,877	54,862	138,739
2025	86,184	56,371	142,555
2026	88,554	57,921	146,475
2027	90,989	59,514	150,503
2028	93,491	61,151	154,642
2029	96,062	62,833	158,895
2030	98,704	64,560	163,264
2031	101,418	66,336	167,754
2032 (3 months)	25,877	16,926	42,803
Grand Total	\$ 906,507	\$ 601,609	\$ 1,508,116

NOTE: Operating costs represent the Custodial, Electricity, and Repairs and Maintenance costs of the facility.

Optional Renewal Term - Base Rent and Operating Expense

The estimated Fiscal Impact of the lease's one five-year extension period through September 2036 is noted below:

Term	Term Expiration	Base Rent	Operating Expense	Total
Extension 1	September 2036	\$ 554,252	\$ 362,526	\$ 916,778
Grand Total		\$ 554,252	\$ 362,526	\$ 916,778

We have assumed the initial term's base rent escalation of 2.75 percent will be maintained throughout the renewal term for base rent, operating, and miscellaneous costs.