

HOWARD COUNTY GOVERNMENT

DEPARTMENT OF PUBLIC WORKS

REAL ESTATE SERVICES DIVISION

**Contract/Project Number:**

Special Agreement HCC-001

**Subdivision Name/Property Owner:**

Howard Community College-MOU of Intent for Hickory Ridge Building

# Agreement Assignment Report

<b>Agreement#</b>	HCC 01	<b>Staff Point Person</b>	Tina Hackett
<b>User Agency</b>	Bureau of Facilities	<b>User Staff Person</b>	
<b>Summary/ Comments</b>	Memorandum of Understanding delineating the potential sale of Hickory Ridge Building to Howard Community College		

**Action**            HCC will acquire property after bonds have been paid - expected by 12/21/2014.

**Use**                Intent to Purchase Hickory Ridge Building

<b>Staff Reviewer</b>	TDH	<b>Date</b>	10/25/2000	<b>Liber/Folio</b>	N/A
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**Party#1**            Board of Trustees of Howard Community College

**Party#2**            Howard County, Maryland

**Party#3**

**Party#4**

**MEMORANDUM OF UNDERSTANDING AND  
INTENT FOR THE HICKORY RIDGE BUILDING**

This Letter of Understanding and Intent for the Hickory Ridge Building is entered this 25<sup>th</sup> day of October, 2000, by and between HOWARD COUNTY, MARYLAND ("the County") and the BOARD OF TRUSTEES OF HOWARD COMMUNITY COLLEGE (the "College").

**RECITALS:**

WHEREAS, the County acquired the property located at 10650 Hickory Ridge Road, Columbia, Maryland (hereinafter referred to as the "Hickory Ridge Building" or the "Property"), in 1990, to provide needed space for College programs as well as for various County departments;

WHEREAS, the College was given use of the Hickory Ridge Building in 1994 to provide additional classroom space needed for credit and continuing education programs;

WHEREAS, the College undertook a renovation of the Hickory Ridge Building in 1994 and currently is fully responsible for maintaining the building and ancillary grounds;

WHEREAS, as a parcel contiguous to the College campus, the Hickory Ridge Building is a logical and practical expansion of the College's physical plant;

WHEREAS, the Hickory Ridge Property was acquired with a portion of the proceeds of general obligation bonds issued by the County in 1990 (the "1990 Bonds") and was renovated with a portion of the proceeds of general obligation bonds issued by the County in 1994 (the "1994 Bonds");

WHEREAS, projects financed with 1990 Bonds and the 1994 Bonds, including the Hickory Ridge Property, are subject to certain limitations and rules found in Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, Section 141 of the Code and the regulations issued thereunder provides, in general, that the property financed with tax-exempt bonds (such as the Hickory Ridge Property) is subject to certain rules regarding private business use. The private business test (which is a test which determines "bad use") is met if more than five percent (5%) of the proceeds of an issue of tax-exempt bonds are used in a trade or business carried on by a non-governmental entity. A non-governmental entity can engage in private business use with respect to a tax-exempt bond financed facility as a result of: (1) ownership, (2) leases, (3) management contracts, (4) output contracts, (5) research agreements and (6) other actual or beneficial use of the tax-exempt bond financed property. There are exceptions to the private business use test for incidental or short-term use of tax-exempt bond financed property by non-governmental entities.

IN RECOGNITION OF THE ABOVE PREMISES, the parties do set forth their understanding and intent as follows:

1. The College wishes to acquire title to the Hickory Ridge Building and Property.
2. The County's intention is to transfer the Hickory Ridge Building and Property in fee simple to the College at such time that the Hickory Ridge Building is no longer subject to tax-exempt financing, subject to approval by the County Council. The County Executive will request the County Council to introduce a resolution approving the transfer of the Property to the College within 180 days after the last of the outstanding bonds financing the Property have been retired, provided that no additional County bonds are used to finance improvements to the Property. The currently outstanding bonds are expected to be paid off on or about December 31, 2014.

3. The County grants the College the right to continue to occupy, possess, and otherwise use the Property for Howard Community College purposes until the Hickory Ridge Building and Property is agreed upon by the College and the County.

4. The College shall continue to maintain the premises and be responsible for all ordinary costs of operation, including maintenance, utilities, ad valorem taxes, and minor repairs.

5. The County agrees to cooperate with the College in obtaining any grants or other funding from public or private sources for the improvement and maintenance of the Hickory Ridge Building.

6. The College covenants that it will not use the Hickory Ridge Property for any private business use, unless such uses are incidental or short term. The College covenants to notify the County of any proposed private business use and will abide by the decision of Miles & Stockbridge, P.C., as bond counsel for the County ("Bond Counsel") regarding the propriety of the use. The College may engage in the use if Bond Counsel confirms that private business use is incidental or short-term and will not engage in this use if Bond Counsel determines otherwise.

7. If the College directly or indirectly pays the debt service on the 1990 Bonds and/or the 1994 Bonds, the College agrees that it will not create or establish any "sinking funds"\* (within the meaning of Income Tax Regulation §1.148-1(c)(2)) or any similar fund or account for the payment of the principal of and interest on the 1990 Bonds and/or the 1994 Bonds without the prior approval of Bond Counsel.

8. This Memorandum of Understanding and Intent may only be amended by a writing signed by the parties.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding and Intent to be signed by their authorized representatives.

WITNESS/ATTEST:

Lyle E. Juech 10/25/00

ATTEST:

Raquel Sanudo  
Raquel Sanudo 1/17/00  
Chief Administrative Officer

APPROVED FOR SUFFICIENCY  
OF FUNDS:

Dale B. Neubert  
Dale B. Neubert, Director  
Department of Finance

**BOARD OF TRUSTEES OF HOWARD  
COMMUNITY COLLEGE**

By: Joan Allen, Chair 10/25/00

**HOWARD COUNTY, MARYLAND**

James N. Robey (SEAL)  
James N. Robey, County Executive

APPROVED:

James M. Irvin 11/6/00 (SEAL)  
James M. Irvin, Director  
Department of Public Works

APPROVED FOR FORM AND LEGAL SUFFICIENCY

this 2nd day of November, 2000:

Barbara M. Cook  
Barbara M. Cook, County Solicitor