

Introduced 7/8/16  
Public Hearing 7/15/16  
Council Action 7/29/16  
Executive Action 8/15/16  
Effective Date 8/15/16

## County Council Of Howard County, Maryland

2016 Legislative Session

Legislative Day No. 8

Bill No. 50 -2016

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 Grant Agreement between the County and the Howard County Housing Commission for the grant of funds related to a Non-Profit Center, which will provide greater access to services for low-income and foreign-born families, enhance coordination and collaboration among service providers, improve efficiency through shared spaces and services, and provide certain other efficiencies; authorizing the 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 July 8, 2016. Ordered posted and hearing scheduled.

By order Jessica Feldmark  
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on July 18, 2016.

By order Jessica Feldmark  
Jessica Feldmark, Administrator

This Bill was read the third time on July 29, 2016 and Passed , Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order Jessica Feldmark  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 29<sup>th</sup> day of July, 2016 at 4 a.m. (p.m.).

By order Jessica Feldmark  
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive Aug 5, 2016

Allan H. Kittleman  
Allan H. Kittleman, County Executive

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

1           **WHEREAS**, the Howard County Housing Commission (the “Housing Commission”),  
2 together with the Association of Community Services, Inc. (“ACS”), and several other non-profit  
3 human service providers in Howard County, desire to co-locate office space in order to form a  
4 comprehensive non-profit center for Howard County (the “Non-Profit Center”); and  
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6           **WHEREAS**, a proven model of efficiency and effectiveness, the Non-Profit Center will,  
7 among other things, provide greater access to services for low-income and foreign-born families,  
8 enhance coordination and collaboration among service providers, and improve efficiency  
9 through shared spaces and services; and  
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11           **WHEREAS**, the Commission intends to enter into a 10-year lease agreement to lease the  
12 real property located at 9770 Patuxent Woods Drive, Columbia, Maryland 21046 (the  
13 “Property”) for use as the Non-Profit Center; and  
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15           **WHEREAS**, the Commission intends to use a portion of the property for its office space  
16 and sublease the remainder to ACS and the other participating non-profit entities; and  
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18           **WHEREAS**, in its Fiscal Year 2017 operating budget, the County has appropriated  
19 \$210,000 to be used as a rental subsidy for the Non-Profit Center’s first year rent under the  
20 Lease; and  
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22           **WHEREAS**, the County wishes to provide, and the Commission desires to accept, a  
23 continuing rent subsidy for each of the 10 years of the Non-Profit Center Lease upon the terms  
24 and conditions of a Multi-Year Grant Agreement, substantially in the form attached as Exhibit A;  
25 and  
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27           **WHEREAS**, such a multi-year term requires the payment by the County of funds from  
28 an appropriation in a later fiscal year and therefore requires County Council approval as a multi-  
29 year agreement pursuant to Section 612 of the Howard County Charter.

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**NOW, THEREFORE,**

*Section 1. Be It Enacted by the County Council of Howard County, Maryland that in accordance with Section 612 of the Howard County Charter, it approves the Multi-Year Grant Agreement between Howard County and the Howard County Housing Commission for the provision of a rent subsidy for 10 years to benefit the Non-Profit Center, substantially in the form of Exhibit A attached to this Act.*

*Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that the County Executive is hereby authorized to execute the Multi-Year Grant Agreement for such term in the name of and on behalf of the County.*

*Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland that the County Executive, prior to execution and delivery of the Multi-Year Grant Agreement, may make such changes or modifications to the Agreement as he deems appropriate in order to accomplish the purpose of the transactions authorized by this Act, provided that such changes or modifications shall be within the scope of the transactions authorized by this Act; and the execution of the Agreement by the County Executive shall be conclusive evidence of the approval by the County Executive of all changes or modifications to Agreement, and the Agreement shall thereupon become binding upon the County in accordance with its terms.*

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

**Project:** Non-Profit Center  
**Grant Amount:** \$2,407,416

**Fund:** \_\_\_\_\_

### MULTI-YEAR GRANT AGREEMENT

**THIS MULTI-YEAR GRANT AGREEMENT** (this "Agreement") is made as of the Effective Date (as herein defined), by and between **HOWARD COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (the "County") and the **HOWARD COUNTY HOUSING COMMISSION**, a public body corporate and politic of the State of Maryland (the "Commission").

#### RECITALS

A. Subtitle 13 of Title 13 of the Howard County Code establishes a housing authority for Howard County known as the "Howard County Housing Commission." Section 13.1318(c) of the Howard County Code authorizes the County to lend or donate money to the Commission from time to time.

B. The Commission, together with the Association of Community Services, Inc. ("ACS"), and several other non-profit human service providers in Howard County, desire to co-locate office space in order to form a comprehensive non-profit center for Howard County (the Non-Profit Center"). A proven model of efficiency and effectiveness, the Non-Profit Center will, among other things, provide greater access to services for low-income and foreign-born families, enhance coordination and collaboration among service providers, and improve efficiency through shared spaces and services.

C. The Commission intends to enter into a 10-year lease agreement to lease the real property located at 9770 Patuxent Woods Drive, Columbia, Maryland 21046 (the "Property") for use as the Non-Profit Center (the "Lease"). The Commission intends to use a portion of the property for its office space and sublease the remainder to ACS and the other participating non-profit entities.

D. The County has appropriated in its FY 2017 operating budget \$210,000 to be used as a rental subsidy for the Non-Profit Center's first year rent under the Lease.

E. The County wishes to provide, and the Commission desires to accept, a continuing rent subsidy for each of the 10 years of the Non-Profit Center Lease upon the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the foregoing recitals and the promises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Commission agree as follows:

1. **Grant.** The County agrees to provide the Commission with funds in the amount of **Two**

**Million Four Hundred Seven Thousand Four Hundred and Sixteen Dollars (\$2,407,416)** over the course of ten (10) successive fiscal years. This includes \$210,000 appropriated in FY 2017 budget to ACS as rent subsidy for the Non-Profit Center.

2. **Use of Grant Funds.** The Grant shall be used by the Commission to make rent payments under the Lease.

3. **Disbursement.** Subject to the condition set forth in Section 4, the Grant shall be disbursed within fifteen (15) business days upon the Commission's written request to the County Chief Administrative Officer to be used as set forth in Section 2. The Grant shall be disbursed annually as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2017	\$210,000 (through ACS)
2018	\$216,300
2019	\$222,789
2020	\$229,473
2021	\$236,357
2022	\$243,448
2023	\$250,751
2024	\$258,274
2025	\$266,022
2026	<u>\$274,002</u>
TOTAL:	\$2,407,416

4. **Condition Precedent.** This Agreement shall not take effect unless and until the Commission has entered into the Lease upon substantially the terms described herein; and the County Council has approved this Multi-Year Grant Agreement pursuant to Section 612 of the Howard County Charter and Section 22.703 of the Howard County Code.

5. **Reports.** The Commission shall provide the County Chief Administrative Officer with the following reports in a form acceptable to the County:

(a) Annual reports of the Commission's activities and expenditures of Grant funds, including certification that the conditions enumerated in Sections 2 and 4 have been met;

(b) Upon termination of this Agreement, a final report of all activities and expenditures made pursuant to this Agreement; and

(c) Such other reports or information as the County may from time to time require.

6. **Inspection of Records.** The Commission shall allow any duly authorized representative of the County to inspect and audit, at reasonable times, all records and documents of the

Commission relating to this Grant, which records shall be retained by the Commission for at least three (3) years after the termination of this Agreement.

The Commission shall maintain sufficient records to enable the County to determine whether the Commission has met the requirements of the Agreement. At a minimum, such records shall include: (a) records providing a full description of each lease and sub-lease (“the Activity”) undertaken, and the amount of Grant funds budgeted, obligated, and expended for the Activity; and (b) records required to determine the eligibility of the Activity.

**7. Commission's Certifications.** The Commission certifies to the County that:

(a) The Commission is duly organized and validly existing under Maryland law, and has all requisite power and authority to enter into this Agreement; and

(b) This Agreement has been duly authorized, executed and delivered by the Commission in such manner and form as to comply with all applicable laws to make this Agreement the valid and legally binding act and agreement of the Commission.

**8. Default, Repayment and Remedies.**

(a) A default shall consist of (i) any use of Grant funds for any purpose other than authorized by this Agreement; or (ii) any breach of any covenant, agreement, provision, representation or warranty of the Commission which was made in this Agreement.

(b) If a default occurs, the County shall provide written notice to the Commission to cure the default, and the Commission shall have thirty (30) days from the date the County's notice was postmarked to cure the default. After the conclusion of this 30-day period, if the Commission has not cured the default to the satisfaction of the County, the County may terminate this Agreement. In the event of termination:

(i) The County may immediately demand repayment of all or a portion of the Grant funds which have been disbursed; and

(ii) the County's remedies of obtaining repayment as described in Section (b) above may be exercised contemporaneously with remedies pursuant to Section (c) below, and all of such rights shall survive any termination of this Agreement.

(c) If a default occurs, the County may at any time proceed to protect and enforce all rights available to the County, by suit in equity, action at law, or by any other appropriate proceedings, which rights and remedies shall survive the termination of this Agreement.

**9. Notices.** All notices and other communications required under this Agreement shall be delivered or mailed, by registered or certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

**To the Commission:**

Howard County Housing Commission  
c/o Thomas P. Carbo, Executive Director  
6751 Columbia Gateway Drive  
Columbia, Maryland 21046

**To the County:**

Howard County, Maryland  
Lonnie R. Robbins, Chief Administrative Officer  
3430 Courthouse Drive  
Ellicott City, Maryland 21043

10. **Amendment.** This Agreement, or any part hereof, may be amended from time to time by a written instrument executed by both of the parties.

11. **Assignment.** This Agreement may not be assigned without the prior written approval of the County.

12. **Governing Law.** This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Maryland.

13. **Term of Agreement.** Subject to Section 4 above, this Agreement is effective upon execution by the County (the "Effective Date"). Unless sooner terminated pursuant to Section 7 and Section 15 of this Agreement or by the mutual consent of the parties, this Agreement shall remain in effect until the final amounts of the Grant have been disbursed, all reports, records, and audits due by the Commission have been received by the County, and there has been a final settlement and conclusion between the County and the Commission of all issues arising out of the Grant.

14. **Disputes.** In the event that during the term of this Agreement, any dispute arises between the parties in connection with the performance of this Agreement, each party shall make a reasonable effort to resolve such dispute by mutual negotiation, adjustment and compromise. Under no circumstance, however, shall the authorized budgetary appropriation for the grant in any fiscal year or in total be exceeded.

Any dispute concerning a question of fact arising under this Agreement, which is not disposed of by mutual consent, shall be decided by the County's Chief Administrative Officer. Pending final decision of the dispute hereunder, the Commission shall proceed diligently with the activity set forth in this Agreement.

15. **Waivers.** The failure of the parties to enforce at any time the provisions of this Agreement, or to exercise any option which may be provided herein, shall in no way be construed as a waiver of such provisions nor in any way affect the validity of this Agreement or any part thereof or the right of the parties to enforce thereafter each and every provision.

16. **Termination.**

- A. **Mutual Termination.** This Agreement may be terminated by the County with the consent of the Commission, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of a partial termination, the portion to be terminated.
- B. **By the Commission.** This Agreement may be terminated by the Commission upon at least thirty (30) days' written notification to the County. The Commission's written notice shall set forth reasons for the termination, the effective date of termination and, in the case of a partial termination, the portion to be terminated. If, in the case of a partial termination, the County determines that the remaining Grant funds will not accomplish the purposes for which the Grant was made, the County may terminate the Agreement in its entirety.
- C. **By the County.** This Agreement may be terminated by the County upon at least 30 days' written notice to the Commission, for any of the following reasons:
1. **Default.** For default, as defined in Section 7 of this Agreement.
  2. **Failure to Maintain Insurance.** If the Grantee fails to maintain in effect the insurance policy required by Section 18 hereof, or fails to provide the County with evidence of insurance upon request.
  3. **Best Interest of the County.** If the County determines that termination is in the best interest of the County, including without limitation a determination that the County lacks sufficient funding to offer the program or service provided by the Commission.

17. **Audit.** The Commission shall have an annual audit performed of its financial statements. The audit is to be conducted in accordance with generally accepted auditing standards. A copy of each audit shall be submitted to the County's Chief Administrative Officer no later than sixty (60) days following the end of the Commission's fiscal year.

Any deficiencies noted in audit reports must be fully cleared by the Commission within thirty (30) days after receipt by the Commission. Failure of the Commission to comply with the above audit requirement will constitute a violation of this Agreement and may result in the withholding of future disbursement. The Commission hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning grantee audits.

18. **Insurance.** The Grantee shall obtain and maintain appropriate insurance as necessary to protect the Property for loss or damage and the Commission and the County in any legal action,

tort, contract, or other liability which may be raised against them. The Commission shall provide the County with evidence of insurance as the County may require, including evidence that the policies may not be terminated without thirty (30) days prior written notice of the County. The County acknowledges that the Commission's Agreement for Pooled Risk Management of even date by and between Howard County, Maryland, and the Howard County Housing Commission may satisfy the requirements of this Section.

19. **Equal Employment Opportunity.**

The Commission certifies that it now complies and will continue to comply with all applicable federal, state and local laws and regulations pertaining to equal opportunity and equal employment practices, including the Americans with Disabilities Act of 1990.

By executing this Agreement, the Commission agrees and affirms that it accepts and will conform to the Howard County Affirmative Action Program and Equal Opportunity laws in that:

Howard County expects that the Commission will not discriminate against any employee, applicant for employment or program participant because of race, creed, color, national origin, sex, age, occupation, personal appearance, political opinion, sexual orientation, marital status, familial status or disability. The Commission will take affirmative action to ensure that applicants, employees and participants in a program are treated equally without discrimination.

20. **Liability Limitations.**

By virtue of this Agreement, the parties expressly acknowledge that the Commission is not acting as an agent for the County but is acting in the capacity of an independent public agency. In addition, Commission agrees to indemnify and save the County harmless from and against any and all claims, actions, damages, liability and expense, in connection with loss of life, personal injury and/or damage to property arising from or out of the performance of its responsibility as stated in this Agreement, or occasioned in whole or in part by any act of omission of Commission, its agents or employees.

21. **Conflict of Interest.**

The Commission certifies that the officer of the corporation who is executing this Agreement has read and understands the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest.

22. **Severability.** If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in

full force and effect.

23. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties.

<b><u>Program</u></b>	<b><u>G/L</u></b>	<b><u>Business Center</u></b>	<b><u>Cost Center</u></b>	<b><u>Fund</u></b>	<b><u>Internal Order</u></b>

**[SIGNATURES BEGIN ON THE FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the County and the Commission by their duly authorized representatives have executed this Agreement as of the Effective Date.

**ATTEST:**

**HOWARD COUNTY HOUSING COMMISSION**

\_\_\_\_\_  
Ada D. Best

By: \_\_\_\_\_ (SEAL)  
Thomas P. Carbo

Executive Director

Date: \_\_\_\_\_

**ATTEST:**

**HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Lonnie R. Robbins  
Chief Administrative Officer

By: \_\_\_\_\_ (SEAL)  
Allan H. Kittleman  
County Executive

Date: \_\_\_\_\_

Approved for Form and Legal  
Sufficiency: this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

Approved for Sufficiency of Funds:

\_\_\_\_\_  
Gary W. Kuc  
County Solicitor

\_\_\_\_\_  
Stanley J. Milesky, Director  
Department of Finance

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on August 5, 2016, 2016.

Cliff Meyer (acting administrator)  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council