

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "**Lease**") is made on this ___ day of _____, 2021, between the MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a public body corporate and agency of the State of Maryland (the "**Commission**"), and MONTGOMERY COUNTY, MARYLAND, a political subdivision of the State of Maryland, through its Department of General Services, located at 101 Monroe Street, 9th Floor, Rockville, Maryland 20850 (the "**County**").

R E C I T A L S:

A. Pursuant to Md. Code, Ann., Land Use, § 17-101, *et seq.*, as amended, the Commission is authorized to acquire, own, lease, operate, and maintain property within Montgomery County, Maryland, for purposes set forth therein.

B. The parties entered into a Development Agreement with the last signature date of August 25, 2014, as amended via First Amendment to Development Agreement, and Second Amendment to Development Agreement (collectively, "**Development Agreement**"), setting forth for a redevelopment project to be located at and about 2425 Reddie Drive, Wheaton, Maryland 20902 (the "**Property**"), including a new town square, subterranean public parking garage, and an office building (the "**Wheaton Redevelopment Project**").

C. Within the Wheaton Redevelopment Project, the Commission is the owner of certain air rights and building generally known as Wheaton Regional Headquarters, located at the Property, comprising office and retail space.

D. Within the Wheaton Redevelopment Project, the County is the fee simple owner of the Property, subject to the Commission's ownership of the Building.

E. Pursuant to a Declaration of Covenants and Bylaws recorded by the County among the land records in Book ___ at Page ___, and Condominium Plats recorded in Book _____ at Pages _____ through _____, the _____ Condominium was established on the Property ("**Condominium**"). The Condominium includes two condominium units: (1) the "**Public Parking Unit**" which is an underground public parking garage; and (2) the "**Commission Unit**" consisting of approximately 308,020 square feet of office and retail space (the "**Building**") and a town square located between the Building and Reddie Drive ("**Town Square**").

F. The County desires to locate its Departments of Permitting Services Environmental Protection and Recreation, the Wheaton Regional Service Center, and the Office of Community Use of Public Facilities (CUPF) (collectively, the "**County Departments**") on several floors of the Building under this Lease.

G. The parties desire to enter into this Lease pursuant to the terms and conditions set forth hereinbelow.

ACCORDINGLY, the parties agree as follows:

1. **LEASED PREMISES.** The Commission leases to the County, and County agrees to lease from the Commission, approximately 177,031 square feet in total, comprising approximately 57.5% of the total usable FAR in the Building (the “**Leased Premises**”). The Leased Premises is described in Exhibit “A”, which is attached to and made a part of this Lease.

2. **TERM.**

2.1 Unless otherwise terminated or modified under the provisions hereof, this Lease will commence on the date of the last signature below (the “**Lease Commencement Date**”) and will continue for a period of 40 years (the “**Initial Term**”). The County may renew the Lease for up to five successive ten-year terms and, thereafter, a final nine-year term (each a “**Renewal Term**”) for a total possible Term of 99 years. The Initial Term and all Renewal Terms are collectively referred to as the “**Term.**”

2.2 The parties acknowledge and agrees that Md. Code, Ann., Land Use, § 17-204(a), requires this Lease to be approved by the Montgomery County Council. As required under Section 17-204 of the Land Use Article of the Annotated Code of Maryland, the Commission represents that the Montgomery County Council has approved the Term of this Lease.

3. **RENT; OPERATING COST; RESERVE.**

3.1 **Rent.** The County shall pay a base rent of \$1.00 per year for the Leased Premises (the “**Base Rent**”). The Base Rent and all operating expenses (described below as “**Additional Rent**”) are collectively referred to as the “**Rent.**” The County shall pay the Rent to the Commission each year this Lease is in effect regardless of the County’s actual occupancy at any given time during the Term.

3.2 **Pro-rata Share of Operating Expenses.** The County agrees to pay to the Commission the County’s pro-rata share of the operating expenses of the Building which are specifically attributable to the Leased Premises (the “**Operating Expenses**”) The County’s pro-rata share of the Operating Expenses, as described in this Section 3, shall be paid by the County as additional rent (“**Additional Rent**”). The County’s pro-rata share of the Operating Expenses shall be equal to a fraction, the numerator of which shall be the number of gross rentable square feet of the Building leased to the County and the denominator of which shall be the gross square feet of the Building, it being agreed by the parties that the County’s pro-rata share of the Operating Expenses, on the Lease Commencement Date, is 57.5% based on 177,031 sf of Leased Premises/308,020 sf of the Building.

3.3 **Operating Expenses Comprising the Additional Rent.** For any fiscal year, the following comprise the Operating Expenses for the Building: all commercially reasonable direct and actual out of pocket expenses incurred by the Commission for operating and maintaining the Building (except as provided in subsection 3.4, below), determined in accordance with

generally accepted accounting practices (“GAAP”) consistently applied, including the costs and expenses for the following (a) wages and salaries of all employees engaged in the management, operation or maintenance of the Building; (b) all supplies, materials, equipment and tools used in the operating or maintenance of the Building (but not items used solely in the Commission’s space); (c) costs of all maintenance and service agreements for the Building and equipment therein, including but not limited to controlled access and energy management services; (d) general and special repairs and maintenance; (e) costs of supervision, including administration and/or management fees, which will be reasonable and customary; (f) legal, accounting, auditing and other professional fees; (g) the cost of any additional services not provided to the Building at the Lease Commencement Date, but thereafter provided by the Commission in the prudent management of the Building; (h) costs for janitorial services and cleaning supplies for the Common Areas (defined in Section 5.1); (i) costs for utility services, such as electric, gas, water and sewage, for the Common Areas and any utility services for any portion of the Leased Premises that are not separately metered; and (j) cost of the Building’s electronic key security and access system.

3.4 **Expenses Excluded from the Additional Rent.** The following items shall be specifically excluded from Operating Expenses and not included in the Additional Rent:

3.4.1 Any cost, expense or fee (whether for improvements or replacements to the Building, equipment or other capital items) which, in accordance with GAAP, is required to be capitalized rather than expensed in the year incurred (collectively, “**Capital Costs**”), except those Capital Costs which are: (a) related to the maintenance of the Building’s LEED Platinum status, (b) reasonably intended to reduce Operating Expenses, or (c) reasonably intended to improve energy efficiency, provided that any such Capital Costs permitted hereunder shall be amortized on a straight-line basis over the useful life (as determined in accordance with GAAP) of the item in question and shall be included in Operating Expenses in accordance with such amortization schedule.

3.4.2 Expenses occasioned by fire, windstorm or other insured casualty for which the Commission actually receives reimbursement from insurance.

3.4.3 Expenses for repairs or improvements to the Commission’s space not due to any County’s negligence or willful acts.

3.4.4 The cost of any work or service performed for the Commission or the County at the Commission or County’s (as applicable) cost.

3.4.5 Any cost associated with Hazardous Substances (as defined by all applicable federal, state and local laws) in the Building, including but not limited to, the cost of monitoring, encapsulating or abating any Hazardous Substances from the Building unless the County or its agent, representative, or contractor is the cause of the Hazardous Substances being located in the Building.

3.4.6 Salaries, wages and benefits of the Commission's fully funded positions under the Commission's annual budget, including but not limited to, the Building Manager, the Park Police (defined below), and the Commission's officers, directors, and employees.

3.4.7 If applicable, any charge for depreciation of the Building or equipment.

3.4.8 If applicable, future costs of compliance with the ADA or any other laws concerning access to the Building and the Leased Premises.

3.4.9 Expenses resulting from tortious conduct of the Commission, its employees, agents or contractors which is not covered by insurance.

3.4.10 Any janitorial, HVAC and utility expenses for the Leased Premises that County pays directly to a third party.

3.5 **Payment of Rent.**

3.5.1 Commencing on January 15, 2021 and, thereafter on or before January 15th of each year, the Commission shall deliver to the County a budget (the "**Proposed Annual Budget**") which sets forth in reasonable detail the amount of the estimated Operating Expenses for the following fiscal year. The County has until March 15th of each year to review and approve the Proposed Annual Budget or to provide reasonable objections or comments with respect to the Proposed Annual Budget. If the County provides reasonable objections or comments with respect to the Proposed Annual budget, the Commission and the County shall in good faith attempt to reconcile their differences with respect to the Proposed Annual Budget on or before March 30th of the then-current year. If such differences cannot be reconciled on or before March 30, the County shall pay the estimated Operating Expenses for the following fiscal year by July 1. Thereafter, upon reconciliation of the estimated Operating Expenses in dispute and the appropriation of funds by the County Council, where necessary, any surplus Operating Expenses paid by the County shall be processed in accordance with subsection 3.5.4 below.

3.5.2 The Proposed Annual Budget shall include a statement ("**Reconciliation Statement**") setting forth in reasonable detail: (a) the actual amount of all Operating Expenses actually incurred during the immediately preceding fiscal year (or partial fiscal year, as the case may be); (b) the aggregate amount paid by the County as Additional Rent; (c) calculations of any deficiency owed by, or excess owed to, the County; and (d) explanatory notes regarding any divergence between the Annual Budget and the actual costs incurred, both on a line item basis and on a total cost basis.

3.5.3 If the aggregate amount paid by the County as Additional Rent for the prior fiscal year is less than the County's required *pro rata* contribution for actual and properly incurred Operating Expenses for such fiscal year, then a) the deficiency shall be included in the Annual Budget for the following fiscal year or b) the County may elect to pay the shortfall in one

payment. If the aggregate amount paid by the County as Additional Rent for the prior fiscal year is greater than the County's required *pro rata* contribution for actual and properly incurred Operating Expenses for such fiscal year, then the County shall receive a credit for such overage in the Annual Budget for the following fiscal year if the credit amount exceeds the Reserve Fund amount as set forth in subsection 3.5.4.

3.5.4 The parties agree to establish a capital reserve fund (the "**Capital Reserve Fund**") to be administered by the Commission for the convenience of the parties whereby any surplus County Operating Expenses contribution from year to year will be deposited into the Reserve Fund to be capped at \$50,000. Any surplus amount beyond \$50,000 will be promptly paid to the County. The Commission may use the Reserve Fund for expenses allowed under this Lease. The Reconciliation Statement shall include deposits into and withdrawals from the Capital Reserve Fund.

3.6 **Rent Due Date.** The Rent is due and payable in advance in quarterly installments. Payment is due on January 1st, April 1st, July 1st, and October 1st of each year during the Term. Unless the parties agree otherwise in writing, the first Rent payment under this Lease is due on or before July 1, 2020.

3.7 **Rent Payment.** Unless otherwise instructed, the County shall send all Rent payments via ACH transfers to the Commission pursuant to ACH instructions provided by the Commission to the County. Any inquiries regarding payments shall be made via the M-NCPPC Budget Manager at:

M-NCPPC Montgomery County Department of Parks
2425 Reedie Drive, 12th Floor
Wheaton, MD 20902
Attn: Budget Manager

3.8 **Books and Records.** The Commission shall maintain complete and accurate books and records of the Operating Expenses and the County shall have the right, within seven (7) years after the end of any fiscal year (or partial fiscal year), at reasonable times and upon reasonable notice to the Commission, to audit, at the County's expense, such books and records relating to the Operating Expenses.

4. **USE OF LEASED PREMISES; USE HOURS; ACCESS.**

4.1 **County General Office Use.** The County shall use approximately 165,141 square feet of the Leased Premises for its general office purposes by the County Departments (the "**County Office Area**"). With the exception provided in subsection 4.2 below, the County Office Area portion of the Leased Premises may be used only for the County Departments' general office use and is not intended for other purposes unless otherwise approved by the Commission.

4.2 **WSSC.** The Commission acknowledges and agrees that pursuant to a Memorandum of Understanding (“**WSSC MOU**”) between the County and the Washington Suburban Sanitary Commission (“**WSSC**”), attached to this Lease as Exhibit D, WSSC may co-locate up to three WSSC employees in the office space designated for the County’s Department of Permitting Services. The County represents that WSSC is a licensee of the County and will be provided access to the Building via the electronic key security and access system. The County shall cause the WSSC employees to familiarize themselves with the requirements of this Lease, including the Rules and Regulations, and the County shall further cause the WSSC employees to not take any action that will result in violation of this Lease.

4.3 **Prohibited Use.** The County shall not use the electrical or mechanical rooms, hallways, meeting or conference rooms, kitchen, and public areas in the Leased Premises as office space or for the storage of furniture, office machines or other items. In addition, the County covenants not use or occupy the Leased Premises that would (a) cause damage to the Building or any equipment, facilities or other systems therein; (b) interfere with the efficient and economical maintenance, operation and repair of the Leased Premises or the Building or the equipment, facilities or systems thereof; (c) adversely affect any service provided to, and/or the use and occupancy by, any Building tenant or occupants; (d) violate the certificate of occupancy issued for the Leased Premises or the Building; (e) trip or overload elevators, hallways, stairways, or other areas of the Building; (f) constitute unsafe trade or occupancy; and/or (g) breach any covenants, conditions and/or restrictions now or hereafter of record with respect to the Building.

4.4 **Change of County Occupant.** The County may substitute other County uses in the Leased Premises occupied by the County Departments with uses similar to the County Departments provided that (a) the uses put to the Leased Premises by the substituted occupants are substantially comparable to the County Departments; and (b) the County provides prior notice to the Commission’s Executive Director of its desire for substitution and obtains the Commission’s prior written approval. The Commission will not unreasonably withhold, condition or delay its consent.

4.5 **Retail Use.**

4.5.1 The approximately 11,890 square feet of the Leased Premises located on the first floor of the Building (the “**Retail Area**”) must be leased in accordance with the Merchandising Plan, which is attached to and incorporated into this Lease as Schedule One.

4.5.2 The County must enter into a written sublease with each commercial subtenant in the Retail Area (the “**Retail Subtenant**”). The County’s sublease must identify and be subject to the terms of this Lease as the master lease; and require that the County’s sublease include the following indemnity language: “ The [subtenant] is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the [subtenant’s] negligence or failure to perform any contractual obligations. The [subtenant] must indemnify and save the Commission harmless

from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the [subtenant's] negligence or failure to perform any of its contractual obligations. If requested by the Commission, the [subtenant] must defend the Commission in any action or suit brought against the Commission arising out of the [subtenant's] negligence, errors, acts or omissions under this [sublease]. The negligence of any agent, contractor, subcontractor, employee, invitee(s) of the [subtenant] is deemed to be the negligence of the [subtenant]. The County's sublease must additionally require that the Retail Subtenant names the Commission as an additional insured under all of its commercial liability, business and property policies required under the sublease. The County need not obtain the Commission's prior written approval of the subleases unless the uses under the sublease include any of the prohibited uses set forth in the Merchandising Plan.

4.5.3 If any Retail Subtenant buildout includes structural alterations, the County shall submit such alteration plan to the Commission for prior written approval. The Commission will provide review and comment within 90 days of complete documents. The Commission's approval shall not be unreasonably withheld, conditioned or delayed.

4.5.4 The Commission, in its sole discretion, may prohibit direct access from the Retail Area to the interior of the first floor of the Building by the Retail Subtenants and customers of the Retail Area.

4.6 **Normal Business Hours.** Unless an alternate schedule is agreed to by the parties as reflected in a written amendment to this Lease, the normal business hours for the Building appear on Schedule Two, attached to and incorporated into this Lease (the "**Normal Business Hours**")

4.7 **Use Hours; Responsibilities.** The County Departments may occupy and use the County Office Area 24 hours a day, seven days a week.

4.8 **Access System.** Outside of the Normal Business Hours, Building and floor access will be monitored by an electronic key security and access system installed and maintained by the Commission. The Commission shall be responsible for establishing and maintaining access control to the Building, including the Leased Premises.

5. COMMON AREA; BUILDING MANAGER; IT SERVER ROOM; FITNESS CENTER; OTHER USES.

5.1 **Common Area.** The term "**Common Area**" refers to 22,448 square feet on the first, second, eighth floor of, and the elevator core for the Building, as illustrated in Exhibit "A" to this Lease. The Common Area does not include the Childcare area, the Commission's Hearing Room, or any other part of the Building (e.g., stairwell) that is used exclusively by or reserved exclusively for the Childcare or the Hearing Room.

5.2 **Building Manager and Common Area Staffing.**

5.2.1 **Building Manager.** The Building will be managed by the Commission's building manager ("**Building Manager**"). The Building Manager shall maintain an office located on the third floor of the Building or such location as designated by the Commission during Normal Business Hours. On or before the Lease Commencement Date, the Commission shall provide to the County with the Building Manager's contact information to enable the County to contact the Building Manager in the event of an emergency or outside of Normal Business Hours. The Commission reserves the right to change both the Building Manager and the means of contacting the Building Manager after providing the County with at least sixty (60) days prior written notice.

5.2.2 **Common Area Staffing.** The Commission shall provide staffing during Normal Business Hours for the common reception area, to be located on the first floor of the Building. In addition, the Commission shall staff the Common Area during non-standard business hours, but the County shall be responsible for costs associated with staffing during non-standard business hours only if the County specifically requests such staffing.

5.3 **Hearing Room.** Although not part of the Common Area, the Commission may, upon request, make the Commission's **Hearing** Room available for use by other non-Commission tenants or members of the public from time to time without compensation to the Commission (other than for janitorial-related services). The Commission shall be responsible for scheduling the Hearing Room and the schedule for the use thereof shall be posted in a conspicuous manner. The Commission's use of the Hearing Room has priority over all other uses of the Hearing Room.

5.4. **IT Server Room.** The server area is illustrated in Exhibit "A" (*see page 11.608*) attached to this Lease. The Commission and the County shall each have exclusive control over their respective area and equipment in the server room. The Commission acknowledges and agrees that it will maintain the temperature in the IT Server Room at a temperature that is appropriate for all of the equipment located therein. If either Party increases the amount of equipment so that the heat load increases and additional cooling equipment is necessary to maintain safe operating temperatures, then that Party shall be responsible for the costs of procuring and installing new cooling equipment.

5.5 **Fitness Center.** The Fitness Center and associated locker rooms (the "**Fitness Center**") located on the first floor of the Building shall be a Common Area used by all office tenants in the Building. The maintenance, including electrical, plumbing, HVAC, daily cleaning, and user cleaning supplies for the Fitness Room, shall be an Operating Expense shared by the parties based on their pro-rata share of the Operating Expenses. The County shall cause its Department of Recreation to move the Department's existing exercise equipment to the Fitness Center upon the Department's relocation to the Leased Premises. Any maintenance, repair or replacement of the equipment shall be agreed upon by the parties and, once agreed to, shall be an Operating Expense shared by the parties based on their pro-rata share of the Operating Expenses.

5.6 **County Representative.** The County may use one work station within the Building as designated by the Commission to staff the County Building representative (the “**County Representative**”), as illustrated on Exhibit “E”. The County Representative shall be called upon to participate in any disputes or questions relative to the use of any of the Leased Premises, conference rooms or public areas within the Building. The Commission shall be the final authority in settling scheduling disputes regarding the use of the conference rooms or public areas. The Commission shall retain ultimate control of the shared conference rooms, public areas, and other common areas.

5.7 **Loading Dock.** The Commission shall make the Loading Dock available for use on a shared basis as needed by the tenants from time to time. The Commission or its Building Manager shall be responsible for scheduling the Loading Dock and will post the schedule for the use in a conspicuous manner. The Commission or its Building Manager has the authority to resolve any Loading Dock use disputes.

6. **INSURANCE.**

6.1 The County is self-insured through the County’s Self Insurance Fund established under Section 20-37 of the Montgomery County Code, as amended, which self-insurance shall be the primary coverage for all County uses in the Leased Premises. Coverages include General Liability coverage with limits of liability of \$400,000 (four hundred thousand dollars) per individual claim and \$800,000 (eight hundred thousand dollars) per total claims that arise from the same occurrence and Commercial All Risk Property coverage for the County’s business personal property (contents) and improvements.

6.2 The Commission is self-insured and shall maintain such self-insurance through the Montgomery County Self Insurance Program. For as long as the Commission is a member of the Montgomery County Self Insurance Program it shall maintain : (a) General Liability coverage with limits of liability of \$400,000 (four hundred thousand dollars) per individual claim and \$800,000 (eight hundred thousand dollars) per total claims that arise from the same occurrence, including coverage for fire legal liability, contractual liability, products and completed operations, and personal injury as determined by the LGTCA (defined in Section 13.3 below); and (b) an All Risk Property Policy to protect against loss caused by the perils insured in the amount of 100% of the insurable value of the Property. The Commission’s property policy shall also endorse a demolition and clearing clause, extra expense and loss of use coverage.

6.3 The parties agree to maintain Workers’ Compensation coverage for each of their employees, as required by Maryland law. The parties agree to provide evidence of insurance to the other upon request.

7. **MAINTENANCE; SERVICES.** Unless otherwise agree to by the parties, the Commission shall provide the following maintenance services at the Leased Premises: (a) custodial, (b) trash removal, (c) pest control, (d) building maintenance and repair, and (e) mechanical systems

maintenance and repair. Except as provided in this Lease, the County shall maintain the Leased Premises in good order and repair during the term of this Lease. The County shall be responsible for personal property insurance, maintenance and repair of any of its fixtures and personal property in the Leased Premises and the maintenance and repair of any systems and equipment, including but not limited to telephone systems, kitchen and office equipment.

8. COMMISSION'S RIGHT OF ACCESS AND INSPECTION. The Commission may enter the Leased Premises at any reasonable time to ascertain Lease compliance, and for maintenance and repairs. To the extent possible, the Commission shall provide the County with advance notice of any entry to the Leased Premises.

9. TELECOMMUNICATION SERVICES.

9.1 The County shall be responsible, at its sole cost and expense for all telecommunications systems, including telephone and internet services, as well as for all maintenance of those systems and system charges. The County shall be responsible for the payment of the foregoing bills and the County shall pay each telecommunications provider directly. The Commission shall not assume any responsibility for any cost of any of the County's telecommunication systems or for providing such services. Any additional telephones, trunk lines, extensions, rewiring, telephones/internet relocations and related expenses, or any system upgrades, shall be the County's responsibility and at its sole cost and expense.

9.2 If the County requests that the Commission grant access in the Building to a telecommunications service provider selected by the County for purposes of providing telecommunications services to the County, the Commission shall respond to such request within 30 days. The County acknowledges and agrees that nothing set forth in this Section shall impose any affirmative obligation on the Commission to grant such request and that the Commission, in its sole discretion which discretion shall not be unreasonably withheld, conditioned or delayed, may determine which telecommunications service providers shall have access to Building facilities.

10. FIXTURES AND EQUIPMENT. All items which are attached to the Building within the Leased Premises, or which are part of the Building's systems at the time the Leased Premises is delivered to the County, shall remain with the Building and shall be delivered to the County along with the Leased Premises. All moveable partitions, trade fixtures, floor coverings or equipment installed within the Leased Premises at the County's expense shall remain the property of the County and may be removed by the County at the expiration or other termination of this Lease, provided that the County must repair any damage caused by installing or removing such partitions, fixtures, floor coverings, or equipment.

11. ALTERATIONS; IMPROVEMENTS.

11.1 For the purposes of this Lease, "**Alterations**" mean any modifications, alterations, improvements, additions, or renovations made by the County to the Leased

Premises.

11.2 The County may make any non-structural Alterations to the Leased Premises at its sole cost without the prior written approval of the Commission. The County shall inform the Commission of any non-structural Alterations prior to the commencement of the work. If the County desires to make any Structural Alterations (as defined below) to the Leased Premises or any Alterations to major building systems of the Building, the County shall submit detailed plans and specifications to the Commission for prior written approval prior to the performance of any Structural Alterations. “**Structural Alterations**” means Alterations of a structural nature, such as major underpinning of a building, total replacement of floors, including new joists, damp proof membrane, total replacement of ceilings or roof including new joists/timbers, total re-plastering (back to brickwork) of the entire walls of the majority of a building. The Commission’s approval of Structural Alterations shall not be unreasonably withheld, conditioned or delayed.

11.3 If the County’s plans for a proposed Alteration, including Structural Alteration, are approved, the County shall cause the work to be performed in a good and workmanlike manner by either its employees or licensed and qualified contractors at the County’s sole expenses. All such work shall comply with applicable laws, rules, and regulations.

11.4 Any Alterations made by the County in the Leased Premises that cannot be removed or are fixtures shall become and remain a part of the Building and remain the Commission’s property upon the termination of the County’s occupancy of the Leased Premises; provided, however, that if the Commission gives written notice to the County at least 180 days prior to the expiration or early termination of this Lease, it may require the County to remove any Alterations made to the Leased Premises by the County and require the County to restore such portions of the Leased Premises to their original condition.

12. SIGNS. The Commission shall establish and maintain a Building directory located in the first floor lobby that includes the location of the Commission offices and the County Departments. The County shall be permitted to install signage in accordance with Exhibit C attached hereto and made a part hereof.

13. INDEMNIFICATION; SUBJECT TO APPROPRIATION.

13.1 The County will indemnify and save the Commission harmless from and against any and all claims, actions, damages and liability in connection with loss of life, personal injury and/or damage to property arising from or out of the negligent occupancy or use by the County of the Leased Premises, the Building, or any part thereof, occasioned by any act, negligence, or omission of the County, its agents, contractors, or employees, except to the degree such claims arise out of the wrongful acts or omissions of the Commission, the Commission’s agents, and employees. Provided, however, that the Commission provides to the County, within 60 days of the Commission’s receipt of the notice of the act or omission giving rise to the Commission’s claim, or notice of any claims under which the Commission will rely on for this indemnification.

The County shall further indemnify the Commission against any damage or charge incurred or imposed by reason of the County's violation of any law or ordinance.

13.2 To the extent permitted by law, the Commission will indemnify the County and save it harmless from and against any and all claims, actions, damages and liability in connection with loss of life, personal injury and/or damage to property arising from or out of the negligence by the Commission or occasioned wholly or in part, to such extent, by any negligent act or omission of the Commission, its agents, contractors, or employees, due to its ownership, lease, operation, and/or maintenance of the Property, except to the degree such claims arise out of the wrongful acts or omissions of the County, the County's agents, and employees. Provided, however, that the County provides to the Commission within 30 days of the receipt thereof, notice of any and all claims under which the County will rely on for this indemnification. To the extent permitted by law, the Commission shall indemnify the County against any penalty, damage or charge incurred or imposed by reason of the Commission's violation of any law or ordinance.

13.3 Any obligation or liability of either party arising in any way from this Lease is subject to, limited by, and contingent upon the appropriation and availability of funds. Any indemnification given by either party in this Lease is limited by the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. §§ 5-301, *et seq.* (the "**LGTC**A"); and Md. Code Ann., Cts. & Jud. Proc. §5-5A-02 (together the "**Indemnification Statutes**"), all as amended from time to time, and that any indemnification given by either party in this Lease is not intended to create any rights or causes of action in any third parties or to increase either party's liability above the caps provided in the Indemnification Statutes, as applicable. Any increases in any caps shall apply to this Lease automatically.

13.4 Each party shall give the other party prompt written notice of major accident, casualty, damage or other similar occurrence in, on or to the Building of which the party has knowledge. The term "**major**" as used in this sub-section 13.3 means incidents with the damage or costs in excess of \$10,000.

14. CASUALTY.

14.1 If the Leased Premises, the Common Areas or the Building are totally or partially damaged or destroyed thereby rendering the Leased Premises totally or partially inaccessible or unusable, then the Commission shall diligently repair and restore the Leased Premises, the Common Areas or the Building to substantially the same condition they were in prior to such damage or destruction. If, within 60 days after the casualty, the Commission determines that the repair and restoration cannot be completed within 12 months of the casualty ("**Repair Period**"), then the Commission must notify the County and the County may terminate this Lease by exercising its right to termination as set forth in Section 15.4 below. If the Leased Premises are rendered untenable, the Rent shall be wholly abated; otherwise, the Rent shall be partially abated to the extent that the Building, the Common Areas and the Leased Premises are incapable of being used by the County as provided under this Lease.

14.2 If this Lease is terminated pursuant to Section 14.1, then the Rent (including the Additional Rent) shall be apportioned (based on the portion of the Leased Premises which is usable after such damage or destruction) and paid to the date of termination. If this Lease is not terminated as a result of such damage or destruction, then until such repair and restoration of the Leased Premises are substantially complete, the County shall be required to pay a pro-rata portion of the Rent only for the portion of the Leased Premises and/or the Common Areas that are usable while such repair and restoration are being made; provided, however, that if such damage or destruction was caused by the act or omission of the County, then the County shall not be entitled to any Rent reduction. After receipt of all insurance proceeds, the Commission shall proceed with and bear the expenses of such repair and restoration of the Leased Premises, the Common Areas and the Building; provided, however, that (a) if such damage or destruction was caused by the act or omission of the County, then the County shall pay the Commission's deductible, if any, and the amount by which such expenses exceed the insurance proceeds, if any, actually received by the Commission on account of such damage or destruction, (b) the County shall pay the amount by which the cost of restoring any item which Commission is required to restore and the County is required to insure exceeds the insurance proceeds received with respect thereto, and (c) the Commission shall not be required to repair or restore any Alterations or any other contents of the Leased Premises (including, without limitation, the County's fixtures, decorations, furnishings, equipment or personal property). Notwithstanding anything herein to the contrary, the Commission may terminate this Lease if (a) insurance proceeds are insufficient to pay the full cost of such repair and restoration, or (b) the Building is damaged by fire or casualty to such an extent that the Commission decides not to rebuild or reconstruct the Building.

15. **DEFAULT; TERMINATION.**

15.1 **Event of Default.** The Commission or the County shall be in default of this Lease when either party (the "**Defaulting Party**") fails to perform or satisfy any of the material provisions, covenants or conditions of the Lease ("**Event of Default**") and the Defaulting Party fails to cure the Event of Default within 30 days ("**Remedy Period**") after written notice is sent from the other party (the "**Non Defaulting Party**") setting forth the details of the Event of Default. The Defaulting Party shall be liable for all loss or damage resulting from an Event of Default.

15.2 **Cure; Mediation.** In the event the Defaulting Party fails to remedy any Event of Default within the Remedy Period, then upon the expiry of the Remedy Period, the Non Defaulting Party may, at its option, (a) cure the outstanding Event of Default and charge the Defaulting Party for all expenses incurred in curing the Event of Default, and the Defaulting Party shall pay such expenses, plus 15% of the total costs incurred as management fee; or (b) elect mediation of unresolved issues between the County's Chief Administrative Officer or designee and the Commission's designated representative.

15.3 **Legal Remedy.** In the event the parties' mediation efforts fail to resolve the

Event of Default to the Non Defaulting Party's satisfaction, the Non Defaulting Party may seek legal action, including but not limited to filing an action for specific performance or declaratory judgment. The prevailing party in any legal action shall pay all expenses incurred by the non-prevailing party. As government entities, neither party may seek attorneys' fees from the other.

15.4 **Termination.**

15.4.1 The County may terminate the Lease upon providing to the Commission a minimum of six (6) months advance written notice (the "**Notice Period**").

15.4.2 The County remains subject to the terms of this Lease during the Notice Period, provided however, the County is not obligated to pay the Rent during any portion of the Notice Period for which County funds have not been appropriated because of the timing of the Notice Period during the County's standard annual budgeting process.

15.4.3 The County's failure to pay the Rent during some or all of the Notice Period because funds have not been appropriated to pay the Rent shall not constitute an Event of Default.

15.4.4 The Lease will terminate upon the expiration, or earlier termination, of the condominium regime of the Condominium.

16. **WAIVER.** Any waiver by the Commission or the County of any breach of any provision, covenant or condition in this Lease must be in writing. Any written waiver of any provision, covenant, condition does not constitute a waiver of any subsequent breach thereof.

17. **LEGAL REQUIREMENTS.** The County shall comply with all legal requirements concerning its use within the Building.

18. **ASSIGNMENT AND SUBLEASE.** Except for substituting the occupancy of the County Departments located in the Leased Premises with other County uses in the manner permitted under this Lease and providing Subleases to the Retail Subtenants, the County may not assign this Lease or sublet the Leased Premises without the prior written consent of the Commission, which consent may be withheld in its reasonable discretion.

19. **SURRENDER OF POSSESSION.** At the expiration or other termination of this Lease, the County shall remove all personal effects and fixtures installed in the Leased Premises that are not the property of the Commission, and surrender the Leased Premises in good repair, order and condition in all respects, excepting (a) reasonable wear and tear caused by use thereof, (b) damage by fire or other casualty, and (c) any other damage to the premises for which the County is not liable.

20. **POLICE SERVICES; SECURITY; ALARM.**

20.1 **Policing.** The Maryland-National Capital Park Police, Montgomery County Division (the “**Park Police**”) shall exercise primary police authority over the Building. The Park Police will provide its police services regarding the Leased Premises in its customary manner and the County shall contact the Park Police in the following manner:

For Emergency Police Service:

Call 911 and request the Park Police or call the Park Police directly:

Commission Park Police:

- Emergency 301-949-3010
- Non-Emergency 301-949-3080

20.2 **Video Monitor System.** All cameras and other video monitoring/ recording system installed in or immediately about the Building shall be monitored by the Park Police’s “Truvision 8” viewing system. In the event the County desires to view particular video footage, the request must be made in writing with specific time parameters, dates, and locations to the Park Police’s Patrol Commander. Park Police will handle the request with appropriate prioritization in accordance with its policies specific to the nature of the footage (e.g., routine footage, on-going investigation, etc.). Any camera and other video monitoring/recording system installed in the Leased Premises will be installed at the sole expense of the County. The County shall (a) be responsible for all maintenance, replacement and monitoring of self-installed systems; (b) notify the Commission of its intention to install the system; and (c) obtain the Commission’s prior approval for the system and location of such installation. The Commission may update or replace the Park Police’s viewing system from time to time. If Commission installs a new viewing system, it will endeavor to install a system that is compatible with the existing County system but is not obligated to do so. Upon any replacement with a new viewing system by the Park Police, the County, at its sole expense must update its system within 60 days of the selection of a vendor under the County’s procurement process to keep the County’s system compatible with the Park Police’s new viewing system.

20.3 **Intrusion Alarms.** All intrusion alarm hardware installed in the Building shall be compatible with MASTermind alarm monitoring equipment. All intrusion alarms will be monitored by the Park Police dispatch consul and be monitored by Park Police for appropriate response. From time to time, the Commission may update or replace MASTermind system and, within 60 days of the selection of a vendor under the County’s procurement process, the County shall update or replace its system at its own expense, to remain in compliance with obligations herein.

20.4 **Fire Alarm.** All fire alarm hardware installed in the Building shall be compatible with MASTermind alarm monitoring equipment. All fire alarms will be monitored by the Park Police dispatch consul and be monitored by Park Police for appropriate response. From time to time, the Commission may update or replace the MASTermind system and, within 60 days of the selection of a vendor under the County’s procurement process, the County at its own expense shall update or replace its system to remain in compliance with obligations herein.

20.5 **Access System**. All access to the Common Areas shall be on the Lenel card access platform. The parties acknowledge and agree that certain doors and elevators will require access scans by all occupants of the Building. The Commission may install infrastructure to properly direct an access scan to the appropriate reader system to allow or deny entry. Each party will be responsible for maintaining access data to allow appropriate access. The Commission's Building Manager and Park Police shall have 24/7 access to all doors for the purpose of emergency response, provided that the Commission must alert the County to any such entry within the earlier of 8 hours of the entry or prior to the shift change for the Park Police or Building Manager entering the Leased Premises. When time allows, the Commission personnel will give adequate notice of planned entry into the Leased Premises. From time to time, the Commission may update or replace the Lenel card access system. When such update or replacement takes place, the County, at its sole cost shall ensure that its access system is compliant with the new Commission access system.

21. **NOTICES**. All notices required or desired to be given hereunder by either party shall be given in writing and sent by courier or overnight delivery, and shall be addressed as follows:

County:

Montgomery County, Maryland
Department of General Services
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attention: Director of Real Estate

Copy to:

Montgomery County, Maryland
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attention: County Attorney

Commission:

M-NCPPC
Property Manager
2425 Reddie Drive, 3rd Floor
Rockville, Maryland 20855

Copy to:

M-NCPPC
Office of the General Counsel
6611 Kenilworth Avenue, Suite 200
Riverdale, Maryland 20737

22. **INCORPORATION OF PREAMBLE AND RECITAL**. The preamble and recitals of this Lease are incorporated into and made a part of this Lease.

23. **GOVERNING LAW**. This Lease and its performance is governed, interpreted, construed and regulated by the laws of Montgomery County and the State of Maryland. Should any provision of this Lease be found invalid or unenforceable, the remaining unrelated and enforceable provisions shall continue in full force and effect.

24. **CLAIMS**. Any claim or action brought by or on behalf of either party in connection with the performance of this Lease shall be filed and maintained in a court of competent jurisdiction located in Montgomery County, Maryland.

25. **WAIVER OF JURY TRIAL**. The County and the Commission hereby waive trial by jury in

any action, proceeding, or counter claim brought by either of them against the other with respect to any matter whatsoever arising out of or in any way connected to this Lease.

26. RULES AND REGULATIONS. The Commission's rules and regulations governing the use of the Building is attached and incorporated into to this Lease as Exhibit "B". The Commission reserves the right to amend any rules and regulations from time to time, at the Commission's reasonable discretion after providing a 45 day written notice and comment period to the County. The County's comments and concerns shall be considered in good faith by the Commission prior to any amendments taking effective. The County shall comply with any and all rules and regulations established by the Commission that do not conflict with any laws, including but not limited to those specifically applicable to the County, if such rules and regulations are promulgated as required under this Section 26. The County's material failure to comply with the rules and regulations, except as otherwise stated in this Section 26, constitutes an Event of Default under this Lease for which the Commission may pursue any or all of the remedies set forth in this Lease. In the event of a conflict between the rules and regulations and this Lease, the Lease is controlling.

27. RECORDATION OF LEASE. The County shall record this Lease among the Land Records of Montgomery County, Maryland.

28. SUBJECT TO APPROPRIATION. Despite anything to the contrary in this Lease, the following shall apply:

28.1 **County.** Any obligation or liability of the County arising in any way from this Lease is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements provided for in state law, including the County Indemnification Statutes (defined above). Any increases in any caps shall apply to this Lease automatically.

28.2 **Commission.** Any obligation or liability of the Commission arising in any way from this Lease is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the LGTCA and the Maryland Tort Claims Act, Md. Code, Ann., SG, § 12-101 *et seq.* all as amended from time to time. Any increases in any caps shall apply to this Lease automatically.

28.3 **No Third Party Rights.** This Lease is not intended to create any rights or causes of action in any third parties or to increase the County's or the Commission's liability above the caps established by law.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates written below.

MONTGOMERY COUNTY, MARYLAND

Date: _____

By: _____
(Signature)

Typed Name: _____

Title: _____

APPROVED FOR FORM AND LEGALITY

By: _____

Date: _____

**STATE OF MARYLAND
COUNTY OF MONTGOMERY**

I hereby certify that on this ___ day of _____ 2021, before me, the subscriber, a Notary Public in and for the aforesaid jurisdiction, personally appeared _____, the _____ of Montgomery County, Maryland, and that (s)he did acknowledge that (s)he executed the foregoing Lease on behalf of Montgomery County, Maryland for the purposes therein contained, and further acknowledged the Lease to be the act of Montgomery County, Maryland.

As witness my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

(Signatures continue on following page)

**MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION**

Date: _____

By: _____
Asuntha Chiang-Smith
Executive Director

ATTEST:

Date: _____

By: _____
Joseph C. Zimmerman
Secretary-Treasurer

APPROVED AS TO LEGAL SUFFICIENCY

By: _____
M-NCPPC Legal Department

Date: _____

**STATE OF MARYLAND
COUNTY OF MONTGOMERY**

I hereby certify that on this ___ day of _____ 2021, before me, the subscriber, a Notary Public in and for the aforesaid jurisdiction, personally appeared **Asuntha Chiang-Smith**, the Executive Director of the Maryland-National Capital Park and Planning Commission, and that she did acknowledge that she executed the foregoing Lease on behalf of the Maryland-National Capital Park and Planning Commission for the purposes therein contained, and further acknowledged the Lease to be the act of the Maryland-National Capital Park and Planning Commission.

As witness my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

SCHEDULE ONE

MERCHANDISING PLAN FOR MONTGOMERY COUNTY RETAIL SPACE IN THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION ("COMMISSION") OFFICE BUILDING IN WHEATON, MARYLAND

This document sets out the provisions governing the County's use of the retail space in the Office Building.

The purpose behind the Commission leasing the first floor retail space to the County is to provide active uses in the building that complement the Town Square, for both daytime and evening activities. Therefore, the County must either lease or sublease the retail space for uses consistent with that purpose, including community facility use; provided however, the retail space must not be used for any of the following uses unless otherwise expressly agreed to in writing by the Commission:

- 1) A use that produces or is accompanied by unusual fire, explosive or other damaging or dangerous hazard.
- 2) Gun shop.
- 3) Shooting gallery or gun range (other than an electronic or arcade-type shooting gallery or gun range).
- 4) Storage warehouse or any assembling, manufacturing, refining, smelting, industrial, agricultural, drilling or mining operation (except for storage that is incidental to the primary use of the retail space).
- 5) Pawn shop or check-cashing operation.
- 6) Motor vehicle body shop or repair operation (such as oil changes, tire changes, body or paint shop, tune-up, brake or muffler services).
- 7) Sales or leasing of motor vehicles.
- 8) Gasoline or motor vehicle service station.
- 9) Residential use.
- 10) Veterinary office or hospital.
- 11) Pet shop that houses live animals.
- 12) Mortuary or funeral home.
- 13) Drug paraphernalia shop.
- 14) Adult bookstore or other establishment selling or exhibiting sexually explicit or pornographic acts or materials, including strip tease acts and nude dancing.
- 15) Nightclubs, discotheques or dance halls in which hours are primarily dedicated to evening activities.
- 16) On-site commercial laundry or drycleaner, except for a dry cleaning or laundry drop off and pickup site.
- 17) Storage for hazardous materials except such de minimus amounts allowed by law for cleaning and maintenance purposes.

- 18) Gambling facility except for video gambling machines, Keno or the sale of government-sponsored lottery tickets.

If a retail space is vacant for more than ninety (90) days, the County must provide a temporary, attractive display in the windows of the retail space on a topic that is of interest to the Wheaton community until such time as the space is leased or occupied for use consistent with this Merchandising Plan.

COMMISSION RIGHTS. The Commission has the following rights with respect to the use of the retail space.

- 1) The Commission may sublease any portion of the retail space from the County upon terms mutually acceptable to the County and the Commission, if no other tenants have been identified for the retail space by Montgomery County consistent with this Merchandising Plan.
- 2) If any portion of the retail space is vacant for an extended period (except for fit-up between leasing and occupancy), or if the County elects to use one or more retail spaces other than as approved under this Merchandising Plan, the County and the Commission will work together to determine an appropriate use consistent with the goals of this Merchandising Plan.
- 3) If the County elects to use one or more retail spaces for office space (which includes intake and permit operations) instead of retail space, the Commission may, instead, occupy that space(s) if: a) it provides to the County an equivalent amount of office space in the Office Building that is not already under lease to the County and b) the office space is “move-in ready”. Each party will be responsible for its own costs associated with the relocation and fit-up.

SCHEDULE TWO

Normal Business Hours

Except for holidays honored by the Commission's Montgomery County Departments of Parks and Planning, the Building shall be open and accessible to County employees and members of the public from 6:00 a.m. to 6:00 p.m., Monday through Friday. If the Commission holidays do not align with those of Montgomery County Government, the Commission shall use its best efforts to staff the Building at no additional charges to the County. Outside of those hours, County employees may access the Building using key cards issued by the Commission.

EXHIBIT A

Leased Premises

[Separately attached hereto]

EXHIBIT B

Rules and Regulations

(All references to the Commission include the Building Manager)

1. Signage. Unless otherwise approved by the Commission, which approval shall not be unreasonably withheld, conditioned or delayed, the County shall install signage on the interior and exterior of the Building only as permitted under Exhibit C to the Lease.

2. Windows/Doors/Skylights/Louvers. Other than the standard blinds installed in the Building, no curtains, blinds, shades, screens or other obstructions shall be attached to, hung on, or used in connection with any exterior window, entry door, or other opening of the Leased Premises without the prior approval of the Commission, which approval shall not be unreasonably withheld, conditioned or delayed.

3. Unobstructed Common Areas. The Common Areas shall not be obstructed or encumbered by the County or used for any purposes other than ingress to and egress from the Leased Premises.

4. Locks. All locks and deadbolts of any kind shall be operable by the Building's Master Key. No locks shall be placed upon any of the Leased Premises doors or windows by the County, nor shall any changes be made in locks or the mechanism thereof which shall make such locks inoperable by the Building's Master Key. The County shall, upon the termination of its Lease, deliver to the Commission all keys to all the Leased Premises and Commons Areas furnished to or otherwise procured by the County. If any keys furnished by the Commission are lost, the County shall pay for the cost for replacement.

5. Moving Furniture and Equipment/Use of Loading Dock and Elevators. All movement in or out of the Building of any freight, furniture, boxes, crates or any other large object must take place during such times and in such elevators as the Commission may reasonably prescribe. All hand trucks shall be equipped with rubber tires, side guards and such other safeguards as the Commission may reasonably require. In addition, the Loading Dock will be made available for use on a shared basis to accommodate all users of the Building. In consultation with the heads of the County Departments, the Commission shall be responsible for scheduling the Loading Dock and the schedule for using the Loading Dock shall be posted in a conspicuous manner.

6. Access to Roof/Mechanical and Utility Rooms. Except as otherwise provided in the Condominium Documents, the County shall not access the Building's roof, mechanical, electrical or telephone rooms without permission from the Commission, which permission will not be unreasonably withheld, conditioned or delayed. The foregoing notwithstanding, County will be given access to and a non-exclusive right to use the Building's roof deck, which access and use shall be subject to such rules and regulations as the Commission shall from time to time reasonably promulgate with respect thereto (including, without limitation, rules and

regulations pertaining to roof deck safety, reservations and post-use clean-up).

7. The County shall not permit or suffer the Leased Premises to be occupied or used in a manner offensive or objectionable to the Commission or other occupants of the Building by reason of unreasonable noise, odors, vibrations or unreasonable interference in any way with other tenants or those having business therein.

8. As provided in the Lease, County shall use the janitorial services provided by the Commission for the Leased Premises unless otherwise agreed to by the parties and the Commission's approval shall not be unreasonably withheld, conditioned or delayed. The County shall not cause any unnecessary labor for the janitorial service by reason of the County's carelessness or indifference in the preservation of good order and cleanliness.

9. All County refuse disposal shall be made only through entry ways and elevators provided for such purposes and at such times as the Commission shall designate. The County shall use the Building's refuse and recycling contractors.

10. Except for typical office building purposes, such as hanging pictures, the County shall not deface any part of the Building. Boring, cutting or stringing of wires is not permitted, except with prior consent of Commission, which shall not be unreasonably withheld, conditioned or delayed.

11. The water closets, electrical closets, mechanical rooms, fire stairs and other areas designated for utilities shall not be used for storage or for any purposes other than those for which they were constructed.

12. Animals, except for service animals, are prohibited in the Building.

13. Building Management and custodial staff shall not perform any work or do anything for the County outside of their regularly scheduled duties, unless under special instructions from the Commission or in response to any emergency condition.

14. The County is responsible for the delivery and pick up of all mail for the users of the Leased Premises from the United States Post Office. Overnight courier, commercial and other package delivery services shall pick-up from, and deliver packages to, a central messenger facility designated by the Commission for the Building.

15. Except as set forth in the Lease, the Commission shall not be responsible to the County or to any other person for the non-observance or violation of these Rules and Regulations by any other tenant or other person; provided, however, the Commission shall reasonably endeavor to apply these Rules and Regulations in an even, non-discriminatory manner to all tenants and other users of the Building. The County shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition to its occupancy of the Leased Premises.

16. No person shall vape, smoke, chew or otherwise ingest, or use tobacco products in any portion of the Building or on the sidewalks and driveways adjacent to the Building except in an area, if any, designated by the Commission.

17. The County shall include these Rules and Regulations in its Subleases for the Retail Spaces.

18. These Rules and Regulations cannot be amended without the County's prior written consent.

EXHIBIT C

Signage

[Separately attached to herein]

EXHIBIT D

MOU between Montgomery County and WSSC

[Separately attached hereto]

EXHIBIT E

Location of County Representative

(diagram showing the location of the office for the County Representative)