

Department of Materials Management
Procurement Unit
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, MD 20850

Request For Proposals No. 4391.1,
Holding Schools - Multiple Locations For Lease

1.0. INTENT

Through this Request For Proposal (RFP), Montgomery County Public Schools doing business on behalf of the Board of Education of Montgomery County (the “Board”), hereinafter referred to collectively as “MCPS”, is seeking one or more agencies, organizations, companies, or corporations interested in leasing space in unoccupied school facilities on a short-term basis as outlined below:

Fairland Center – Currently available through December 2020 – **no longer available**

Emory Grove Center – Currently available through December 2020

Lynbrook Center – Currently available through June 30, 2021- **no longer available**

Offerors will demonstrate their ability to conduct operations within the space and make rent payments throughout the term of the lease. The space may be leased to a single or multiple tenants as may be appropriate for the specific location.

Offerors may submit proposals for one or all locations. However, a separate proposal must be prepared for each location. If no responsible or responsive proposals are received for a specific location, the RFP shall be advertised in additional thirty (30) day increments until a responsive and responsible proposal is received and accepted. All proposals received will be reviewed and rated by a selection team (“Selection Team”) identified by MCPS staff. Following issuance of a Notice of Intent to Award, the Offeror will enter into a lease agreement with MCPS for use of the space. Lease approval will be contingent upon feedback received from the surrounding community and authorization by the Board.

2.0 INTRODUCTION

MCPS is the 17th largest school system in the United States, and the largest in the state of Maryland. During the 2016–2017 school year, MCPS serves more than 159,000 students from 157 countries speaking 138 languages. With a Fiscal Year (FY) 2017 Operating Budget of approximately \$2.46 billion, MCPS employs more than 23,400 employees. Among the 204 schools that MCPS operates, 36 are National Blue Ribbon schools. Eight MCPS high schools rank in the top 200 of *The Washington Post*’s 2014 High School Challenge, and all 25 MCPS high schools appear on this list, which only includes the top 9 percent of high schools in the country. MCPS has one of the highest graduation rates among the nation’s largest school districts, according to an *Education Week* report. In 2010, MCPS was the recipient of the Malcolm Baldrige National Quality Award, the highest presidential honor given to American organizations for performance excellence.

MCPS is governed by the Board established by the authority of the laws of the State of Maryland. The Board, under its authority creates and adopts policies and regulations necessary for operating the school

system. In Board of Education Policy DNA, *Management of School Property*, hereinafter referred to as “Policy DNA” (Attachment A), the Board authorized the interim use of Board owned property for the productive use of such property, while reserving it for future use. When leasing properties, Policy DNA requires that priority will be considered for programs that benefit MCPS students, their families, or staff. Other uses may be considered in accordance with applicable laws, including but not limited to *Annotated Code of Maryland*, Education Article, § 4-115, § 5-301. Community feedback on the interim use will be considered in the recommendations of the superintendent of schools for lease of the property.

Pursuant to Policy DNA, leasing conditions will prohibit substantial alteration of property and purposes that interfere with future use for MCPS educational purposes. In addition, No improvements to the property shall be allowed without permission of the superintendent of schools or his/her designee. As a part of the lease term, the superintendent of schools or his/her designee will evaluate permitted improvements made by the tenants, consider the impact of the improvement on the surrounding community, and determine whether the improvements should be removed by the tenant or kept for future school use.

3.0 QUALIFICATIONS

The selected Offeror(s) for each location must demonstrate the experience and financial ability to operate a successful program within the space provided (“Leased Premises”). The selected Offeror(s) must demonstrate an understanding of the intent of this RFP and plans to vacate the leased premises according to the terms and conditions of the lease. Priority will be given to organizations as specified in Policy DNA.

In determining the qualifications of an Offeror, MCPS will consider the Offeror’s record and performance of any prior contracts and leases with MCPS, federal departments or agencies, or other public or private bodies, including but not limited to the Offeror’s record operating programs and business concerns in other MCPS or Montgomery County facilities. MCPS expressly reserves the right to reject any proposal of any Offeror if the investigation discloses that the Offeror, in the opinion of MCPS, has not properly performed such prior contracts or has habitually and without just cause neglected the payment of bills or has otherwise disregarded its obligations to subcontractors or employees.

MCPS may conduct any necessary investigation to determine the ability of the Offeror to perform the requirements of the lease, and the Offeror shall furnish to MCPS all such information and data requested, such as information about its reputation, past performance, business and financial capability and other factors that demonstrate that the Offeror is capable of satisfying requirements for a lease. MCPS reserves the right to reject any proposal if the evidence submitted by the Offeror or investigation of such Offeror fails to satisfy MCPS that such Offeror is properly qualified to carry out the obligations of the lease and to complete all requirements contemplated therein. In addition, MCPS reserves the right to make on-site visits of Offerors who currently operate programs during normal business hours to determine ability, capacity, reliability, financial stability and other factors necessary to perform the proposed program in the Leased Premises.

All Offerors submitting a proposal shall include evidence that they maintain a permanent place of business. If applicable, the selected Offeror for each location must also obtain the required licenses from the Maryland State Department of Education prior to commencing operations within the school. This includes Offerors who provide services as a private school or child care. Copies of any other appropriate licenses necessary to perform this work shall be submitted with each proposal.

4.0 SCOPE OF SERVICES

At each location, the Offerors will be expected to enter into a Lease Agreement. Additional hours or services may be provided pursuant to the terms and conditions of this RFP and the MCPS executed Lease Agreement. The initial term of the Lease Agreement will be a maximum of three (3) years, with a renewal option determined by MCPS depending upon the location. Provided the Offeror is in good standing, not currently in default of the lease, has not had rent arrearages in the previous six (6) months, and the property is not needed for school renovation and expansion projects, the Board of Education may grant the Offeror additional renewal terms in accordance with the terms and conditions of the lease and consistent with Policy DNA.

The scope of services will vary for each location as outlined in the chart below:

Holding Facility	Facility Address	Rooms (all)	Building Square Feet	Maximum Term	Renewals	Relocatable Classrooms
Fairland Center – no longer available	11300 Old Columbia Pike, Silver Spring	27	45,082	3 years	1 year	0
Emory Grove Center	18100 Washington Grove Lane, Gaithersburg	27	45,000	3 years	1 year	18
Lynbrook Center – no longer available	8001 Lynbrook Drive, Bethesda	5 - 6	7,500	3 years	3 terms of 1 year each	0

Floor plans, site plans, and aerial photos for the proposed premises to be leased by the Offeror in each school are provided in Attachment B.1 – B.6. Site visits will be scheduled upon request. Contact Pete Geiling if you have questions regarding the site visit schedule at Peter_J_Geiling@mcpsmd.org.

Please note that, subject to the terms of Board Policy DNA, the tenant must be prepared to relinquish possession of the Leased Premises prior to the end of lease term when any of the following conditions exist:

- (1) The tenant has defaulted on lease requirements.
- (2) The property is needed for an approved capital project in the CIP before the current lease term expires.

- (3) Another public use is identified as determined by the Board.
- (4) The property is needed to meet requirements of environmental conservation regulations.
- (5) The land is declared surplus by the Board because it is no longer needed for school purposes.
- (6) The Board may terminate a lease at its sole discretion with adequate notice to the tenant.

5.0 DEVIATIONS

MCPS expects to enter into a Lease Agreement with the Offeror(s) selected for each location that has terms and conditions as stated in the template included with this RFP as Attachment C, except and unless modified by MCPS in its sole discretion. Proposals must clearly identify any variances from or objections to the specifications in this RFP and the terms and conditions of the Lease Agreement template. Lacking any response to the contrary, MCPS will infer that the Offeror agrees to the specifications of this RFP and each term and condition of the Lease Agreement template. In particular, the insurance provisions set forth in Article 16 of the Lease Agreement are non-negotiable, as are those terms and conditions set forth in Board Policy DNA.

6.0 MANDATORY SUBMISSIONS

Each Offeror must provide the following information. All responses must be in the same order as outlined below.

a. Offeror Information and Qualifications

- 1. Provide the Offeror’s organizational name, primary contact name, mailing address, phone and fax numbers, email, and web address.
- 2. Provide a statement as to the Offeror’s organizational experience in its business or a related field.
- 3. If the Offeror currently operates other programs, provide a list with the name of the program(s), address(es), hours of operation, if applicable ages of children served, number of children served, director’s name, and the name and phone number of the building manager(s).
- 4. List contact information for at least three (3) references. Two (2) references shall be professional references from parent or clients or, if Offeror has previously or currently operates at another MCPS school, the principal of the school. The third reference shall be a financial reference addressing the financial stability of the Offeror. All references shall include the name/company, contact person, address and phone number.

b. Program Implementation and Services

1. Describe the philosophy and objectives of the proposed operations and how such programs will benefit MCPS students, their families, or staff, or other uses in accordance with applicable laws and Board Policy DNA. Include the vision, mission statement, and objectives of the Offeror.
2. If applicable, provide the proposed ages of children to be served.
3. Provide a detailed tentative annual operating budget for staff, furniture, supplies, etc. (revenue and expenses). If applicable, please itemize your start-up costs.
4. Provide a space utilization concept with the proposed space layout. Include expected number of staff, visitors, and if applicable, children and/or clients to be accommodated within the space.
5. Describe any special program features, methodology, and innovations that will be provided by the program.
6. Provide a detailed explanation of how the Offeror demonstrates the ability to appropriately maintain the Leased Premises during the lease period.
7. Describe the Offeror's proposed use of space during the time period of the Lease Agreement. Provide the dates, months and hours of program operation including half-day, holiday, winter, spring break, summer, and inclement weather. Include the Offeror's guidelines for emergency and weather related closings, including procedure for parent notification.

c. Personnel

1. Describe the Offeror's staffing plan, including the number of full- and part-time staff, job titles and position description, and the staff/client ratio proposed for the site.
2. Describe how the Offeror will recruit, hire, and retain personnel, including information on background checks that the Offeror will require of all staff in accordance with Maryland law.
3. Describe the qualifications and responsibilities of the on-site Director, including a plan for regular program evaluation to ensure quality service delivery.
4. Provide a copy of written personnel policies.

d. Financial Responsibility

1. Complete Attachment D – Statement of Financial Responsibility and Attachment E – Certification of Financial Responsibility.
2. Provide one financial reference as described in Section 6.0(a)(4) above.

3. Provide a statement that the Offeror will comply with insurance coverage requirements set forth in Section 16 of the Lease Agreement.

g. Other Terms and Conditions

1. Identify any variances from or objections to the terms and conditions of the Lease Agreement template, as well as a justification for any such variances or objections.
2. Complete Attachment F – Equal Opportunities Certification and Attachment G – Certification of Non-segregated Facilities.
3. Indicate whether the Offeror is a non-profit and provide a copy of the Offeror’s non-profit, tax-exempt status, if applicable, and/or a certificate of good standing.
4. Complete Attachment H indicating whether the Offeror is a minority/female/disabled-owned business
5. If applicable, provide a copy of the Offeror’s Maryland State Department of Education (MSDE) EXCELS Status.
6. Complete Attachment I – Non-Debarment Acknowledgment.
7. Provide redacted copy of Offeror’s proposal as specified in Sections 10.0 and 19.0.

7.0 PRICING

The Offeror will be required to pay monthly rent at a rate of no less than \$12.50 per square foot and any additional rent as specified in the Lease Agreement. Minimum monthly rent is calculated by multiplying the total square feet of the space by \$12.50, then dividing by twelve (12) months. Annual rent for any renewal terms shall be increased at each anniversary of the Lease Agreement by three percent (3%) over the previous year’s annual rent. The rent rate is non-negotiable.

8.0 EVALUATION CRITERIA

The determination of those Offerors that are qualified, interested, and available, and MCPS’ choice of the best qualified will be based on the following criteria:

- a. Qualifications, reputation, and experience of the Offeror relevant to the **Scope of Services**.
- b. The Offeror’s proposed approach to providing services in the particular location, including all responses to the instructions set forth in **Section 6.0**.
- c. The sufficiency of financial resources of the Offeror to perform the lease and provide the services.
- d. Past performance as determined by recent and relevant contracts and leases. Evaluation will be

based on information obtained from references provided by the Offeror as well as other relevant past performance information obtained from other sources known to MCPS.

- e. Pricing proposal and ability to meet obligations contained in the lease.

For each location, proposals will be evaluated based on these criteria by the Selection Team identified by MCPS staff.

9.0 SELECTION OF THE OFFEROR(S)

MCPS reserves the right to ask clarifying questions about submitted proposals. Offerors also may ask questions related to this RFP prior to submitting their responses. See Section 12.0, Schedule of Events. Only proposals received by the deadline will be considered. Proposals will be screened down to a number of finalists. All Offerors are advised that in the event of receipt of an adequate number of proposals, which, in the opinion of MCPS require no clarification and/or supplementary information, such proposals may be evaluated without further discussions. Therefore, proposals should be submitted initially on the most complete and favorable terms and conditions. Should proposals submitted require additional clarification and/or supplementary information, Offerors should be prepared to submit such additional clarification and/or supplementary information, in a timely manner, when requested.

If only one Offeror submits a proposal for a particular location, the proposal must be reviewed by the Selection Team to determine if all of the requirements and qualifications are met, and MCPS reserves the right to reject all proposals, subject to the terms of Board Policy DNA.

MCPS may invite the finalists to make an oral presentation at a time and date to be announced. See Section 12.0 Schedule of Events. All respondents will receive written notification regarding the intent to award. Based on the recommendation of the Selection Team, the superintendent of schools shall recommend an Offeror to lease the proposed space for consideration and approval by the Board. Pursuant to Policy DNA, community feedback for the interim use will be considered in the recommendations of the superintendent of schools for lease of the property. Should MCPS and the selected Offeror not be able to reach a mutually agreeable lease, MCPS is entitled to terminate negotiations with the selected Offeror, and select another Offeror and/or advertise the available space for additional thirty (30) day increments until a responsive and responsible proposal is accepted. MCPS is entitled to enter into the resultant contract in accordance with this RFP.

10.0 FORMAT OF RESPONSE

Each Offeror must submit a complete proposal for each location for which it wishes to be considered, including all required information and attachments. The response shall address each paragraph in the same order as the RFP and provide an individual response to each RFP specification. All proposals must be presented using the same numbering sequence and order used in this RFP document or as otherwise specified by MCPS. Offerors may request via e-mail to Mrs. Barbara E. Regalia, team leader, Procurement Unit, at Barbara_Regalia@mcpsmd.org a Microsoft Word version to help them in preparing their response.

One original and six copies, as well as one electronic version on CD or flash drive and one redacted copy of responses must be sent by mail, courier or hand-delivery and shall be in binders with tabs identifying each section. A table of contents should be included and all pages numbered as referenced in the Table of Contents. No faxes of proposals will be accepted. Proposals are to be received no later than 2:00 p.m., on Wednesday April 19, 2017. Submit responses of the entire RFP proposal to:

Montgomery County Public Schools
Procurement Unit
45 W. Gude Drive, Suite 3100
Rockville, MD 20850

Please contact MCPS Procurement via e-mail at Barbara.Regalia@mcpsmd.org to receive an electronic MS Word copy of the RFP.

Please note that the Board or MCPS shall not be responsible nor be liable for any costs incurred by the Offeror in the preparation and submission of their proposals and pricing.

Submissions will become the property of MCPS.

11.0 PROJECT CONTACT

The MCPS project contact for this proposed procurement is:

Montgomery County Public Schools
Real Estate Management Team
Attn: Peter J. Geiling, CFM, MRE
45 West Gude Drive, Suite 4000
Rockville, MD 20850
Phone: 240-314-1069
[Peter J Geiling@mcpsmd.org](mailto:Peter.J.Geiling@mcpsmd.org)

All prospective firms are cautioned that information relating to the proposed procurement only may be obtained from Mrs. Regalia. Once the contract is awarded, Mr. Geiling, or another MCPS employee designated by the director of the Department of Facilities Management will be the point of contact with Offerors, who will be authorized to: serve as liaison between MCPS and the Offeror; give direction to the Offeror to ensure satisfactory and complete performance; monitor and inspect the Offeror's performance to ensure acceptable timeliness and quality; serve as records custodian for this contract; accept or reject the Offeror's performance; furnish timely written notice of the Offeror's performance failures; prepare required reports; and recommend contract modifications or terminations to the director, Department of Facilities Management. The project contact is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive MCPS' contractual rights. No such changes shall be made without the written

authorization of the director of the Department of Materials Management. The project contact may be changed at any time; but notification of the change, including the name and address of the successor project officer, will be provided to the contractor in writing.

Any attempt to solicit information from other sources within the MCPS system may be cause for rejection of the Offeror's proposal.

12.0 SCHEDULE OF EVENTS (follow the schedule on the cover letter)

The anticipated schedule for activities related to this RFP is as follows:

RFP issued:	March 22, 2017
Site Visits:	By appointment only, email Peter_J_Geiling@mcpsmd.org
Questions due:	March 30, 2017, 4:00 p.m.
Responses posted:	April 10, 2017
Proposals due:	April 19, 2017 at 2:00 p.m.
Anticipated Notice of Intent	
To Award date:	TBD
Board of Education Lease Approval:	TBD

All dates are subject to change at the discretion of MCPS.

13.0 ADDENDA/ERRATA

Changes and addenda to a solicitation may occur prior to the solicitation opening date and time. It is the Offeror's responsibility to check the MCPS' Procurement website or contact Procurement at 301-279-3555 or Barbara_Regalia@mcpsmd.org to verify whether addenda/errata have been issued. In the event that MCPS issues addenda/errata, all terms and conditions will remain in effect unless they are specifically and explicitly changed by the addenda/errata. Offerors must acknowledge receipt of such addenda/errata, prior to the hour and date specified in this RFP or any addenda/errata for receipt of proposals, by returning one signed copy of each of the addenda/errata with its proposal. Failure to provide the signed acknowledgement of the addenda/errata may result in a bid being deemed non-responsive.

14.0 eMARYLAND MARKETPLACE

As of June 1, 2008, Maryland law requires local and state agencies to post solicitations on eMaryland Marketplace. Registration with eMaryland Marketplace is free. It is recommended that any interested Offeror register at www.eMarylandMarketplace.com, regardless of the award outcome for this procurement as it is a valuable resource for upcoming bid notifications for municipalities throughout Maryland.

15.0 INQUIRIES

Inquiries regarding this solicitation must be submitted in writing, to Mrs. Regalia, team leader, MCPS, Procurement Unit, 45 W. Gude Drive, Suite 3100, Rockville, MD 20850, via fax at 301-279-3173 or email,

Barbara_Regalia@mcpsmd.org. Questions are due by close of business Thursday March 30, 2017. Responses will be posted on eMaryland Marketplace and on MCPS' Procurement website on Monday April 10, 2017. The Board will not be responsible for any oral or telephone explanation or interpretation by any agent or employee of MCPS. Any binding information given to an Offeror in response to a request will be furnished to all Offerors as addenda/errata, if such information is deemed necessary for the preparation of proposals, or if the lack of such information would be detrimental to the uninformed Offerors. Only such addenda/errata, when issued by MCPS, will be considered binding on MCPS.

Contact by Offerors with any other MCPS employee regarding this solicitation until the contract is awarded by MCPS will be considered by MCPS as an attempt to obtain an unfair advantage and result in non-consideration of its RFP response. The MCPS Procurement website address is www.montgomeryschoolsmd.org/departments/procurement/

16.0 BID PROTESTS

Any bid protests, including appeals, will be governed by the applicable MCPS Procurement Unit Regulations. The burden of production of all relevant evidence, data, and documents and the burden of persuasion to support the protest is on the Offeror making the protest.

17.0 TREATMENT OF TECHNICAL DATA IN PROPOSAL

The proposal submitted in response to this request may contain technical data which the Offeror does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data, subject to the provisions of the Maryland Public Information Act, may be so restricted:

Provided, that Offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend: "Technical data contained in pages ___ of this proposal shall not be used or disclosed, except for evaluation purposes."

Provided, that if a contract is awarded to this Offeror as a result of or in connection with the submission of this proposal, MCPS shall have the right to use or disclose these technical data to the extent provided in the contract.

This restriction does not limit the right of MCPS to use or disclose technical data obtained from another source without restriction.

MCPS assumes no liability for disclosure or use of unmarked technical data or products and may use or disclose the data for any purpose and may consider that the proposal was not submitted in confidence and therefore is releasable. Price and cost data concerning salaries, overhead, and general and administrative expenses are considered proprietary information and will not be disclosed, if marked in accordance with the instructions in Section 18.0.

18.0 PROPRIETARY AND CONFIDENTIAL INFORMATION

Offerors are notified that MCPS and Selection Team members have unlimited data rights regarding proposals submitted in response to this solicitation. Unlimited data rights means that MCPS and Selection Team members have the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by the Offerors in response to this or any solicitation issued by MCPS. However, MCPS will exempt information that is confidential commercial or financial information of an Offeror, as defined by the Maryland Public Information Act, State Government Article, Section 10-617, from disclosure. It is the responsibility of the Offeror to clearly identify each part of its proposal that is confidential commercial or financial information by stamping the **bottom right-hand corner** of each pertinent page with one-inch bold face letters stating the words “**confidential**” or “**proprietary**.” The Offeror agrees that any portion of the proposal that is not stamped as proprietary or confidential is not proprietary or confidential. As a condition for MCPS keeping the information confidential, the Offeror must agree to defend and hold MCPS harmless if any information is inadvertently released. Each Offeror must submit a proprietary and confidential redacted copy of its proposal to be used in responding to MPIA requests.

19.0 UNNECESSARILY ELABORATE BROCHURES

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the Offeror’s lack of cost consciousness. Elaborate art work and expensive visual and other presentation aids are neither necessary nor wanted.

20.0 NOTICE TO BIDDERS

The appropriate items below must be completed as part of the RFP. Failure to comply may disqualify your bid. Type or print legibly in ink.

I. BIDDER INFORMATION: As appropriate, check and/or complete one of the items below.

- 1. Legal name (as shown on your income tax return) _____
- 2. Business Name (if different from above) _____
- 3. Tax Identification Number _____

A copy of your W-9 must be submitted with this bid response.

II. BIDDER’S CONTACT INFORMATION: This will be filed as your permanent contact information.

- 1. Company Name _____
- 2. Address _____

- 3. Bid Representative's Name _____
- 4. Phone Number/Extension _____
- 5. Fax Number _____
- 6. Toll Free Number _____
- 7. Email Address _____
- 8. Website _____

III. VENDOR'S CERTIFICATION: Upon notification of award, this document in its entirety is the awarded vendor's contract with MCPS. By signing below, the undersigned acknowledges that he/she is entering into a contract with MCPS.

- A. The undersigned proposes to furnish and deliver supplies, equipment, or services, in accordance with specifications and stipulations contained herein, and at the prices quoted. This certifies that this bid is made without any previous understanding, agreement or connection with any person, firm, or corporation making a bid for the same supplies, materials, or equipment, and is in all respects fair and without collusion or fraud.
- B. I hereby certify that I am authorized to sign for the bidder and that all statements, representations, and information provided in this response to the Request for Proposals, including but not limited to the Non-Debarment Acknowledgement, are accurate.

By (Signature) _____

Name and Title _____

Witness Name and Title _____

ATTACHMENT A

DNA

POLICY BOARD OF EDUCATION OF MONTGOMERY COUNTY

Related Entries: DNA-EA, DNA-RA
Responsible Office: Chief Operating Officer
Related Source: *Annotated Code of Maryland*, Education Article, §4-115, §5-301

Management of Board of Education Property

A. PURPOSE

The Montgomery County Board of Education (Board) has an important responsibility to carefully manage its real property in order to ensure adequate schools and support facilities are available to serve future enrollment levels. In an era of enrollment growth, increasing the inventory of future school sites is a critical activity. This is accomplished through processes that result in school sites being included in county and city master plans as they are drafted. Management of the real property inventory also requires the establishment of processes to govern interim use of property that is not currently needed for a school or support facility or other appropriate educational purpose and disposition of real and non-real property when the Board determines that it is no longer needed for school purposes or has reached the end of its useful life.

B. PROCESS

1. Inventory Real Property

The Board owns real properties that are not currently used as school or support facilities, including developed and undeveloped sites that have been acquired for future school construction as part of long-range planning. Management of these properties may include interim use through a short-term lease. Leasing provides for the productive use of the property, while reserving it for future use. Leasing also provides income for this asset while achieving savings by passing maintenance responsibilities for the property to the tenant. The superintendent of

DNA

schools or his/her designee is authorized to negotiate fees and determine conditions consistent with this policy for the interim use of properties within the Board's real property inventory. The interim use through a short-term lease may occur under the following circumstances:

- a) The Board retains the property in its inventory to meet future educational needs.
- b) The interim use of undeveloped property should be consistent with its zoning classification and applicable laws.
- c) Community feedback for the interim use are considered in the recommendations of the superintendent of schools for lease of the property.
- d) Leases shall be awarded by competitive sealed bid or request for proposal.
- e) Leasing conditions should prohibit substantial alteration of property and purposes that interfere with future use for Montgomery County Public Schools (MCPS) educational purposes.
- f) No improvements to the property shall be allowed without permission of the superintendent of schools or his/her designee. As a part of the lease term, the superintendent of schools or his/her designee will evaluate permitted improvements made by the tenants, consider the impact of the improvement on the surrounding community, and determine whether the improvements should be removed by the tenant or kept for future school use.
- g) All lease terms shall be a maximum of three years with a renewal option determined by the Board. The Board has the option to allow a longer term under special circumstances. Such requests must be evaluated in the context of the six-year Capital Improvements Program (CIP) and the operational needs of schools. The superintendent of schools shall advise the Board of any pending request for a lease term longer than three years during the negotiation process.
- h) All new leases and renewals will require approval by the Board.

DNA

- i) When leasing properties, priority will be considered for programs that benefit MCPS students, their families, or staff in accordance with applicable laws.
- j) Leases will contain a termination clause that requires the tenant to relinquish possession of the land prior to the end of lease term when any of the following conditions exist:
 - (1) The tenant has defaulted on lease requirements.
 - (2) The property is needed for an approved capital project in the CIP before the current lease term expires.
 - (3) Another public use is identified as determined by the Board.
 - (4) The property is needed to meet requirements of environmental conservation regulations.
 - (5) The land is declared surplus by the Board because it is no longer needed for school purposes.
 - (6) The Board may terminate a lease at its sole discretion with adequate notice to the tenant.
- k) A sufficient timeline should be programmed in terminating or ending a lease with adequate notice to the tenant.

2. Disposition of Real Property

Maryland law governs the disposition of real property when the local board of education determines that it is no longer needed for school purposes.

In the event that any Board real property is considered to have no further use for school system purposes, the superintendent of schools shall make a recommendation to the Board that the property be surplus in accordance with Maryland law. The recommendation will include the rationale for the proposal, an estimate of the fair market value of the property based on independent appraisals, and the identification of the amount and year of state appropriations for construction and/or improvements of buildings on the site. Real property surplus to the county must include rights to reclaim the property in the future if needed for school purposes.

3. Easements and Rights-of-Way

The superintendent of schools or his/her designee is authorized to approve and execute easements, rights-of-way, and memorandums of understanding requested by other public agencies and utility firms that are routine in nature and report to the Board annually.

4. Other Than Real Property

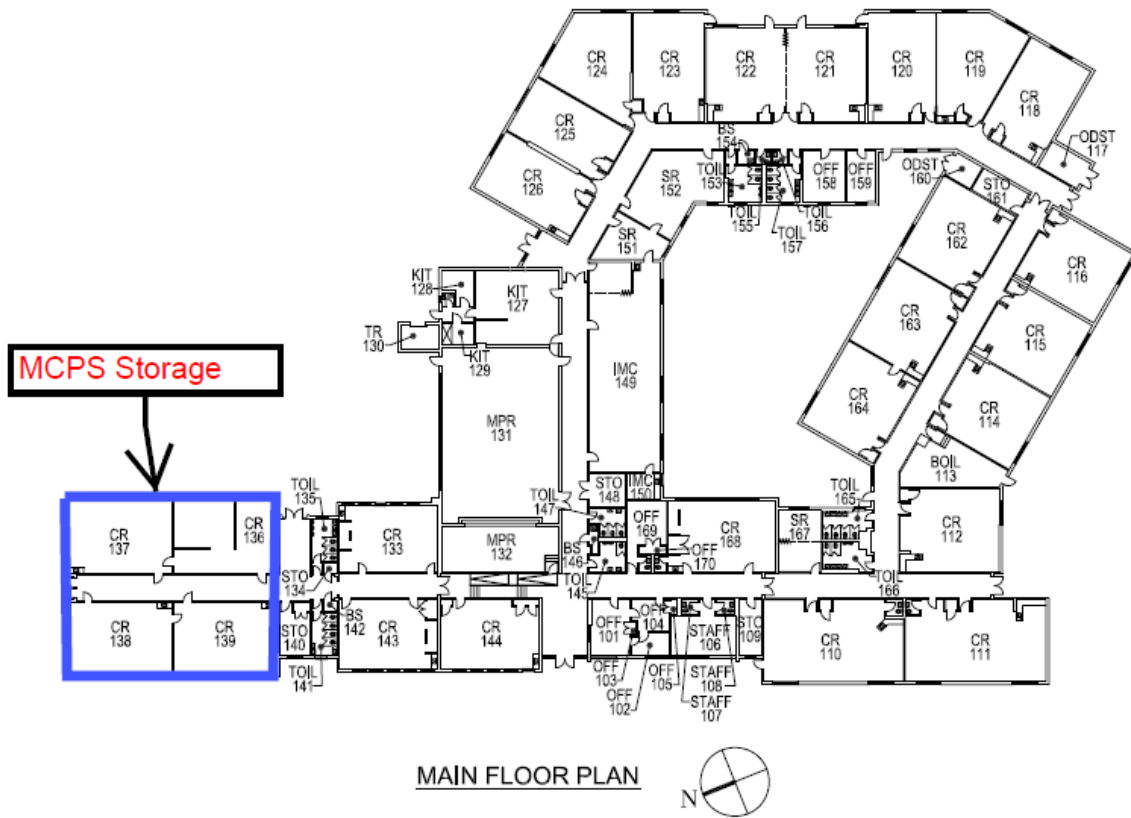
The superintendent of schools is authorized to trade in or sell property that is no longer of operational value to the instructional program or school operations and has trade-in or sale value. Property that does not have trade-in or sale value may be donated to charitable organizations.

C. REVIEW AND REPORTING

1. Sales that exceed \$25,000 in proceeds will be reported to the Board as an item of information.
2. The superintendent of schools shall annually report the non-school use of real property in the Board's inventory and fees received for such use.
3. The superintendent of schools shall annually report executed easements, rights-of-way, and memorandums of understanding requested by other public agencies and utility firms.
4. This policy will be reviewed in accordance with the Board policy review process.

Policy History: Adopted by Resolution No. 431-58, August 12, 1958, amended by Resolution No. 447-73, July 10, 1973; Reformatted by Resolution No. 333-86, June 12, 1986, and Resolution No. 458-86, August 12, 1986; amended by Resolution No. 10-15, January 13, 2015.

ATTACHMENT B.1 - no longer available
Plan for Leased Premises at Fairland Center

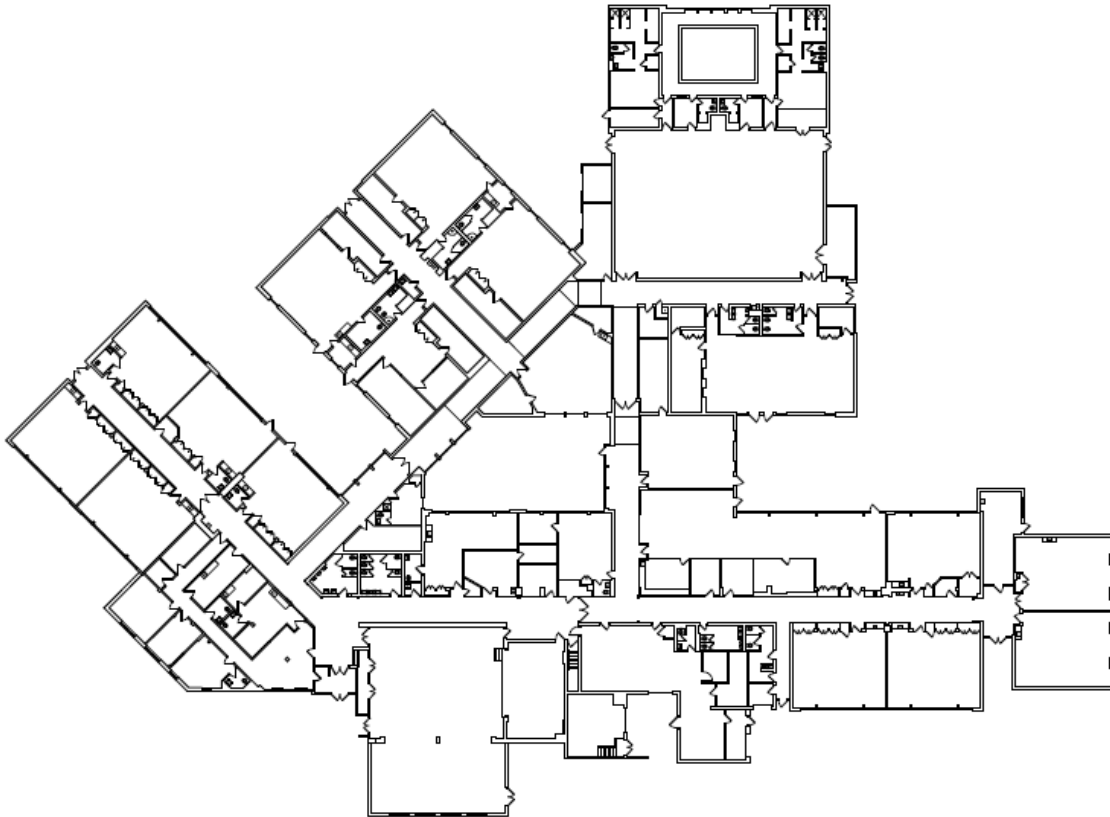


ATTACHMENT B.2- no longer available
Aerial Photo for Leased Premises at Fairland Center



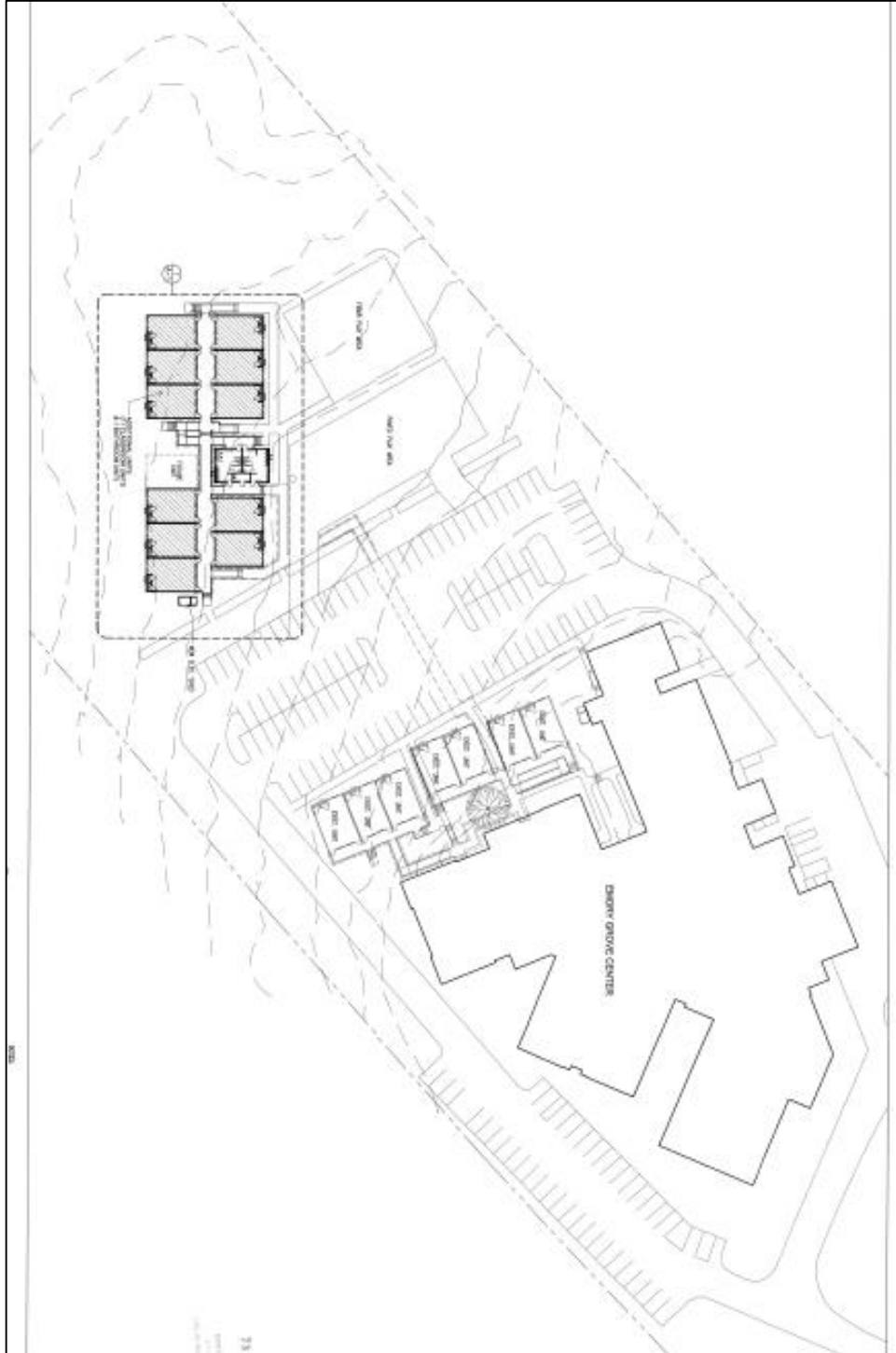
ATTACHMENT B.3

Plan for Leased Premises at Emory Grove Center



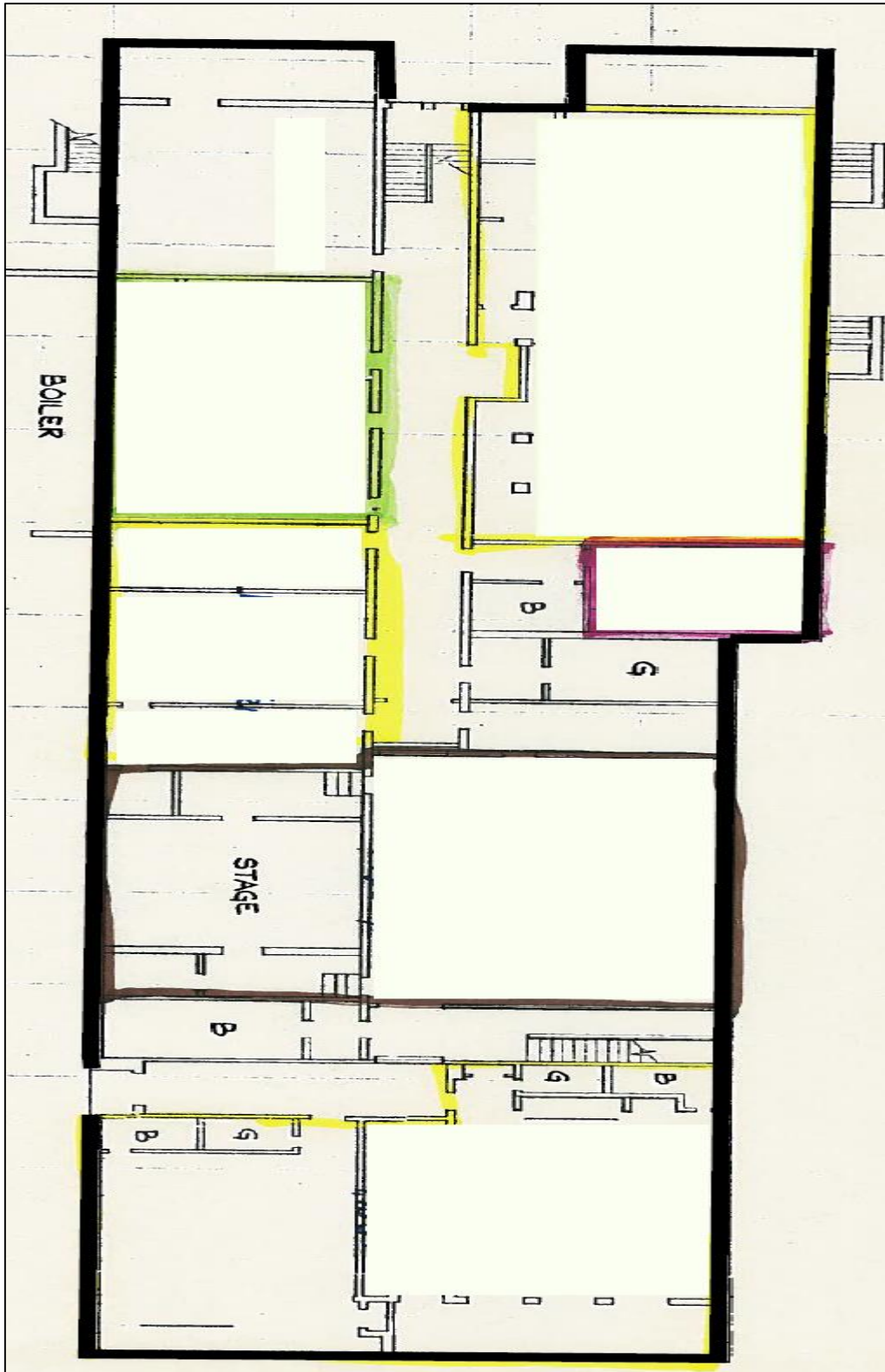
ATTACHMENT B.4

Site Plan for Leased Premises at Emory Grove Center



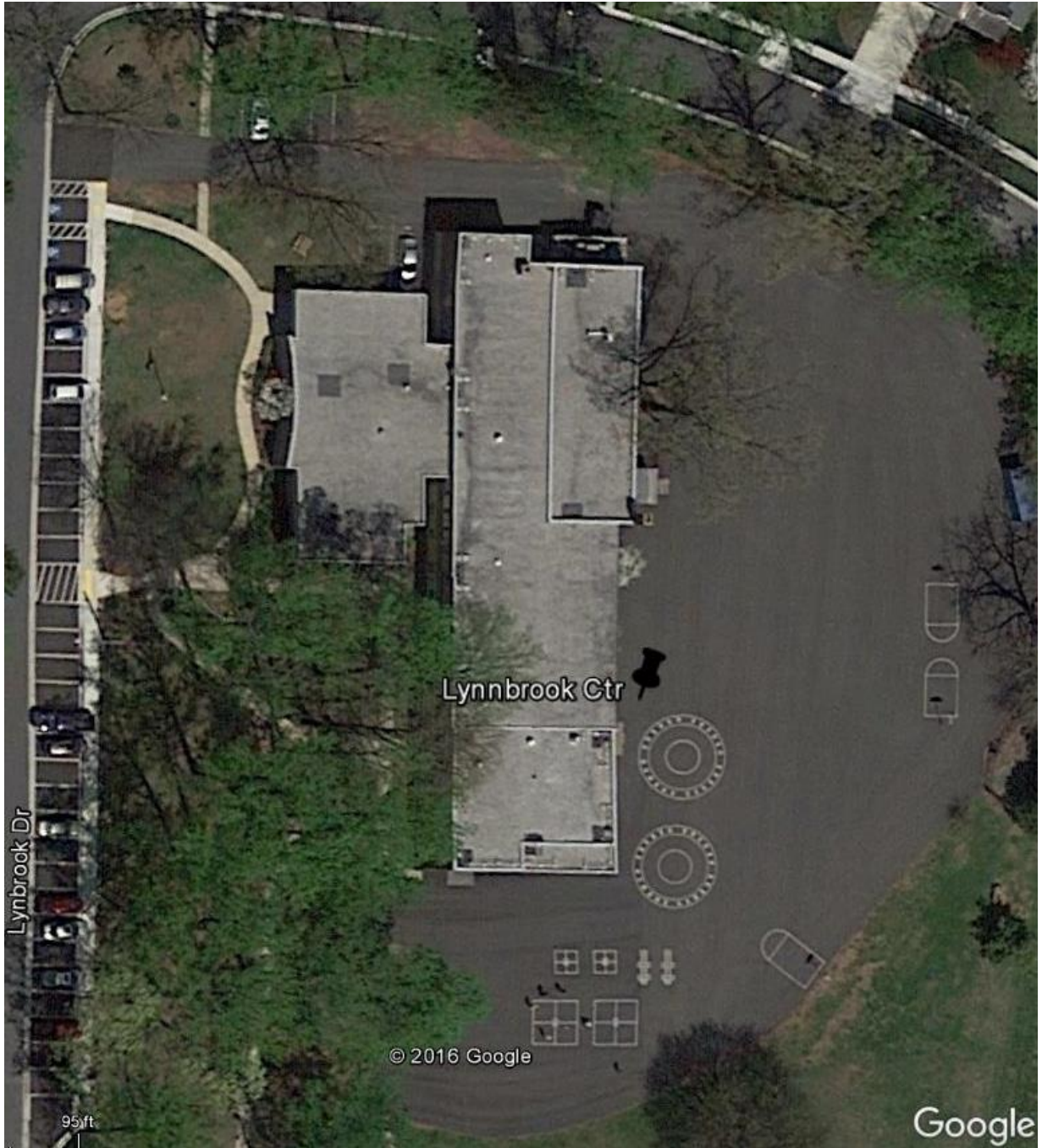
ATTACHMENT B.5

Plan for Leased Premises at Lynbrook Center



ATTACHMENT B.6

Aerial Photo of Leased Premises at Lynbrook Center



ATTACHMENT C

LEASE AGREEMENT

Dated _____, 2017

between

BOARD OF EDUCATION OF MONTGOMERY COUNTY

LANDLORD

And

_____, INC.

TENANT

for

the Premises located at

_____, Montgomery County, Maryland _____

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LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made this _____ day of _____, 2017, by and between the BOARD OF EDUCATION OF MONTGOMERY COUNTY (the “Board”), governing body of MONTGOMERY COUNTY PUBLIC SCHOOLS (MCPS) (collectively, the “Landlord”) and _____, INC., a Maryland non-stock corporation (“Tenant”).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant, intending legally to be bound, hereby covenant and agree as set forth below.

Article 1 Basic Lease Provisions

Article 1.1 Premises. Landlord does hereby lease to Tenant that certain premises described as a portion of the _____ Center, located at _____, _____, Maryland _____ (the “Building”) containing approximately _____ square feet, as shown and depicted on Exhibit A attached hereto and incorporated herein by reference (the “Premises”). The rentable area of the Premises shall be confirmed by measuring the usable square feet within the interior faces of exterior walls of the rooms comprising the Premises. The use and occupation by Tenant of the Premises shall include the use of the existing walkways, halls, corridors, and entrances, parking lot facilities, driveways, and the outdoor play area (“Common Areas”).

Article 1.2 Commencement Date. August 1, 2017. Between July 1, 20__ and the Commencement Date, Tenant shall have access to the Premises, without payment of Rent, for the purpose of preparing the Premises for its use, provided that before doing so, Tenant furnishes Landlord with the insurance coverage required by Article 16 hereof; and during such period, the Premises shall be deemed to be in the possession of Tenant, and Tenant shall be responsible for any loss or damage thereto or to its personal property to the same extent Tenant would be responsible therefor during the Term of this Lease.

Article 1.3 Termination Date. Unless extended pursuant to Article 1.7 below, July 31, 20__.

Article 1.4 Term. The Term shall commence on the Commencement Date and expire at 11:59:59 p.m. on the Termination Date unless extended as provided for elsewhere herein.

Article 1.5 Base Rent. Base Rent shall be _____ Dollars (\$_____) for the first year of the Term; payable in twelve (12) monthly installments of _____ Dollars (\$_____) each.

Article 1.6 Base Rental Adjustments. Tenant’s Base Rent shall be adjusted commencing August 1, 2018, and each year thereafter by three percent (3%) above the previous year’s rent.

Article 1.7 Renewal Option. Provided that the Premises are available and not scheduled for use by MCPS and that the Tenant is in good standing, not currently in default of the Lease, and has not had rent arrearages in the previous six months, Landlord may grant Tenant a renewal term

(“Renewal Term”) of twelve (12) months on the same terms and conditions of the current Term, unless otherwise modified. The Base Rent for the Renewal Term shall be increased at the anniversary of the Lease by three percent (3%) over the previous year’s Base Rent. Tenant shall provide Landlord with written notice that Tenant intends to renew the Lease at least one hundred and twenty (120) days prior to the expiration of the Term. Renewal requires approval by the Board. Renewal shall be in the form of a lease amendment duly executed by the Landlord and Tenant.

Article 1.8 Security Deposit. Simultaneously with execution of this Lease by Tenant, Tenant shall deposit with Landlord the sum of _____Dollars (\$_____) (the “Security Deposit”). Landlord will place the Security Deposit in a non-interest bearing account and shall return the Security Deposit thirty (30) days after the termination of the Lease, less any charges for damages and expenses. Landlord reserves the right to apply the Security Deposit in whole or in part, to any overdue arrearages incurred by the Tenant for nonpayment of Rent, any costs incurred by Landlord to perform repairs to the Premises or the Building due to damage caused by Tenant or to remove Tenant improvements at the end of the Lease, any loss or damage sustained by Landlord due to Tenant’s failure to perform any terms of the Lease, or any other sums due to Landlord pursuant to this Lease. Upon demand of the Landlord, Tenant shall forthwith restore the Security Deposit to the original sum deposited.

Article 1.9 Tenant’s Proportionate Share. Tenant’s Proportionate Share shall equal a fraction, the numerator of which is the rentable square footage of the Premises and the denominator of which is the rentable square footage of all space in the Building. As of the Commencement Date, Tenant’s Proportionate Share equals ____%.

Article 1.10 Permitted Use. Tenant shall be permitted to use the Premises as a _____ and those activities related to such services. Tenant shall use the Premises Monday through Friday, during the hours of 8:30 a.m. until 5:00 p.m. (“School Hours”). Occasional use after School Hours and on weekends (“Occasional Use Hours”) is permitted provided that scheduling is coordinated with the Interagency Coordinating Board for Community Use of Public Facilities and Services (ICB). Landlord shall not provide building services staff during Occasional Use Hours unless coordinated with ICB. Tenant also may use certain Common Areas of the Building shared with Landlord, user groups permitted by ICB, and the general public as provided in Landlord’s policies and regulations. Common Areas permitted for use by Tenant are designated on Exhibit A.

Article 1.11 Landlord’s Address.

Montgomery County Public Schools
Department of Facilities Management
45 West Gude Drive, Suite 4000
Rockville, Maryland
Attention: Director

With a copy to:

Montgomery County Public Schools
Office of General Counsel
850 Hungerford Drive, Rm 156
Rockville, Maryland 20850
Attention: General Counsel

Article 1.12 Tenant's Address.

_____, Inc.
Address:
City, State, Zip:
Attention: _____

With a copy to:

_____, Inc.
Address:
City, State, Zip:
Attention: _____

Article 2
Definitions

The following terms, when used herein, shall have the meanings set forth below.

Article 2.1 Additional Rent. As defined in Section 5.3.

Article 2.2 Affiliate. Any successor to Tenant upon merger, reorganization or consolidation and any other entity now or hereafter that (i) controls Tenant or any successor to Tenant, (ii) is controlled by Tenant or any successor to Tenant, or (iii) is controlled by the same entity that controls Tenant or any successor to Tenant. References to Tenant in this Lease shall include any Affiliate of the Tenant.

Article 2.3 Agents and Related Parties. Officers, partners, directors, employees, agents, licensees, patrons, contractors, subcontractors, students, students' family members, volunteers, and invitees.

Article 2.4 Alterations. Alterations, decorations, additions or improvements of any kind or nature to the Premises, whether structural or non-structural, interior, exterior, or otherwise, that are made by Tenant or its Agents and Related Parties on or after the Commencement Date.

Article 2.5 Event of Default. As defined in Article 20.

Article 2.6 Herein, hereafter, hereunder, and hereof. Under this Lease, including all Exhibits.

Article 2.7 Land. The parcel of land containing the Premises and the Building subject to all rights, easements, and appurtenances thereunto belonging or pertaining.

Article 2.8 Laws. All statutes, ordinances, policies, rules, orders, procedures, and regulations now in effect or hereinafter promulgated whether required by the Federal government, the State of Maryland, Montgomery County, and any other public or quasi-public federal, state, or local authority having jurisdiction over the Premises, including, but not limited to, the Americans with Disabilities Act.

Article 2.9 Lease Year. The first Lease Year shall begin on the Commencement Date and shall run for a period of twelve (12) months thereafter.

Article 2.10 Rent. Base Rent and Additional Rent.

Article 2.11 Substantial Part. More than fifty percent (50%) of the rentable square footage of the Premises.

Article 3 The Premises

Article 3.1 Lease of Premises. In consideration of the agreements contained herein, Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, for the Term and upon the terms and conditions hereinafter provided.

Article 3.2 Acceptance of the Premises. At the commencement of the Term hereunder, except as otherwise provided herein, Tenant shall occupy the Premises in their “as is” condition, and Landlord shall not be required to make any repairs or improvements to the Premises other than as agreed to in advance by Landlord in writing or as set forth elsewhere herein. Tenant shall provide its own furniture, fixtures, and equipment. Notwithstanding the foregoing, the Premises shall be delivered to Tenant in a broom clean condition, free of any personal property or debris.

Article 4 Early Termination

Article 4.1 Landlord’s Termination Option. Landlord has the right to terminate this Lease early for the following reasons:

1. An Event of Default as described in Article 20.1 which remains uncured;
2. The Premises is needed for an approved capital project in the MCPS Capital Improvements Program before the current Term expires;
3. Another public use is identified as determined by the Board;
4. The property is needed to meet requirements of environmental conservation regulations; or

5. The Land is declared surplus by the Board because it is no longer needed for school purposes.

6. At the Landlord's sole discretion with adequate notice to Tenant.

7. A change in hazardous material regulations or other circumstance resulting in the need for a substantial hazardous materials remediation.

Landlord shall have the right to terminate this Lease early as set forth above in its sole discretion. Notice provisions set forth in Article 20.1 shall apply to early termination of this Lease under Article 4.1.1. For early termination based on Articles 4.1.2 – 4.1.6 above, Landlord may terminate this Lease upon not less than one hundred twenty (120) days prior written notice to Tenant. Notice provisions set forth in Article 24.4 shall apply to early termination of this Lease under Article 4.1.7.

Article 4.2 Tenant's Termination Option. Tenant shall have the right to terminate this Lease at any time upon not less than one hundred and eighty (180) days' prior written notice to Landlord.

Article 5 Rent

Article 5.1 Base Rent. Tenant shall pay to Landlord the Base Rent as specified in Articles 1.5 and 1.6.

Article 5.2 Payment of Base Rent. Base Rent shall be paid monthly on the first day of each month during the Term. Each monthly installment shall be made payable to Montgomery County Public Schools, and delivered to the Division of Controller, 45 West Gude Drive, Suite 3202, Rockville, Maryland, 20850.

Article 5.3 Additional Rent; Payment of Additional Rent. All sums payable by Tenant under this Lease, other than Base Rent, shall be deemed "Additional Rent," and, unless otherwise set forth herein, shall be payable in advance, without demand, notice, deduction, offset, or counterclaim except as expressly provided in this Lease. Landlord may charge Additional Rent to offset its increased operating expenses as set forth in Article 10.1.

Article 6 Late Fee

Article 6.1 Late Fee. In the event the Tenant fails to make any payment required by Article 5 of this Lease within five (5) days of the due date, Tenant shall pay to Landlord the installment amount plus five percent (5%) of the installment amount as a late fee.

Article 6.2 Payment. As further inducement for the Landlord to lease the Premises to the Tenant, the Tenant, its executors, legal representatives, and assigns, agree to indemnify and hold harmless the Landlord and its Agents and Related Parties from and against judgments, costs, interest, and expenses (including but not limited to reasonable attorneys' fees and court costs) to which they become subject or otherwise arising out of the Tenant's failure to make any payment required under Article 5 of this Lease.

Article 7
Parking

Article 7.1 During the Term, Tenant and its Agents and Related Parties shall have the non-exclusive right to use _____ existing improved parking spaces servicing the Building during School Hours and Occasional Use Hours. The parking spaces are designated in the attached Exhibit B. If circumstances arise that require Tenant to seek additional parking spaces, Landlord and Tenant shall use good-faith efforts to reach a mutually acceptable accommodation. It is understood and agreed that the Landlord and its Agents and Related Parties do not assume any responsibility for, and shall not be held liable for, any damage or loss to any automobiles parked in the parking area or for any personal property located therein, or for any injury sustained by any person in or about the parking area.

Article 8
Use

Article 8.1 Tenant shall occupy the Premises solely for the Permitted Use. Tenant shall maintain in full force and effect all licenses and permits required for Tenant to operate its business on the Premises lawfully. Tenant shall not use or occupy the Premises in any manner that is unlawful or dangerous or that shall constitute waste.

Article 9
Assignment and Subletting

Article 9.1 Consent Required. Tenant shall not assign, sublease, transfer, mortgage, or otherwise encumber this Lease (or permit a third party to occupy or use) the Premises or any part thereof, without Landlord's prior written consent (which consent shall be determined by Landlord in its sole discretion), nor shall any assignment or transfer of this Lease or the right of occupancy hereunder be affected by operation of law or otherwise. Any assignment, sublease, transfer, mortgage, or encumbrance without Landlord's prior written consent (which consent shall be determined by Landlord in its sole discretion) shall be voidable by Landlord and may be deemed an Event of Default. Tenant shall not sell or transfer its business to any other entity without prior written consent from the Landlord, in the Landlord's sole discretion. Any sale or transfer of Tenant's business without Landlord's prior written consent shall make this Lease voidable and deemed an Event of Default.

Article 9.2 Tenant to Remain Liable. If, pursuant to Article 9.1, an assignment, sublease, transfer, mortgage, encumbrance, or sale is permitted with Landlord's prior written consent, Tenant shall remain liable under this Lease. Neither the consent by Landlord to any assignment, sublease, transfer, mortgage, encumbrance, or sale nor the collection or acceptance by Landlord of Rent from any assignee, subtenant, occupant, or other party shall be construed as a waiver or release of the initial Tenant from the terms and conditions of this Lease or relieve Tenant or any assignee, subtenant, occupant or other party from obtaining the consent in writing of Landlord to any further assignment, sublease, mortgage, transfer, encumbrance, or sale.

Article 10
Maintenance and Repair; Operation of Premises

Article 10.1 Landlord's Operating Expenses: Utilities and Maintenance. It is the purpose and intent of Landlord and Tenant that the Base Rent paid to Landlord includes Tenant's Proportionate Share of the Building's operating expenses which includes costs and expenses for utilities (except for those set forth in Article 10.2 below), and ordinary maintenance costs ("Landlord's Operating Expenses"). Ordinary maintenance is defined as (i) normal maintenance, including interior maintenance and janitorial services, maintenance of cleaning and bathroom supplies, refuse removal, snow removal, operation of the Building alarm system, parking lot maintenance, external Building maintenance and landscaping and (ii) repair of major Building systems, namely heating, cooling, plumbing, electricity, roofing, windows, and all other structural elements of the Building. Tenant shall provide prompt notice to the MCPS Director of the Department of Facilities Management, designee of the Superintendent of Schools (the "Director of Facilities Management"), or his/her designee of any Building condition or situation that requires maintenance and/or repair. Landlord retains the right to impose additional assessments to offset increases in energy costs and water/sewer fees, or similar expenses. Such assessments shall be based on increased costs incurred by Landlord during the previous twelve-month period, shall be deemed as "Additional Rent" and shall be imposed only after Landlord has given Tenant at least thirty (30) days written notice of the assessments before they become effective as an amendment to the Lease. If for budgetary reasons, the Landlord's funding authority does not appropriate or allocate sufficient funds to provide for Landlord's Operating Expenses, Tenant may obtain or provide these services subject to prior written approval by the Director of Facilities Management or his/her designee and obtain a corresponding reduction in Rent as appropriate. These services must meet standards and requirements established by the Director of Facilities Management.

Article 10.2 Tenant's Operating Expenses. Except for the ordinary maintenance and repair assumed by Landlord in Article 10.1 above, Tenant shall be responsible for all costs and expenses connected with its everyday business operation including, but not limited to: (i) telephone and internet services, (ii) drinking water, (iii) additional security equipment or services, such as card readers, cameras, door buzzers, or electronic locks, (iv) renter's insurance covering liability, casualties, and personal property, (v) license fees, (vi) personnel and payroll taxes, (vii) and any and all maintenance and repairs resulting from the negligent acts or omissions of Tenant or its Agents and Related Parties (which maintenance and repairs shall be performed at Tenant's sole cost and expense). Tenant understands that the water distribution system in the Building is non-potable and agrees to contract with a water service provider at its sole cost and expense to ensure the availability of adequate drinking water on the Premises.

Article 10.3 Capital Improvements. If the need to rebuild or replace a major component of the Premises arises during the Lease Term, and the Landlord's funding authority does not appropriate or allocate sufficient funds for the capital improvement, Tenant may perform the work of the capital improvement at its sole cost and expense, subject to prior written approval by the Director of Facilities Management or his/her designee. Tenant may obtain a corresponding reduction in Rent as appropriate. The capital improvement work must meet standards and requirements established by the Director of Facilities Management.

Article 11 Alterations

Article 11.1 Tenant shall not make or permit any Alterations without prior written consent of the Director of Facilities Management. In determining whether to permit any Alterations, Landlord shall consider the impact of the Alterations on the surrounding community, and determine whether Tenant is required to remove any Alterations upon expiration or termination of the Lease or whether the Alterations should be kept for future school use. Landlord shall impose the following conditions to its consent: (i) delivery to Landlord of written and unconditional waivers of mechanic's and materialmen's liens as to the Alterations upon completion for all work, labor, and services to be performed and materials to be furnished, signed by all contractors, sub-contractors, and materialmen participating in the Alterations, and (ii) prior approval of the plans, specifications, and Tenant's contractor(s) with respect to the Alterations.

Article 11.2 Any Alterations made by or obtained by Tenant shall not be permitted if Landlord, in its sole discretion, determines that the Alterations would interfere with future use of the Premises for MCPS educational purposes.

Article 11.3 Any Alterations made or obtained by Tenant are at Tenant's sole risk and expense, and the Landlord shall not be held responsible for any claims for injury or loss of property due to Alterations made by or for Tenant.

Article 11.4 Tenant shall not be due any refund or payment of any kind from the Landlord for any Alterations to the Premises, code mandated or otherwise, made by or for the Tenant.

Article 11.5 Tenant may be required upon the termination of the Lease or any renewal thereof to restore the Premises to the condition in which they were delivered to Tenant and remove any Alterations which was so designated in the written consent which was given to Tenant according to Article 11.1 above, less normal wear and tear. Tenant shall repair any damage caused by such removal to the Premises or the Building. In addition, Tenant will restore or repair any damage to the Premises or the Building caused by Tenant including any repairs or restoration required to ensure accessibility by any individual with a disability, as defined by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. Any modifications to the Premises must comply with the American National Standards Institute (ANSI A117.1 - 1961 (R1971))

Article 11.6 All Alterations shall conform to the requirements of Landlord's and Tenant's insurers and of the federal, state, and local governments having jurisdiction over the Premises, shall be performed in accordance with the terms and provisions of this Lease in a good and workmanlike manner, and shall not adversely affect the value, utility, or character of the Premises.

Article 11.7 As determined by the Director of Facilities Management, any increased Building operating costs resulting from Alterations will be added to the Rent, and Tenant shall pay such costs as Additional Rent.

Article 12
Mechanics Liens

Article 12.1 In the event that Tenant, with Landlord's prior written consent, shall undertake the construction of any Alterations or other such work upon the Premises, Tenant shall provide for the prompt payment of all applicable contractors, subcontractors, and materialmen. Should the Tenant fail to discharge any lien or judgment resulting from Tenant's failure to make prompt payment within fifteen (15) days of its filing against any part of the Premises, or Tenant's interest therein, Landlord shall have the right to require the Tenant to immediately post an indemnity bond from an insurance or bonding company acceptable to the Landlord, or alternatively, at Landlord's option, an irrevocable bank letter of credit from a federally-chartered commercial bank licensed to transact full banking services in Maryland and acceptable to the Landlord, either of which shall be in an amount equal to 150% of the amount of any such lien(s) or judgment(s). Upon Tenant's failure to provide said bond or letter of credit within fifteen (15) days of demand, Landlord may, in its sole discretion, pay the amount of any such lien(s) or judgment(s), and immediately collect same from the Tenant, as Additional Rent, within five (5) days of demand with interest accruing at 18% annum on such amounts, plus all costs and expenses, including reasonable attorneys' fees incurred by the Landlord in discharging said lien(s) or judgment(s). Neither Landlord's consent to any Alterations nor anything contained in this Lease shall be deemed to be the agreement or consent of Landlord to subject Landlord's interest in the Premises to any mechanic's or materialmen's liens.

Article 13
Responsibilities of Tenant

Tenant covenants and agrees as follows:

Article 13.1 Tenant shall operate _____ in the Premises in accordance with Article 1.10 and Article 8.

Article 13.2 Tenant shall not strip, overload, damage, or deface the Premises, and/or the Building, or the fixtures therein or used herewith, nor suffer or permit any waste in or upon the Premises or the Building.

Article 13.3 Tenant shall not keep gasoline or other flammable material or any other explosive within the Premises and/or the Building which will increase the rate of fire insurance on the Building beyond the ordinary risk established for the type of operations described in Article 1.10 and Article 8 of this Lease. Any such increase in the insurance rate due to the above or due to Tenant's special operations carried on within the Premises, shall be borne by Tenant. Tenant shall not do any act or thing in or about the Premises and/or the Building which makes void or voidable any insurance on the Premises or the Building, and Tenant expressly agrees to conform to all rules and regulations reasonably established from time to time by the Landlord, or by the Maryland Insurance Rating Bureau, or any public authority having jurisdiction over such matters.

Article 13.4 Tenant shall not use the Premises, the Building, or any part thereof or allow them to be used for any illegal, unlawful, or improper purpose or for any activity which will constitute a nuisance to adjacent properties or the adjacent neighborhood.

Article 13.5 Tenant shall prohibit the following activities in the Premises at all times:

1. Use or possession of alcoholic beverages or other intoxicants;
2. Smoking or use of tobacco products;
3. Gambling;
4. Fires, grilling, open flames, and the use of flammable materials;
5. Parties and celebrations that are essentially private in nature, including but not limited to wedding receptions and other similar activities;
6. Use or possession of weapons, firearms, ammunition; and
7. Excessive noise

Article 13.6 Tenant shall not place upon the exterior of the Premises or the Building any placard, sign, lettering, banner, pennant, or awning except such, and in such place and manner, as shall have been first approved in writing by Landlord in accordance with any applicable Montgomery County zoning and sign requirements.

Article 13.7 Tenant acknowledges that all responsibilities of Tenant relating to the use or misuse of the Premises, the Building, and anything therein shall be construed to include use or misuse thereof by Tenant's Agents and Related Parties.

Article 13.8 Tenant and its Agents and Related Parties shall comply with all rules and regulations for the Building promulgated from time to time by the Landlord, and any violation of said rules and regulations shall be a violation of this Lease. MCPS policies and regulations are available for review at <http://www.montgomeryschoolsmd.org/departments/policy>.

Article 13.9 Tenant shall actively participate in energy conservation strategies in compliance with the Landlord's policy on Energy Conservation, labeled ECA, and the MCPS Resource Conservation Guidelines established for the use of electricity and heating (pages A-4 through A-6 and A-8), both attached hereto and incorporated herein as Exhibit C.

Article 13.10 Tenant shall comply with the Americans with Disabilities Act and all federal, state and local laws regarding providing access and services to disabled persons.

Article 13.11 Tenant shall not have pets in or about the Premises. This provision does not limit the right of Tenant or its Agents and Related Parties to have bona fide service animals on the Premises in accordance with MCPS regulation ACG-RC, attached hereto as Exhibit D. Tenant is solely responsible for the proper care of service animals in the Premises and the Building and for keeping the Premises and the Building clean and free of debris and waste associated with the care and feeding of service animals.

Article 13.12 Landlord has implemented a regulation regarding recycling, labeled ECF-RC, attached hereto and incorporated herein as Exhibit E. Tenant agrees to comply with the recycling

plan for the Premises by collecting recyclable waste material generated by its operation into appropriate receptacles provided by Tenant for this purpose and by providing for pick-up of recycling equal to the service standards provided in MCPS.

Article 13.13 In the event that the Building is designated as an approved polling place, Tenant shall adhere to the requirements of the Montgomery County Board of Elections for the Building to operate as a polling place.

Article 13.14 Tenant shall comply with all MCPS security procedures and protocols for the Building, and Tenant shall be solely responsible for supervision of all its Agents and Related Parties and non-MCPS visitors.

Article 13.15 Tenant shall close and lock all entrance doors and windows in the Premises and the Building when the Premises and the Building are not in use. Further, before closing and leaving the Premises or the Building at any time, Tenant must close all windows and doors and secure the Premises and the Building. Tenant may not prop open any doors, other than for purposes of moving furniture and equipment into or out of the Premises or Building or moving children to outdoor play areas; in all other cases, doors must remain closed. Tenant must not place any additional locks or bolts of any kind upon any of the entrance or interior doors or windows, or change any existing locks, without prior written approval of the Landlord. In the event an approved change is made to the existing locks, the Tenant must provide Landlord with keys to the new locks. Upon the termination of this Lease, Tenant must return all keys to the Building, offices, and bathrooms, either furnished to, or otherwise procured by Tenant to Landlord. In the event of the loss of any keys provided to Tenant, Tenant must pay Landlord the cost of replacement keys and/or locks.

Article 13.16 Tenant shall perform any and all obligations under this Lease in a timely manner.

Article 13.17 Tenant shall repair, at its sole cost and expense, any damage to the Premises or the Building caused by removal of the Tenant's property from the Premises or the Building so that the Premises are in substantially the same condition as at the commencement of the Lease, reasonable wear and tear and damage from casualty or condemnation excepted.

Article 13.18 Tenant verifies and acknowledges that the person executing this Lease on behalf of the Tenant has the legal authority to bind the Tenant to the duties and obligations set forth in this Lease. The Tenant further verifies and acknowledges that such person's signature creates a binding obligation on the part of the Tenant for the Term of this Lease.

Article 13.19 Tenant verifies and acknowledges that it is in good standing and/or qualified to do business in the State of Maryland.

Article 14 **Tenant's Equipment and Property**

Article 14.1 Taxes on Tenant's Property. Tenant shall timely pay all taxes on Tenant's furniture, fixtures, and equipment located at the Premises and/or Building.

Article 14.2 Installing and Operating Tenant's Equipment. Without first obtaining the written consent of Landlord, which shall not be unreasonably withheld, delayed or conditioned, Tenant shall not install or operate in the Premises or in the Building (i) any electrically operated equipment or other machinery, other than equipment that does not require wiring, cooling, or other service in excess of the capacity for the Premises or the Building, (ii) any equipment of any kind or nature whatsoever which will require any changes, replacements or additions to, or changes in the use of, any water, heating, plumbing, air conditioning, or electrical system of the Premises or the Building for which a permit must be obtained from the applicable governmental authority, or (iii) any equipment which causes the floor load to exceed the reasonable load limits set by Landlord for the Premises and the Building.

Article 14.3 Maintenance and Repair of Tenant's Equipment. Landlord shall not be responsible for maintenance or repair of Tenant's equipment, fixtures, or furnishings, unless such maintenance or repair is necessitated as a result of the negligence of Landlord.

Article 15 Right of Entry

Article 15.1 Tenant shall permit Landlord or its Agents and Related Parties, upon reasonable notice, consistent with established MCPS policy, to enter the Premises or the Common Areas, without charge to Landlord and without diminution of Rent, to (i) examine, inspect and protect the Premises, (ii) make such capital replacements and repairs or perform such maintenance as Landlord elects to perform or is otherwise required to make or perform under this Lease in accordance with Section 10.1 and otherwise, (iii) exhibit the same to prospective purchasers of the Premises or to present or future mortgagees, (iv) exhibit the same to prospective tenants, and (v) to perform any function for the reasonable protection of the Premises. In the event of an emergency, notice shall not be required.

Article 16 Insurance

Article 16.1 Liability Insurance. Tenant, at its sole cost and expense, shall procure and maintain throughout the Term coverage for commercial general liability through a policy of liability insurance insuring against claims, demands, or actions for bodily injury, death, personal injury, and loss or damage to property (and covering costs and expenses, including reasonable attorneys' fees) arising out of or in connection with: (i) the Premises or the Building, (ii) Tenant's operations in, maintenance of, and use of the Premises or the Building, and (iii) Tenant's liability assumed under this Lease. Such insurance shall have a minimum bodily injury limit of One Million Dollars (\$1,000,000) for accident or death to one person, and Three Million Dollars (\$3,000,000) in the aggregate, with property damage coverage of at least Five Hundred Thousand Dollars (\$500,000), all on an occurrence basis.

Article 16.2 Products and Completed Operations Coverage. Tenant, at its sole cost and expense, shall procure and maintain throughout the Term insurance covering products and completed operations applicable to property damage in the amount of One Million Dollars (\$1,000,000) per incident, Three Million Dollars (\$3,000,000) in the aggregate.

Article 16.3 Worker's Compensation. Tenant, at its sole cost and expense, shall procure and maintain throughout the Term Workers' Compensation insurance as an employer to meet the requirements of Maryland Law.

Article 16.4 Comprehensive Automobile Insurance. Tenant, at its sole cost and expense, shall procure and maintain throughout the Term comprehensive automobile insurance to satisfy minimum coverages of Two Hundred and Fifty Thousand Dollars (\$250,000) per person for bodily injury, One Million Dollars (\$1,000,000) bodily injury per occurrence, and property damage of Three Hundred Thousand Dollars (\$300,000) each occurrence, with all coverages applicable to owned, non-owned, and hired vehicles.

Article 16.5 Flood and Water Damage Insurance. Tenant, at its sole cost and expense, shall procure and maintain throughout the Term coverage for flood and water damage to protect the Premises from water damage and to insure the Tenant's personal property and equipment. The failure of the Tenant to obtain Flood and Water Damage Insurance shall not diminish or negate the Tenant's obligation to hold harmless the Landlord from liabilities, damages, and losses arising from water related damages to the Premises, persons, or the property of the Tenant.

Article 16.6 Requirements of Insurance Coverage. All such insurance required to be carried by Tenant herein shall be issued by an insurance company licensed in the State of Maryland and acceptable to the Landlord. All such insurance (i) shall contain a provision or endorsement that such policy shall remain in full force and effect notwithstanding that the insured has released its right of action against any party before the occurrence of a loss, (ii) shall name Landlord as an additional insured on the general liability and casualty insurance policies (excluding workers compensation policies), without exception to coverage, and (iii) shall provide that the policy shall not be cancelled or failed to be renewed without at least thirty (30) days prior notice to Landlord. Within fifteen (15) days of the Commencement Date, and not less than thirty (30) days before the expiration of the insurance policy thereafter, Tenant shall deliver to Landlord a certificate of insurance evidencing the coverages required under this Lease. Tenant must provide on an annual basis evidence that is satisfactory to Landlord of the insurance coverages required under this Lease.

Article 16.7 Subrogation. If a casualty or other occurrence covered by the insurance required by this Lease occurs, Tenant must look solely to its insurer for reimbursement and Tenant must ensure that such insurance is so written that Tenant's insurer waives all rights of subrogation and shall have no cause of action against Landlord or its Agents and Related Parties as a result of such casualty or occurrence. Tenant waives and releases all right of recovery which it might otherwise have against Landlord or its Agents and Related Parties by reason of any loss or damage resulting from such casualty or other occurrence, to the extent that Tenant would be covered by insurance if Tenant complied with the requirements of this Lease pertaining to insurance.

Article 16.8 Security System. In the event the Landlord engages the services of a professional security system for the Premises or the Building, it is understood that such engagement in no way increases the Landlord's liability for occurrences and/or consequences which such a system is designed to detect or avert and that the Tenant must look solely to its insurer as set forth above for claims for damages or injury to any person or property of Tenant.

Article 17
Utilities

Article 17.1 Landlord shall pay directly to the suppliers all charges for water, sewer, gas, electricity, used upon the Premises commencing on the Commencement Date. Landlord shall not be liable to Tenant for interruption in or curtailment of any utility service. No interruption or curtailment of utility service shall constitute a constructive eviction. Tenant shall be solely responsible for any other utilities or services (telephone, internet, etc.) for which it contracts.

Article 18
Liability

Article 18.1 Tenant's Indemnity. From and after the date hereof, Tenant shall, at no cost to Landlord, indemnify, defend, and hold Landlord and its Agents and Related Parties harmless from and against all claims, liabilities, settlements, compromises, and costs of whatsoever kind and nature (including reasonable attorneys' fees, experts' fees, and court costs) (collectively, "Claims") which may be imposed upon, or incurred by, or asserted against Landlord or any of its Agents and Related Parties by reason of: (i) any accident, occurrence, injury to or death of persons, or loss of or damage to property, on the Premises and/or Building caused by the negligence or willful misconduct of Tenant or any of its Agents and Related Parties; (ii) any negligence or willful misconduct on the part of the Tenant or any of its Agents and Related Parties; (iii) damage or injury to any Landlord property in the Premises and/or Building which was caused by the negligence or willful misconduct of Tenant or any of its Agents and Related Parties; and (iv) loss or damage proximately caused by an uncured Event of Default by Tenant under this Lease.

Article 18.2 Landlord's Limit of Liability. In case any action or proceeding is brought against Landlord or its Agents and Related Parties for any of the reasons set forth in Article 18.1, Tenant must reimburse Landlord the cost of defending such action or proceeding, or upon Landlord's written demand, and at Tenant's sole cost and expense, Tenant must defend such action and proceeding by counsel approved by Landlord. Nothing herein shall be construed to abrogate, impair, or waive any defense, liability or damages limitation, or governmental immunity of the Board, MCPS, or their Agents and Related Parties pursuant to Laws, or otherwise.

Article 18.3 Personal Property at Tenant's Risk; No Consequential Damages. Notwithstanding anything to the contrary in this Lease, from and after the date hereof, (i) any goods, automobiles, property or personal effects stored or placed by Tenant or its Agents and Related Parties in or about the Premises or the Building shall be at the sole risk of such party, and Tenant and its Agents and Related Parties hereby expressly waive their right to recover against the Landlord and its Agents and Related Parties, except to the extent of Landlord's negligence or willful misconduct, and subject always to applicable Laws, and (ii) each of Landlord and Tenant acknowledges to the other that neither party shall be liable to the other for indirect, consequential, incidental or punitive damages or damages for lost profits, arising out of the loss or damage to any person or property of such party, or otherwise in connection with this Lease.

Article 19
Damage and Condemnation

Article 19.1 Damage to the Premises.

1. If (i) the Premises shall be damaged by fire or other cause resulting in partial damage, and (ii) there are sufficient insurance proceeds available to cover the cost of the repairs, then Landlord shall diligently and as soon as practicable after such damage occurs (taking into account the time necessary to effect a satisfactory settlement with any insurance company involved) repair such partial damage. Notwithstanding anything to the contrary contained in this Lease, Landlord shall not be required to expend any funds, other than insurance proceeds, to repair the Premises which have been damaged by casualty. Landlord may elect not to repair the damage because of a lack of insurance proceeds or because the damages are so extensive to make repair economically unfeasible, and in such event Landlord will promptly so notify Tenant and, at Tenant's option, this Lease shall partially terminate with respect to such portion of the Premises that is unusable by Tenant due to such damage, the Rent will be apportioned and paid to the date of such casualty and proportionately adjusted for the remainder of the Premises, and this Lease shall continue with respect to the remainder of the Premises.

2. Notwithstanding Article 19.1.1 above, if the Premises or a Substantial Part thereof are damaged by fire or other cause, or is damaged to such an extent that, in Landlord's reasonable judgment, the damage cannot be substantially repaired within one hundred twenty (120) days after the date of such damage, or because the damages are so extensive to make repair economically unfeasible, Landlord will promptly so notify Tenant no later than sixty (60) days after the occurrence of the casualty. Thereafter, either Landlord or Tenant may terminate this Lease with respect to all or such portion of the Premises that is unusable by Tenant due to such damage by providing notice to the other party within thirty (30) days from the date of Landlord's notice. The Rent shall be apportioned and paid to the date of such casualty, and if this Lease is not terminated, Rent shall be proportionately adjusted for the remainder of the Premises and this Lease shall continue with respect to the remainder of the Premises. If neither Landlord nor Tenant so elects to terminate this Lease but the damage required to be repaired by Landlord is not repaired within one hundred twenty (120) days from the date of such damage, Tenant, within thirty (30) days from the expiration of such one hundred twenty (120) day period, may terminate this Lease by notice to Landlord with respect to such portion of the Premises that is unusable by Tenant due to such damage in which case the Rent shall be apportioned and paid to the date of the casualty and proportionately adjusted for the remainder of the Premises and this Lease shall continue with respect to the remainder of the Premises. If a Substantial Part of the Premises are damaged by fire or other casualty, and Landlord notifies the Tenant that the damage cannot be substantially repaired within one hundred twenty (120) days after the date of such damage, Tenant's termination right under this Article 19.1.2 shall apply to the entire Premises. Landlord and Tenant agree that if a casualty results in total destruction of the Building, the Landlord will have no obligation to rebuild the improvements.

Article 19.2 Condemnation. If the whole or a Substantial Part of the Premises shall be taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including sale under threat of such a taking), then the Term shall cease and terminate as of the date when title vests in such governmental or quasi-governmental authority,

and the Rent shall be prorated to the date when title vests in such governmental or quasi-governmental authority. If less than a Substantial Part of the Premises is taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including sale under threat of such a taking), the Base Rent shall be reduced by the ratio that the portion so taken bears to the rentable square footage of the Premises before such taking, effective as of the date when title vests in such governmental or quasi-governmental authority, and this Lease shall otherwise continue in full force and effect. Tenant shall have no claim against Landlord (or otherwise) as a result of such taking, and Tenant hereby agrees to make no claim against the condemning authority for any portion of the amount that may be awarded as compensation or damages as a result of such taking; provided, however, that Tenant may, to the extent allowed by law, claim an award including for moving expenses and for the taking of any of Tenant's property which does not, under the terms of this Lease, become the property of Landlord at the termination of the Lease, as long as such claim is separate and distinct from any claim of Landlord and does not diminish Landlord's award.

Article 20 Default

Article 20.1 Events of Default. Each of the following shall constitute an Event of Default:

1. Tenant fails to pay the Base Rent and Additional Rent within ten (10) days from the date due.
2. Tenant, its Agents and Related Parties fail to observe or perform any term, condition or covenant of this Lease, other than payment of Base Rent or Additional Rent, continuing for more than thirty (30) days after written notice from Landlord or, in the case of any such failure which cannot with due diligence be cured within thirty (30) days, within such additional period as may be reasonably granted by Landlord to cure such failure with due diligence by the Tenant.
3. Tenant makes or consents to a general assignment of the Premises for the benefit of creditors or a common law composition of creditors, or a receiver for all or substantially all of Tenant's assets is appointed.
4. Tenant files a voluntary petition in any bankruptcy or insolvency proceeding, or an involuntary petition in any bankruptcy or insolvency proceeding is filed against Tenant and is not discharged by Tenant within sixty (60) days.
5. Tenant abandons the Premises or discontinues the Permitted Use hereunder, with no response from Tenant after ten (10) days notice from Landlord.

Article 20.2 Landlord's Remedies. Upon the occurrence of an Event of Default, Landlord shall have the right, at its election, then or at any time thereafter, to take any one or more of the following actions:

1. Give Tenant written notice of Landlord's intent to terminate this Lease on the date of the notice or on any later date specified in the notice, and on such date Tenant's right to possession of the Premises shall cease and this Lease shall thereupon be terminated. Landlord

shall have the right to recover all damages to which Landlord is entitled under Laws, specifically including all of Landlord's reasonable expenses of reletting (including rental concessions to new tenants, repairs, alterations, reasonable attorneys' fees, and brokerage commissions).

2. Give Tenant written notice of Landlord's intent to terminate Tenant's right of possession of the Premises (without terminating this Lease), on the date of the notice or on any later date specified in the notice, and on such date Tenant's right to possession of the Premises shall cease. In such an event, Landlord shall use commercially reasonable efforts to relet the Premises, or any part thereof, on behalf of Tenant, for such rent and term and upon such other conditions as are reasonably acceptable to Landlord. Until Landlord relets the Premises, Tenant shall remain obligated to pay Rent to Landlord as provided in this Lease. If and when Landlord relets the Premises and if a sufficient sum is not realized from such reletting to satisfy the payment of Rent due under this Lease for any month, Tenant shall pay Landlord any such deficiency upon demand. Tenant agrees that Landlord may file suit to recover any sums due to Landlord under this Article from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord.

3. With or without terminating this Lease, re-enter and take possession of the Premises, expel Tenant and those claiming through Tenant, and remove Tenant's Alterations, signs, personal property, equipment, and other evidences of tenancy, and store them at Tenant's risk and expense or dispose of them; provided, however, that if Landlord elects to take possession only without terminating this Lease, such entry and possession shall not terminate this Lease or release Tenant, in whole or in part, from the obligation to pay the Rent for the Term or from any other obligation under this Lease.

4. Pursue any and all legal remedies available in law or equity.

Article 20.3 No Waiver. If Landlord institutes proceedings against Tenant and a compromise or settlement thereof is made, the same does not constitute a waiver of any other covenant, condition, or agreement herein contained, or of any of Landlord's rights hereunder, except to the extent expressly provided in the compromise or settlement. No waiver by Landlord of any failure to observe or perform any term, condition, or covenant of this Lease shall operate as a waiver of such term, condition, or covenant, or of any subsequent failure thereof. No payment of Rent or partial payment of Rent by Tenant or acceptance of Rent by Landlord shall operate as a waiver of any breach or default by Tenant under this Lease. No re-entry by Landlord, and no acceptance by Landlord of keys from Tenant, shall be considered an acceptance of a surrender of the Lease.

Article 20.4 Right of Landlord to Cure Tenant's Default. If an Event of Default occurs and is continuing, then Landlord may (but shall not be obligated to) make such payment or do such act to cure the Event of Default, and charge the amount of the reasonable expense thereof to Tenant. Such payment shall be due and payable upon demand; however, the making of such payment or the taking of such action by Landlord shall not be deemed to cure the Event of Default or prevent Landlord from the pursuit of any remedy to which Landlord would otherwise be entitled.

Article 21 Disputes

Article 21.1 Any claim, action, or suit between the Landlord and the Tenant that arises out of or relates to the performance of this Lease shall be brought and conducted solely and exclusively in the courts of the State of Maryland in accordance with the laws of the State of Maryland. Pending final decision of a dispute hereunder, Landlord and Tenant shall continue to diligently perform their obligations under this Lease, including the payment of Rent except as provided for hereunder.

Article 22 Surrender; Holding Over; Prorations

Article 22.1 Surrender of the Premises. Tenant shall peaceably surrender the Premises to Landlord on the Termination Date or earlier termination of this Lease, in broom-clean condition and in substantially same or better condition as on the Commencement Date, except for reasonable wear and tear and damage from casualty and condemnation.

Article 22.2 Removal of Tenant Property. In the event that Tenant's property is not removed from the Premises within seventy-two (72) hours after the termination of this Lease, the property remaining will become the property of Landlord. Following termination of this Lease, Tenant must remove any and all signs erected by or on behalf of Tenant and must pay for or repair any damage caused by the installation or removal of such signage. At the time of termination of this Lease and at the Landlord's option, Tenant must participate in a walk-through with Landlord to inspect the Premises.

Article 22.3 Holding Over. In the event that Tenant does not immediately surrender the Premises to Landlord on the Termination Date or earlier termination of this Lease, Tenant shall be deemed to be a tenant at sufferance upon all of the terms and provisions of this Lease, except the Base Rent shall be 150% of the then current Base Rent. Notwithstanding the foregoing, if Tenant shall hold over after the Termination Date or earlier termination of this Lease, and Landlord shall desire to regain possession of the Premises, then Landlord may forthwith re-enter and take possession of the Premises. Tenant shall indemnify Landlord and its Agents and Related Parties against all damages, losses, expenses, and costs (including reasonable attorneys' fees and court costs) permitted under law that Landlord may incur as a result of Tenant's holdover use and occupancy of the Premises.

Article 22.4 Prorations. All of Tenant's insurance costs, utility expenses, similar charges, or fees incurred in connection with this Lease of which Tenant is responsible shall be prorated and paid by Tenant as of the Termination Date. Tenant shall pay for services performed or for work on the Premises undertaken by or at the direction of Tenant on or prior to the Termination Date.

Article 23 Quiet Enjoyment

Article 23.1 Landlord covenants that during the Term, Tenant shall peaceably and quietly occupy and enjoy possession of the Premises without molestation or hindrance by Landlord or any party claiming through or under Landlord, subject to the provisions of this Lease and easements,

conditions, restrictions, and other matters of record affecting the Premises as of the Commencement Date.

Article 24
Tenant's Covenants Regarding Hazardous Materials

Article 24.1 Definition. For purposes hereof, the term Hazardous Materials means Hazardous Material, Hazardous Substance, Pollutant or Contaminant, and Petroleum and Natural Gas Liquids, as those terms are defined or used in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and any other substances regulated because of their effect or potential effect on public health, public safety, or the environment, including, without limitation, PCBs, lead paint, asbestos, urea formaldehyde, radioactive materials, putrescible materials, and infectious materials. The term Hazardous Materials excludes common cleaning and maintenance supplies in sufficient quantities to permit the efficient operation of Tenant's business at the Premises, provided that such supplies are stored, contained and otherwise dealt with in accordance with applicable Hazardous Materials Law. The term Hazardous Materials Law means any present or future federal, state, or local law, code, rule, regulation, ordinance, order, standard, permit, license, guidance document, or requirement (including consent decrees, judicial decisions and administrative orders) together with all related amendments, implementing regulations and re-authorizations, relating to industrial hygiene, environmental or unsafe conditions and/or the protection, preservation, conservation, or regulation of the environment.

Article 24.2 Tenant's Acknowledgment; General Prohibition. Tenant hereby acknowledges and agrees that (i) Landlord has no duty to investigate the Premises and/or Building for Hazardous Materials, and (ii) Tenant is leasing the Premises subject to any Hazardous Materials in existence on the Premises and/or Building on the Commencement Date. Tenant and its Agents and Related Parties shall not cause or permit any Hazardous Materials to be generated, produced, brought upon, used, stored, retained, treated, discharged, released, spilled, or disposed of on, in, under, or about the Premises and/or Building by Tenant or its Agents and Related Parties, sublessees, or assignees without the prior written consent of Landlord; provided, however, that Tenant and its Agents and Related Parties, without Landlord's consent, may use toner, ordinary cleaning supplies, and other substances commonly found in educational facilities or used in Tenant's normal business operations as long as they are used and stored in compliance with Hazardous Materials Law. Landlord shall be entitled to take into account such factors or facts as Landlord may in its good faith business judgment determine to be relevant in determining whether to grant, condition, or withhold consent to Tenant's proposed activity with respect to Hazardous Materials. In no event, however, shall Landlord be required to consent to the installation or use of any additional storage tanks on, in, under, or about the Premises and/or Building. If Landlord consents to the generation, production, use, storage, retention, treatment or disposal of Hazardous Materials on, in, under, or about the Premises by Tenant, its Agents and Related Parties, sublessees, or assignees, then, in addition to any other requirements or conditions that Landlord may impose in connection with such consent, (i) Tenant promptly shall deliver to Landlord copies of all permits, approvals, filings, and reports reflecting the legal and proper generation, production, use, storage, retention, treatment, or removal of all Hazardous Materials generated, produced, used, stored, retained, treated, or removed from the Premises and, upon Landlord's request, copies of all hazardous waste manifests relating thereto, and (ii) on or before the Termination Date or earlier termination of this

Lease, Tenant shall cause all Hazardous Materials arising out of or related to the use or occupancy of the Premises during the Term by Tenant or its Agents and Related Parties, sublessees, or assignees to be removed from the Premises and/or Building and transported for use, storage, or disposal in accordance with all applicable Hazardous Materials Laws, regulations, and ordinances, and Tenant shall provide Landlord with evidence reasonably satisfactory to Landlord of the same.

Article 24.3 Tenant's Indemnification. From and after the date hereof, Tenant shall indemnify, defend, and hold Landlord harmless from any and all actions (including remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting there from), costs, claims, damages, expenses (including reasonable attorneys' fees, experts' fees, court costs, and amounts paid in settlement of any claims or actions), fines, forfeitures, or other civil, administrative, or criminal penalties, injunctive or other relief (whether or not based upon personal or bodily injury, property damage, contamination of, or adverse effects upon, the environment, water tables, or natural resources), liabilities, or losses permitted by law and incurred by Landlord arising from breach of Article 24.2 or any Hazardous Materials Laws by Tenant, its Agents and Related Parties, sublessees, or assignees.

Article 24.4 Responsibility for Potential Regulatory Requirements. In the event that any governmental agency or entity having jurisdiction over the Premises requires the removal of any Hazardous Materials, Tenant shall be responsible for removing those Hazardous Materials arising out of or related to the use or occupancy of the Premises and/or Building by Tenant or its Agents and Related Parties, sublessees, or assignees. Tenant shall not take any remedial action in or about the Premises and/or Building, nor enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Premises without first notifying Landlord of Tenant's intention to do so and affording Landlord the opportunity to appear, intervene, or otherwise appropriately assert and protect Landlord's interest with respect thereto; provided however that so long as Tenant is responsible for and completes the remediation, Tenant, and not Landlord shall have the authority to negotiate the scope of the remediation necessary and close the file with the appropriate governmental agency. In the event that any governmental agency or entity having jurisdiction over the Premises requires the removal of any Hazardous Materials that the Tenant did not place on, in, under, or about the Premises and/or Building, the Tenant has the right to terminate this lease on not less than sixty (60) days written notice to Landlord.

Article 24.5 Notice. Tenant immediately shall notify Landlord in writing of: (i) any spill, release, discharge, or disposal of any Hazardous Materials on, in, under, or about the Premises and/or Building or any portion thereof during the Term, (ii) any enforcement, cleanup, removal, or other governmental or regulatory action instituted, contemplated, or threatened (if Tenant has notice thereof) pursuant to any Hazardous Materials Laws; (iii) any claim made or threatened by any person against Tenant or with respect to the Premises and/or Building relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials; and (iv) any reports made to any environmental agency or entity arising out of or in connection with any Hazardous Materials on, in, under, or about or removed from the Premises and/or Building during the Term, including any complaints, notices, warnings, reports, or asserted violations in connection therewith of which Tenant has notice. Tenant also shall supply to Landlord as promptly as possible, and in any event within five (5) business days after Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or

asserted violations relating in any way to the Premises and/or Building or Tenant's use or occupancy thereof.

Article 24.6 Pesticide Use in Schools. The Landlord has implemented a regulation regarding integrated pest management in schools, labeled ECF-RB, attached hereto and incorporated herein as Exhibit F in accordance with the Agriculture Article, Annotated Code of Maryland. Tenant agrees to comply with the integrated pest management program established for the Building within the Premises by following the procedures outlined in the regulation.

Article 25 Miscellaneous

Article 25.1 No Representations by Landlord. Tenant acknowledges that neither Landlord nor its Agents and Related Parties nor any broker has made any representation or promise with respect to the Premises, except as herein expressly set forth, and no rights, privileges, easements, or licenses are acquired by Tenant except as herein expressly set forth. Tenant, by taking possession of the Premises shall, subject to the provisions of this Lease, accept the Premises AS IS, and such taking of possession shall be conclusive evidence that the Premises and Building are in acceptable condition at the time of such taking of possession.

Article 25.2 No Partnership. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Landlord and Tenant, or to create any other relationship between Landlord and Tenant other than that of landlord and tenant.

Article 25.3 Brokers. Landlord and Tenant each represents and warrants to the other that it has not employed any broker, agent, or finder relating to this Lease. Tenant shall indemnify and hold Landlord harmless, from and against any claim for brokerage or other commission arising from or out of any breach of the Tenant's representation and warranty.

Article 25.4 Compliance with Laws. It is understood, agreed, and covenanted by and between the parties that Tenant at its expense, will promptly comply with, observe, and perform all of the requirements of all Laws. Tenant shall also comply with the Board policies and MCPS regulations applicable to users of Board property. If any act or failure to act on Tenant's part results in a violation of any of the Laws upon due notice, Tenant will act promptly to comply therewith. Any violation of any of the Laws is subject to Article 20.1.2 of this Lease.

Article 25.5 WAIVER OF JURY TRIAL. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ONE AGAINST THE OTHER WITH RESPECT TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT HEREUNDER, OR TENANT'S USE OR OCCUPANCY OF THE PREMISES. IN THE EVENT LANDLORD COMMENCES ANY PROCEEDINGS FOR NONPAYMENT OF RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIMS, EXCEPT TO THE EXTENT COMPULSORY UNDER APPLICABLE PROCEDURE. THIS SHALL NOT, HOWEVER, BE CONSTRUED AS A WAIVER OF TENANT'S RIGHT TO ASSERT SUCH CLAIMS IN ANY SEPARATE ACTION BROUGHT BY TENANT.

Article 25.6 Notices. All notices, demands, requests, or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person or upon receipt, if delivered by a recognized overnight courier (e.g., Federal Express), to the addresses of the respective parties as set forth in Articles 1.11 and 1.12. Landlord and Tenant may from time to time by written notice to the other designate another or a different address for receipt of future notices.

Article 25.7 Non-discrimination. Tenant agrees to comply with the non-discrimination policies of the Landlord and all applicable Laws regarding discrimination, including employment discrimination. Tenant agrees that it will not discriminate in any manner on the basis of race, color, religious creed, sex, marital status, national origin, ancestry, disability, sexual orientation, or genetic status and to require its Agents and Related Parties to follow the same non-discrimination policies.

Article 25.8 Maryland Sex Offender Law. Tenant shall comply with Maryland laws regarding registered sex offenders. A registered sex offender is prohibited from entering onto real property used for a public or non-public school (§ 11-722 of Criminal Procedure Article, Annotated Code of Maryland). Tenant shall not knowingly employ any person to work at the Premises, whether for compensation or as a volunteer, if the individual is a registered sex offender, in accordance with Maryland law. An employer or contractor who violates this requirement may be found guilty of a misdemeanor and if convicted may be subject to up to five years in prison and/or a \$5,000 fine. Failure to comply with Maryland laws regarding registered sex offenders shall be deemed an Event of Default under this Lease.

Article 25.9 Maryland Criminal Background Check Law. Tenant shall comply with Maryland laws regarding required criminal background checks. Effective July 1, 2015, Maryland law requires that (i) any entity that contracts with a public school, and any subcontractors for such entity, and (ii) any non-public school, and any contractors or subcontractors for the non-public school, may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to certain crimes (§ 6-113 and § 2-206.1 of Education Article, Annotated Code of Maryland). In addition, each public and non-public school, and any contractors or subcontractors, must ensure that any individuals in its work-force undergo a criminal background check, including fingerprinting, if the individuals will work in a school facility in circumstances where they have direct, unsupervised, and uncontrolled access to children (§ 5-560 - §5-551 of Family Law Article, Annotated Code of Maryland). Failure to comply with Maryland laws regarding criminal background checks shall be deemed an Event of Default under this Lease.

Article 25.10 Financial Statements. Following an Event of Default pursuant to Section 20.1.1 which remains uncured, Tenant, within fifteen (15) days after request from Landlord, shall provide Landlord with current financial statements (and audited financial statements (but only to the extent Tenant produces audited financial statements in the ordinary course of its business)) for the last two (2) fiscal years and such other information as Landlord may reasonably request.

Article 25.11 Invalidity of Particular Provisions. If any provisions of this Lease or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other

than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the full extent permitted by law.

Article 25.12 Officials and Employees Not to Benefit. Tenant is prohibited from using the services of current MCPS employees in its use of the Premises. The services of former employees may be used, provided that a twelve (12) month period has elapsed since their last employment at MCPS. No elected official or employee of Maryland, Montgomery County, or MCPS shall benefit from or receive any money as a result of this Lease. Violation of this article will void the Lease. Tenant shall pay Landlord any funds received by any official or employee, the contract will be terminated, and Landlord shall seek appropriate legal remedy.

Article 25.13 Benefit and Burden. Subject to the provisions of Article 9, and except as otherwise expressly provided in this Lease, the provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective representatives, heirs, successors and assigns. Landlord may freely and fully assign its interest hereunder. None of the provisions of this Lease are intended for the benefit of any third party, and no such third party shall have the right to enforce the provisions of this Lease.

Article 25.14 Certain Obligations to Survive. The provisions set forth in Article 18, Article 20, and Article 25.6, as well as any other of the Tenant's obligations and warranties, which directly or indirectly are intended by their nature or by implication to survive the Tenant's performance, including the Tenant's obligation to pay Rent and any other sums of money due and payable to Landlord under the terms of this Lease, shall survive the expiration, cancellation, or earlier termination of the Lease.

Article 25.15 Entire Agreement. This Lease (which includes the Exhibits attached hereto) contains and embodies the entire agreement of the parties hereto, and no representations, inducements, or agreements, oral or otherwise, between the parties not contained in this Lease shall be of any force or effect. This Lease may not be modified, changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by Landlord and Tenant.

Article 25.16 Interpretation. Include, includes, and including mean considered as part of a larger group, and not limited to the items recited. Shall means is obligated to; May means is permitted to. The necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, or individuals, men or women, as the case may be, shall in all cases be assumed as though in each case fully expressed. All terms and words used in this Lease, regardless of the number or gender in which they are used, shall be deemed to include any other number or gender as the context may require.

Article 25.17 No Personal Liability; Sale. No employee of Landlord or of its Agents and Related Parties, whether disclosed or undisclosed, shall have any personal liability under any provision of this Lease. In the event of a judgment in favor of Tenant which remains unpaid, Tenant's right of redress, execution, and levy shall be limited to the equity of Landlord in the Premises. If the original Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease occurring thereafter shall terminate as of the day of such sale, and thereupon all such liabilities and obligations shall be binding on the new owner, provided such

successor owner assumes or is legally responsible for such liabilities or obligations. Tenant agrees to attorn to such new owner as long as such new owner agrees to recognize this Lease.

Article 25.18 Force Majeure. Neither party shall be required to perform its obligations under this Lease, nor shall it be liable for loss or damage for failure to do so, where such failure arises from or through acts of God, strikes, lockouts, labor difficulties, explosions, sabotage, accidents, riots, civil commotions, acts of war, results of any warfare or warlike conditions in this or any foreign country, fire or casualty, energy shortage, or other causes beyond its reasonable control, unless such loss or damage results from its willful misconduct or negligence. Failure to meet monetary obligations shall not be excused by Force Majeure.

Article 25.19 Headings. Captions and headings are for convenience of reference only.

Article 25.20 Governing Law. This Lease is governed and shall be construed in accordance with the laws of the State of Maryland.

Article 25.21 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument. Each party may rely on facsimile signature pages as if such facsimile pages were originals.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be executed by their authorized representatives as of the date first above written.

LANDLORD:

ATTEST/WITNESS:

BOARD OF EDUCATION OF MONTGOMERY
COUNTY

By: _____
Michael A. Durso,
President

ATTEST/WITNESS:

Approved:

By: _____
Dr. Jack R. Smith,
Superintendent of Schools

ATTEST/WITNESS:

TENANT:

By: _____
Name: _____
Title: _____

LEASE EXHIBITS

- A. Premises
- B. Parking
- C. MCPS Policy ECA and Resource Conservation Guidelines
- D. MCPS Regulation ACG-RC, "Service Animals in Schools"
- E. MCPS Regulation ECF-RC, "Recycling"
- F. MCPS Regulation ECF-RB, "Pesticide Use in Schools"

ATTACHMENT D

Statement of Financial Responsibility

1. Is the Offeror a subsidiary of or affiliated with any other organizations(s), corporation(s), or any other firm(s)?

YES_____

NO_____

If yes, list each such organization, corporation or firm by name and address; specify the Offeror's relationship, and identify the officers, directors or trustees common to the Offeror:

2. Describe the plan for financing the program, if funds for the leasing of the facility and operating the program will be obtained from sources other the Offeror's funds.

3. List sources and amount of cash available to meet equity requirements of the proposed venture:

a. in banks (include names, addresses, telephone numbers and amounts)

b. by loans from affiliated or associated organization, corporation, or firms (include names, addresses, telephone numbers and amounts)

4. List the names and addresses of all bank references

5. Financial condition of Offeror -- attach previous two years financial statements.

6. Bankruptcy: Has the Offeror or, if applicable, the parent corporation or any subsidiary or affiliated corporation of the Offeror or said parent corporation, or other interested parties (major stockholders or owner) been adjudged bankrupt, either voluntarily or involuntarily, within the past ten years?

YES _____

NO _____

If yes, give date, place, bankruptcy case number, and under what name:

7. Personal Interest: Does any member of the Board of Education of Montgomery County, Maryland, to which the accompanying application is being made, or any officer or employee of Montgomery County Public Schools who exercises any functions or responsibilities in connection with the carrying out of the program covered by the Offeror's proposal, have any direct or indirect personal interest in the Offeror?

YES _____

NO _____

8. If the Offeror wishes, additional statements can be attached as evidence of the Offeror's qualifications and/or financial responsibility.

ATTACHMENT E

CERTIFICATION OF FINANCIAL RESPONSIBILITY

I (We) _____
certify that this Offeror's Statement of Financial Responsibility and the attached information are true and correct.

I (We) also agree to comply with conditions stated in the attached Joint Occupancy Lease Agreement for the _____ and that the scope of services as submitted in this completed application will be adhered to.

Name

Name

Title

Title

Address

Address

City, State and Zip

City, State and Zip

Signature

Signature

Date

Date

ATTACHMENT F

Equal Opportunity Certification

1. Are you participating in any contractual agreement which contains the Equal Employment Opportunity Clause prescribed in Executive Order 11246, as amended?

Yes No

2. Name and address of Federal "Compliance Agency," if known:

("The Rules and Regulations of the Office of Federal Contract Compliance Programs, U.S. Department of Labor, define the term Compliance Agency as the agency designated by the Director, of CCP, to conduct compliance reviews and to undertake such other responsibilities assigned.")

3. Are you required to maintain a written affirmative action plan according to 41 CFR 60-2 and 60-1 (a)(4)?

Yes No

4. Has the "Compliance Agency" required you to correct deficiencies in your affirmative action plan or your employment policies and practices?

Yes No

5. Are you required to submit an annual compliance report as described in 41 CFR 60-17 (a)?

Yes No

If the answer to "5" is yes, enclose a copy of your latest compliance report.

Data on Subcontractors. (Use supplementary sheets where required.)

_____ (1)* (2)** (3)***

(Subcontractor's Name)

_____ Yes Yes Yes

(Street)

_____ () No () No () No
(City) (State)

_____ (1)* (2)** (3)***
(Subcontractor's Name)

_____ () Yes () Yes () Yes
(Street)

_____ () No () No () No
(City) (State)

- *(1) Previously held contracts subject to EQ 10925, 11114, and 11246, as amended.
- ** (2) Previously filed certificate of nonsegregated facilities.
- *** (3) Previously filed annual (EE0-1, EEO-4, or EEO-6) compliance report.

ATTACHMENT G

Certification of Nonsegregated Facilities

By submission of this offer, the Offeror or subcontractor certifies that there is not maintained or provided for employees any segregated facilities and that employees will not be permitted to perform their services at any location, under the Offeror's control, where segregated facilities are maintained. The Offeror, or subcontractor, agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "Segregated Facilities" means any rooms, work areas, restrooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise. The Offeror further agrees that except where there has been obtained identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause that there will be forwarded the following notice to such proposed subcontractors except where the proposed subcontractors have submitted certifications for specific time period:

Notice to Prospective Subcontractors of

Requirement for Certifications of

Nonsegregated Facilities

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

The certification may be submitted either for each subcontract or for all subcontracts during a period, i.e., quarterly, semiannually, or annually.

NOTE: Failure of an Offeror to agree to the Certification of Nonsegregated Facilities shall render its offer nonresponsive.

ATTACHMENT H

Minority Business Enterprise

The Offeror () is () is not a minority business enterprise. A minority business enterprise is defined as a "business at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock is owned by minority group members." For the purpose of this definition, minority group members are African Americans, Hispanic Americans, Asian Americans, and American Indians.

Check the appropriate box below.

- | | | | |
|---|---|-----------------------------------|--|
| <input type="checkbox"/> African American | <input type="checkbox"/> Asian American | <input type="checkbox"/> Hispanic | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Female | <input type="checkbox"/> Disabled | <input type="checkbox"/> None | |

ATTACHMENT I

NON-DEBARMENT ACKNOWLEDGEMENT

_____ I acknowledge that my firm has NO pending litigation and/or debarment from doing business with the State of Maryland or any of its subordinate government units and/or federal government within the past five (5) years.

_____ I acknowledge that my firm has pending litigation or has been debarred from doing business with the State of Maryland or any of its subordinate government units and/or federal government, within the past five (5) years. If so, please provide an attachment describing the pending litigation or debarment.

_____ I acknowledge none of this company's officers, directors, partners, or its employees have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government; and that no member of the Board of Education of the Montgomery County Public Schools, Administrative or Supervisory Personnel, or other employees of the Board of Education has any interest in the bidding company except as follows

As the duly authorized representative of the Offeror, I hereby certify that the above information is correct and that I will advise Montgomery County Public Schools should there be a change in status.

By (Signature) _____

Name and Title _____

Witness Name and Title _____