LAND LEASE AGREEMENT

BETWEEN

MONTGOMERY COUNTY BOARD OF EDUCATION

AND

MONTGOMERY COUNTY, MARYLAND

DATED: 4/19/11

TABLE OF CONTENTS

1. THE LEASED PREMISES
2. TERM
3. BASIC RENT
4. USE
5 COMMUNITY NOTIFICATION
6. FORMER AGRICULTURAL TENANT
7. COUNTY'S PROPERTY DAMAGE AND LIABILITY INSURANCE
8. LANDLORD'S PROPERTY DAMAGE AND LIABILITY INSURANCE
9. ACCESS
10. HAZARDOUS MATERIALS
11. MAINTENANCE AND REPAIRS
12. RECLAMATION
13. ALTERATIONS, ADDITIONS AND IMPROVEMENTS
14. NOTICE OF DEFECTS
15. SURRENDER OF PREMISES
16. DEFAULT
17. HOLDOVER
18. QUIET POSSESSION
19. STATUTORY PROVISIONS
20. NO WAIVER
21. NON-APPROPRIATION
22. ASSIGNMENT & LICENSING
23. BENEFIT AND BURDEN
24. WAIVER OF JURY TRIAL
25. SIGNAGE
26. NON-DISCRIMINATION
27. PUBLIC EMPLOYMENT
28. LEASE TERMINATION
29. MAIL NOTICES

LAND LEASE AGREEMENT

THIS AGREEMENT OF LAND LEASE, made this _____ day of _____, 2011, by and between MONTGOMERY COUNTY, MARYLAND hereinafter referred to as "the County" or "Tenant", and MONTGOMERY COUNTY BOARD OF EDUCATION, hereinafter referred to as "Landlord". (The Landlord and the County together the "Parties")

WITNESSETH

In consideration of the rents hereinafter reserved, and the agreements and covenants herein contained, the Parties hereto mutually agree as follows:

1. THE LEASED PREMISES:

The Landlord hereby leases to the County and the County hereby leases from the Landlord all of that real property, situate and lying in Montgomery County, Maryland, which consists of Twenty Acres (20) of land located on Brickyard Road, Tax Map FN33, Parcel 106 as shown in EXHIBIT A.

2. TERM:

The term of this Land Lease (the "Lease Term") shall commence ("Lease Commencement Date") on or about April 1, 2011 , and shall terminate at 12:00 o'clock, midnight, on the last day of the calendar month which completes Ten (10) full years of tenancy hereunder, plus the partial month (if any) in which the Lease Commencement Date occurs. [i.e. April 30, 2021]

3. BASIC RENT:

The County shall pay or cause to be paid to the Landlord the annual amount of Fifteen Hundred Dollars ($1,500) paid annually at the rate of One Thousand Five Hundred dollars ($1,500) by April 1of each year.

4. USE:

County or its agents shall use the Leased Premises solely for ballfields and improvements associated with that use such as a parking lot and an amenity facility.

5. COMMUNITY NOTIFICATION:

At least 30 days prior to issuance of a Request for Expression of Interest, the County shall publicly notify the community of County's intent to develop ballfields. This notice shall include, but not necessarily be limited to, notification of adjacent and confronting property owners of the subject site and applicable community/homeowners associations by first class mail.

6. FORMER AGRICULTURAL TENANT:

In accordance with the Landlord's official action approving this transaction, the County agrees to permit the former agricultural tenant known as "Nick's Organic Farm" to plant and harvest on the Leased Premises during the 2011 growing season through January 1, 2012 via a sublease.

7. COUNTY'S PROPERTY DAMAGE AND LIABILITY INSURANCE:

A. The County shall self-insure. The liability of the County and the Montgomery County Self-Insurance Program is limited by the Local Government Tort Claims Act ("LGTCA"), MD. Ann. Code, Cts & Jud. Proce. Sec. 5-301 et seq. (2006 Repl. Vol) as amended (the "LGTCA").

B. The County agrees that it will not keep in or upon the Leased Premises any article which may be prohibited by the standard form of fire or hazard insurance policy and shall not do or permit to be done any act or thing as a result of which either any policy of insurance of any kind covering any or all of the Property or any liability of the Landlord in connection therewith may become void or suspended or the insurance risk under any such policy would be made greater and in the event the County's occupancy causes any increase in the insurance premiums for the Building or any part thereof, then the County shall pay as Additional Rent the additional premiums within ten (10) days after Landlord notifies County of such increase or cease such act at Landlord's option.

C. All the improvements, equipment, effects and property of every kind, nature and description belonging to the County which, during the continuance of this Lease or any occupancy of the Leased Premises by County, shall be at the sole risk of County and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft, or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord unless due to the negligent act of Landlord, its employer or agents- or failure to comply with its obligations hereunder.

D. The Parties hereby waive any right of subrogation against the other to the extent that the liability arises from a cause covered by insurance, notwithstanding that such loss, damage or liability may arise out of the negligent or intentionally tortious act or omission of the other party, its agents, contractors, invitees or employees, and only to the extent of the insurance proceeds recovered, provided that the Parties' insurance policies permit such waiver.

8. LANDLORD'S PROPERTY DAMAGE AND LIABILITY INSURANCE:

A. The County and the Montgomery County Board of Education agree to indemnify and hold each other harmless from any liability, damage, expense, cause of action, suits, claims or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the indemnifying party in connection with or arising out of the activity which is the subject of this Agreement. Any obligation or liability of either the County or the Board of Education arising in any way from this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Maryland Local Government Tort Claims Act, MD. Code Ann., Cts. & Jud. Proc. §5-301, et seq. (2006 Repl. Vol.) (the "LGTCA"); Md. Code Ann. Art. 25A, §1A (2005 Repl. Vol.); Md.Code Ann., Educ. Sec.4-105 (2008 Repl. Vol.);and Md. Code Ann., Cts & Jud. Proc. § 5-509 and § 5-518 (2006 Repl. Vol.), all as amended from time to time. Any indemnification given in this Agreement is not intended to create any rights in any third parties.

B. The County and the Montgomery County Board of Education will continue as participants in the Montgomery County Self-Insurance Program and will give the other party thirty (30) days advance notice if such participation changes. In the event of the Board of Education's withdrawal from the Montgomery County Self-Insurance Program, the County reserves the right to change the mandatory insurance and indemnification requirements. The County and the Board of Education agree to accept that this self insurance meets all insurance requirements of this Agreement.

9. ACCESS:

Landlord or Landlord's agents shall have the right to have access to the Leased Premises upon reasonable notice which may be verbal (except in the event of emergency to County) for the purpose of inspection or in the event of fire or other property damage or for the purpose of performing any maintenance or repairs.

10. HAZARDOUS MATERIALS:

The County or its Licensee shall not deposit or dispose of any such wastes, medical byproducts or any hazardous or toxic chemicals or substances (as defined by applicable governmental regulations and laws) in toilets, sinks, plumbing lines, waste containers, trash dumpsters or other trash collection or receptacles and shall be in accordance with applicable Laws and Regulations.

11. MAINTENANCE AND REPAIRS:

The County shall be responsible for all maintenance to the Leased Premises. If required, the County will obtain all necessary permits and licenses for any construction.

12. RECLAMATION:

Based on the sole determination of the Board of Education that the property is needed for school purposes, the Landlord may reclaim the Leased Premises for educational use by giving the County Two (2) years notice in writing.

13. ALTERATIONS, ADDITIONS AND IMPROVEMENTS:

County or its Licensee will not make any alterations (including signage) or improvements of any kind to the Leased Premises without the Landlord's written consent, which consent to, and conditions and requirements for construction within the building, shall not be unreasonably withheld, conditioned, or delayed.

14. NOTICE OF DEFECTS:

When the County or its Licensee becomes aware of defects, County shall provide Landlord with prompt notice of accidents on or damages to the property.

15. SURRENDER OF THE LEASED PREMISES:

County covenants at its sole cost and expense, at the expiration or other termination of this Lease: to remove all goods, equipment, personal property and effects from the Leased Premises not the property of Landlord; to remove all non-standard alterations, except as Landlord has agreed with County to leave in the Leased Premises; to put the Leased Premises in good order and repair, reasonable wear and tear excepted; and to yield up to Landlord the Leased Premises and all keys, gate cards, security cards, locks and other fixtures connected therewith in good repair, order and condition in all respects, reasonable wear

and tear and damage by fire or other casualty, not caused by County's act or neglect, excepted. Any of County's equipment, non-standard alterations, goods, personal property and effects not so removed may, at Landlord's election and without limiting Landlord's right to compel removal thereof, be deemed abandoned and may be retained by Landlord as its property or be disposed of at County's sole cost and expense, without accountability, in such manner as Landlord may see fit. A fee of $15.00 each will be charged for keys, gate cards and security cards not returned to Landlord.

16. DEFAULT:

A. By County: In the event that rent, or any installment thereof, shall remain unpaid after it becomes due and payable, for ten (10) days after written notice to the County for same, to keep and perform each and every one of the terms, conditions and covenants contained herein, and such failure or neglect continues for more than thirty (30) days (or such period as may reasonably be required to correct the default with exercise of due diligence,) after written notice to County from the Landlord specifying the default, then at the option of the Landlord, the Landlord or his assigns may proceed to recover possession under the laws of the State of Maryland. Landlord may also pursue any rights and remedies available for such default under the laws of the State of Maryland.

B. By Landlord: In the event that the Landlord or his assigns shall fail or neglect to keep and perform each and every one of the covenants, conditions, and agreements contained herein, and such failure or neglect is not remedied within thirty (30) days (or such period as either otherwise provided herein on as may reasonably be required to correct the default with exercise of due diligence) after written notice by certified or registered mail, return receipt requested, from the County specifying the default, then the County at its' option, may pursue any and all legal remedies available to the County.

C. No default as hereinbefore provided shall be deemed complete unless at the time Landlord or County seeks to take any action based upon such alleged default the same shall remain uncured by the defaulting party.

17. HOLDOVER:

In the event the County continues to occupy the Leased Premises or any part thereof after the conclusion of the term of this Lease, the County's tenancy shall be deemed to be upon a month-to-month basis. The tenancy thus created shall be subject to all applicable terms and conditions of this Lease, including any rental increases, in excess of those set forth in this Lease, as determined by Landlord, at Landlord's sole and absolute discretion and may be terminated by either party providing the other not less than thirty (30) day's prior written notice, to expire the day of the month from which tenancy commenced.

18. QUIET POSSESSION:

Contingent on the performance of all covenants, conditions and agreements herein contained to be performed on County's part, County shall at all times during the term of this lease and to any renewals, extensions or modifications thereof, have the peaceable and quiet enjoyment and possession of the Leased Premises for the purposes herein cited.

19. STATUTORY PROVISIONS:

It is understood, agreed and covenanted by and between the Parties that the Landlord and County, as their interests may appear and at their respective expense, will promptly comply with, observe and perform all of the requirements of all applicable Federal, State, County and Local statutes, ordinances, rules, orders and regulations in effect during the Lease Term.

20. NO WAIVER:

The waiver at any time by the Landlord or County of any particular covenant or condition of this Lease shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver shall not be construed or understood as waiving any further or other rights of any character whatsoever.

21. NON-APPROPRIATION:

This Lease Agreement shall terminate automatically on July 1 of any year for which Montgomery County Council does not make an appropriation of funds to pay the obligations stated in this Lease. The County shall notify the Board of Education at least thirty (30) days written notice of lack of appropriation. The County shall not make or to be entitled to make any claims for reimbursement of any kind, except for prepaid items or as otherwise agreed to in this Lease in writing by the Parties.

22. ASSIGNMENT AND LICENSING:

The County may assign this Lease or License the Leased Premises with the written consent of the Board of Education, provided that such consent will not be unreasonably withheld, conditioned or delayed. The County agrees that in any sub-lease, license, or other use agreement for the Leased Premises, it shall require the sub-lessee/ licensee/ user to indemnify the Landlord as well as the County. The County shall also require its sub-lessee/licensee/user to not knowingly employ an individual to work or a volunteer to participate in activities on the premises if he is a registered sex offender, or if he has pleaded (1) guilty, (2)"no contest," or (3) nolo contendere to a crime involving sexual misconduct (whether or not resulting in a conviction). The County agrees that the above requirements are not unreasonable.

23. BENEFIT AND BURDEN:

The provisions of this Lease shall be binding upon, and shall inure to the benefit of the Parties and each of their respective representatives, successors and assigns.

24. WAIVER OF JURY TRIAL:

Should any controversy, action, proceeding or counterclaim arise by and between the Parties hereto against the other concerning any of the terms and conditions contained in this Lease, the payment of monies due hereunder, issues in any way connected with this Lease, County's use or occupancy of the Leased Premises, any claim of injury or damage or any statutory remedy, then each of the Parties hereby knowingly, voluntarily and intentionally waives its right to a jury trial and freely elects to be tried by a court of competent jurisdiction without a jury in the State of Maryland, Montgomery County.

25. SIGNAGE:

The County or its Licensee shall supply signage at its expense and subject to applicable laws and regulations.

26. NON-DISCRIMINATION:

Landlord agrees to comply with the non-discrimination policies in County contracts as required by Section 11B-33 and Chapter 27 of the Montgomery County Code (2004), as amended, as well as all

other applicable state and federal laws and regulations regarding employment discrimination. The Landlord assures the County that in accordance with applicable law; it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, sex, martial status, national origin, ancestry, disability, sexual orientation or genetic status.

27. PUBLIC EMPLOYMENT:

Landlord understands that unless authorized under Chapter 19A and Section 11B-52 of the Montgomery County Code (2004), as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

28. TERMINATION FOR FAILURE TO COMPLETE THE PROJECT:

This Lease shall be subject to termination if the County (or its private partner) fails to meet either of the following milestones:

1) By midnight on the date that is two years from the lease commencement date, the County must have a fully executed agreement with a private partner that requires the private partner to construct and operate ballfields on the Leased Premises; or

2) By midnight on the date that is five years from the lease commencement date, the private partner must have completed the construction of said ballfields and have them operational.

In order to terminate the Lease, the Parties shall countersign a letter acknowledging the lease termination pursuant to the operation of this clause.

29. MAIL NOTICES:

All notices required or desired to be given hereunder by either party to the other shall be given certified or registered mail, postage prepaid, or sent by facsimile addressed to Landlord or County respectively. Notice to the respective Parties shall be addressed as follows:

LANDLORD:
Montgomery County
Board of Education
850 Hungerford Drive
Rockville, Maryland 20850
Attention: Director of Facilities Management

COUNTY:
Montgomery County, Maryland
Office of Real Estate
101 Monroe Street, 9th Floor
Rockville, Maryland 20850

With copy that does not constitute a notice:

Office of the County Attorney for Montgomery County, Maryland
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

[SIGNATURE PAGE FOLLOWS]

WITNESS WHEREOF, the Parties hereto have caused this LEASE to be properly executed.

WITNESS:

By: _____
Jerry D. Weast, Secretary

LANDLORD:
MONTGOMERY COUNTY
BOARD OF EDUCATION

_____
Christopher S. Barclay, President

Date: 4/19/11

Approved by the Board of
Education of Montgomery County

_____
Jerry D. Weast, Superintendent of Schools

Date: 4/8/11

WITNESS:

By: _____

MONTGOMERY COUNTY
MARYLAND

By: _____
Timothy Firestine
Chief Administrative Officer

Date: 4/5/2011

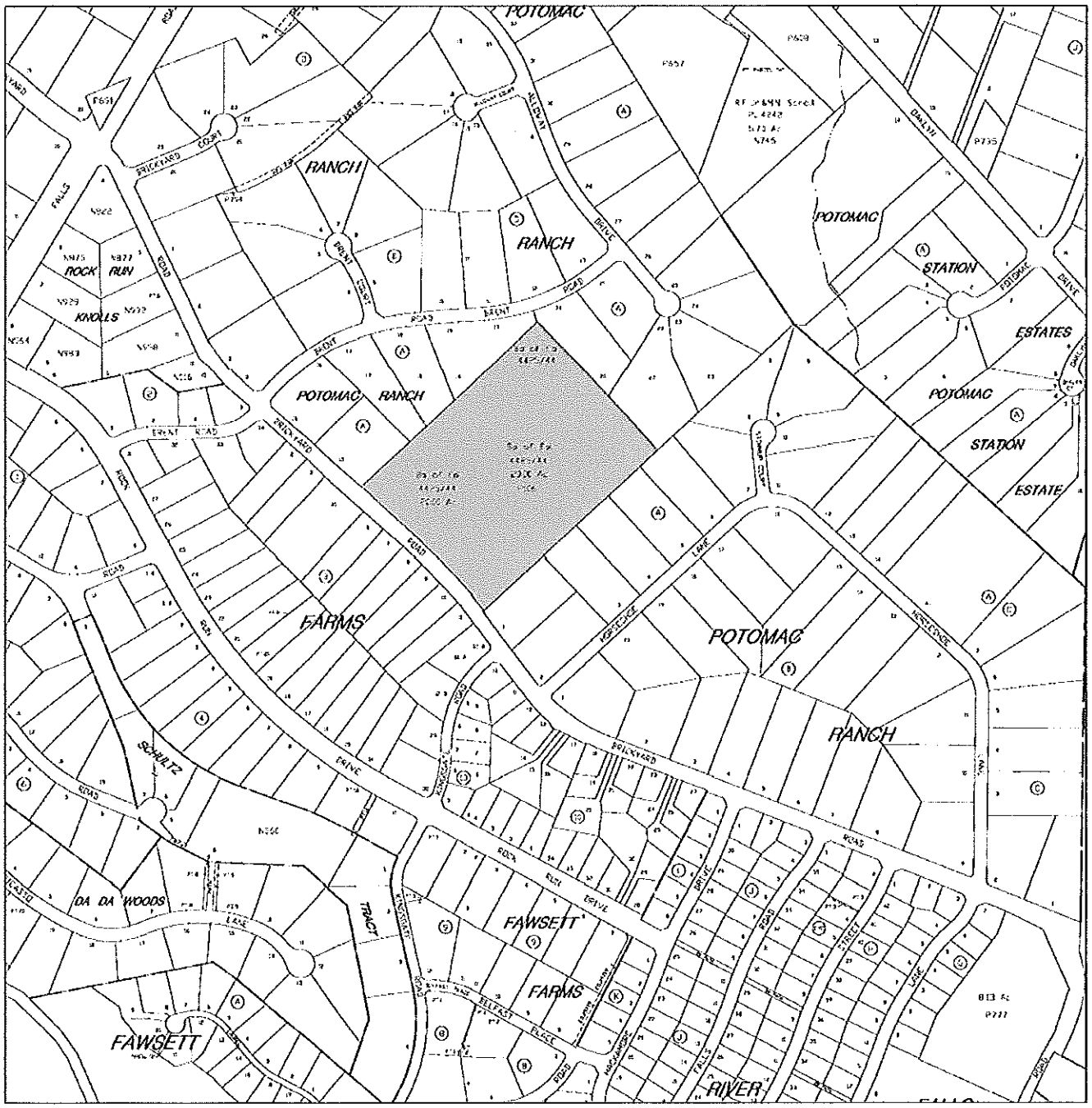
APPROVED AS TO FORM & LEGALITY

By: _____

RECOMMENDED:

By: _____
Cynthia L. Brenneman, Director

Date: 4/4/11

EXHIBIT "A"

BRICKYARD MIDDLE SCHOOL SITE
BRICKYARD ROAD, POTOMAC, MARYLAND