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Exhibit A - Leased Premises

Exhibit B - Summary of Initial Improvements

Exhibit C - Smith School Sublease

Exhibit D - BJE Sublease

Exhibit E - Fields Lease

AMENDED AND RESTATED LEASE AGREEMENT  
BETWEEN  
MONTGOMERY COUNTY, MARYLAND  
AND  
GREATER WASHINGTON JEWISH COMMUNITY FOUNDATION

DATED July 1, 1998

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (hereinafter referred to as "Lease"), entered into as of the 1st day of July, 1998 by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (hereinafter referred to as "Lessor") and GREATER WASHINGTON JEWISH COMMUNITY FOUNDATION (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee are parties to a Sublease Agreement dated December 20, 1984, as amended by Amendment of Sublease Agreement dated January 4, 1993 and letter agreement dated April 1, 1997 (hereinafter collectively referred to as the "Original Lease"), under which Lease Lessee occupies the premises known as the former Randolph Junior High School, Rockville, Maryland; and

WHEREAS, Lessor has acquired (or will acquire) fee simple title to the aforesaid premises from the Montgomery County Board of Education; and

WHEREAS, Lessor and Lessee wish to amend and restate the Original Lease as hereinafter provided; and

WHEREAS, Lessor and Lessee have agreed that this new Lease will take effect upon the Commencement Date set forth hereinbelow at 12:01 A.M.; and

WHEREAS, the Montgomery County Administrative Procedure for the Leasing of Closed Schools sets forth as its primary objectives that such leases will:

- a. Be in the best interest of Lessor, while recognizing the contribution of Lessee to Lessor;
- b. Preserve the availability of the closed school building for future public use;

- c. Treat all lessees or potential lessees in a fair and equitable manner that is open to public scrutiny; and
- d. Be in conformance with the Administrative Procedure.

WHEREAS, the said Administrative Procedure recognizes the important role that closed schools play in a community; the need to assure these closed schools continue to be positive influences in the community; the need to reduce Lessor's cost of maintenance for closed schools; the public interest in earning revenue to for Lessor based upon the value of closed schools and the benefit of facilities services provided by closed school lessees to Lessor; and

WHEREAS, this Lease and the contemplated use of the Leased Premises is in the best interest of Lessor, including but not limited to, enhancement of the facility and grounds and construction of improvements to facilities available for community use as herein provided;

WHEREAS, simultaneously with the execution hereof, Lessee, as Sublessor, has entered into a sublease (the "**Smith School Sublease**") concerning the Leased Premises with Charles E. Smith Jewish Day School (the "**Smith School**"), a copy of such sublease being attached hereto as Exhibit C; and

WHEREAS, simultaneously with the execution hereof, Lessee as Sublessor, has entered into a sublease (the "**BJE Sublease**") concerning a portion of the Leased Premises with the Board of Jewish Education ("**BJE**"), a copy of such sublease being attached hereto as Exhibit D, and

WHEREAS, simultaneously with the execution hereof, the Smith School has entered into a lease (the "**Fields Lease**") with The Board of Education of Montgomery County, Maryland ("**MCPS**") with respect to the adjoining fields (the "**Fields**") a copy of such lease being attached hereto as Exhibit E.

NOW THEREFORE, in consideration of the terms and conditions of this Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. PREMISES:

Lessor does hereby lease and demise unto Lessee the premises described as the former Randolph Junior High School, Rockville, Maryland, (hereinafter referred to as "Leased Premises"). The Leased Premises shall include the building, walkways, play areas, parking lot, driveway and land contiguous to the building, as outlined in red on Exhibit A attached hereto and made a part hereof. The Leased Premises is leased and accepted in its "as is" condition. The Leased Premises consists of 8.1 acres of land, more or less, improved with a building comprising approximately 110,000 square feet, together with any and all site improvements, appurtenant rights and benefits of the parcel, located at 11710 Hunters Lane, Rockville, Montgomery County, Maryland, known as Parcel P444, on Tax Map HQ22, as recorded in Liber 02784 at Folio 0262 among the land records of Montgomery County, Maryland.

From and after the Commencement Date hereof, this Lease shall supersede in all respects the Original Lease, and Lessor and Lessee are hereby released from all liability thereunder, subject only to obligations accrued prior to such date and not heretofore satisfied.

2. TERM:

 The term hereby created shall be twenty-five (25) years, plus twenty-four (24) months, ~~(such twenty (20) month period~~ <sup>twenty-four (24)</sup> being hereafter referred to as the "**Renovation Period**", based on the Smith School's commitment to complete, prior to the expiration of the Renovation Period, the capital improvements described in Exhibit B. The "**Commencement Date**" shall be July 1, 1998, and the Lease shall expire at midnight on June 30, 2025.

Lessee shall have the option to extend the term of this Lease for three (3) additional and consecutive five (5) year periods, under the same term and conditions herein contained, subject to

Lessor's right to terminate, as set forth in Article 5 herein. Lessee shall provide twelve (12) months advance written notice to Lessor of its election to exercise each option to extend.

The foregoing provisions hereof notwithstanding, in the event MCPS terminates the Fields Lease pursuant to Sections II or V thereof, Lessee shall have the right to terminate the Lease upon eight (8) months prior written notice to Lessor.

In the event Lessor has not acquired fee simple title to the Leased Premises by the effective date of this Lease, then the term hereof shall be limited to the term of the Original Lease. However, at such time as Lessor acquires fee simple title to the Leased Premises (or an appropriate extension of its current leasehold title thereto) the term hereof shall be as herein set forth.

3. USE OF THE PREMISES:

Promptly following the Commencement Date, Lessee shall cause the Smith School to undertake the repairs and renovations to the Demised Premises described on Exhibit B (the "Initial Renovations"). Thereafter, the Leased Premises shall be used only for the provision of educational services and related activities, and for community and Lessor's use as set forth in Articles 8 and 9, hereof. Lessee agrees that its use of the Leased Premises, including any use of the premises by sublessees, shall conform fully with all applicable zoning ordinances, and will be subject to all rules, regulations, statutes, permits or any other requirements for the use and occupancy of the Leased Premises as established by all appropriate authorities having jurisdiction.

Subject to Unavoidable Delay, Lessee shall cause the Smith School to substantially complete the Initial Renovations on or before June 30, 2000.

4. RENT: RENTAL ADJUSTMENTS

- A. The annual rental rate shall be One Hundred Fifty Three Thousand, Six Hundred Eighty Six and 30/100 Dollars (\$153,686.30), payable in twelve equal installments, during each lease year, of Twelve Thousand Eight Hundred Seven and 19/100 Dollars (\$12,807.19). This rental rate is equal to the

current rental paid pursuant to the Original Lease plus the CPI annual adjustment as set forth in 4D below.

- B. The first monthly payment hereunder shall be due on July 1, 2000 (the "**Rent Commencement Date**"). All payments thenceforth shall be due and payable on the first day of each month during the lease term, to Montgomery County Government Leasing Management, P.O. Box 62077, Baltimore, Maryland 21264-2077.
- C. Should Lessee fail to submit monthly rental payments in the above described manner, and should said failure continue for more than ten (10) calendar days after the first day of the month for which such rental payment is due and payable, Lessee shall pay to Lessor, in addition to and as a part of the rental payment in question, a late penalty of five percent (5%) of said monthly rental payment. Should Lessee's failure to pay continue for more than twenty (20) calendar days after a monthly payment becomes due and payable Lessee shall pay to Lessor, in addition to and as a part of the rental payment in question, a late penalty of fifteen percent (15%) of said monthly rental payment. Should Lessee's failure to pay continue for more than thirty (30) calendar days after a monthly payment becomes due and payable, Lessor shall have the right to terminate this Lease, recover possession of the Leased Premises and pursue any other legal remedies available to Lessor under the laws of the State of Maryland.
- D. To the annual rent payable by Lessee during the previous lease year shall be added that sum representing one hundred percent (100%) of the amount resulting after (1) multiplying said annual rent payable during the previous lease year by a fraction, the numerator of which shall be the index now known as the "U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price index for All Urban Consumers, National Average, All Items (1984 = 100)," or its successor, for the month two months prior to the last month of the previous

lease year and the denominator of which shall be said index for the month two months prior to the first month of the previous lease year and (2) subtracting from such product the annual rent payable during the previous lease year. In any event, and notwithstanding the results obtained through the above calculation, Lessee's adjusted annual rent will not be less than 103%, nor more than 105% of the rent paid by Lessee the previous lease year. The first such annual adjustment shall occur on the first anniversary of the Rent Commencement Date. Each subsequent annual adjustment shall occur on the following anniversaries of such date.

5. TERMINATION FOR CONVENIENCE OF GOVERNMENT:

This Lease and all obligations hereunder may be terminated by Lessor at any time upon five (5) years written notice to Lessee. An approved project involving the Leased Premises must be included in the County's Adopted Capital Improvement Program in order for Lessor to terminate the Lease under this provision. The notice period will commence upon the final approval by the County Council of the CIP project as evidenced by mailing of such written notice of termination in accordance with Article 36 herein. Lessor agrees that under no circumstances will Lessee be required to surrender the Leased Premises during the normal and usual school year, defined to be September 1 to July 1.

6. USE OF GYMNASIUM BY THE COMMUNITY, DEPARTMENT OF RECREATION AND OTHER COUNTY AGENCIES:

- A. Subject to a nominal charge for utilities to be jointly determined by Lessee and the Interagency Coordinating Board, the Gymnasium shall remain available to the community during the term of this Lease, from and after the Rent Commencement Date. Lessee agrees to make the Gymnasium available Monday through Saturday during the daytime from 9:00 A.M. to 6:00 P.M., but only when such use will not interfere with Lessee's previously scheduled

daytime activities. For the purposes of this Lease, "Lessee's activities" are defined as those programs and activities directly related to Lessee's approved occupants, including the Smith School. All requests to use the Gymnasium will be channeled directly to the Interagency Coordinating Board and placed according to the priorities indicated in the Guidelines for the Community Use of Educational Facilities and Services. Lessee understands and agrees that no rental of the Gymnasium is to be made except through the Interagency Coordinating Board. Lessee agrees to provide the Interagency Coordinating Board with a schedule of its activities for the Gymnasium on a semiannual basis, i.e., the Fall/Winter schedule (October-March) must be submitted by September 15 and the Spring/Summer schedule (April-September) by February 1. Times not scheduled for daytime activities by Lessee shall be presumed to be available for community use. Lessee agrees to make the Gymnasium available Monday through Saturday at night from 6:00 P.M. to 11:00 P.M. and all day Sunday from 9:00 A.M. to 11:00 P.M., but only when such use will not interfere with Lessee's previously scheduled activities during these times, as submitted by Lessee in its semiannual schedule. The above notwithstanding, Lessee agrees to honor and allow any activities scheduled in the Gymnasium through the Interagency Coordinating Board prior to the date of execution of this Lease (except during the Renovation Period). Any use for Lessee deviating from its previously submitted schedule will be subject to the approval of the Interagency Coordinating Board. Lessee agrees to make the Gymnasium available, upon request from the Interagency Coordinating Board, to the Montgomery County Supervisor of Elections for use as a polling facility during the day, if necessary, during primary, general and special elections, irrespective of Lessee's prior scheduled activities (except during the Renovation Period). Lessor shall hold Lessee harmless and defend Lessee from any and all claims of liability arising by virtue of the community or Lessor's use of the leased premises, parking facilities, athletic fields, adjoining grounds or any portion thereof, except for damage or liability arising from the

negligent acts or omissions of Lessee, Lessee's agents, employees, guests or contractors.

- B. Lessor agrees to accept full responsibility for the security of the building including but not limited to locking all doors, turning off all lights and spigots, and clearing the building during and following such periods of use by the Community of the Gymnasium during the term of this Lease.

7. USE OF PLAY AREAS AND FIELDS:

All outdoor recreation and athletic fields will remain available, on a continuing basis, for use by the community after 5:00 P.M., Monday through Friday, and all day Saturday and Sunday, subject to variance by the Parks and Planning Commission and/or Community Use of Schools. Lessee will work jointly with the Maryland National Capital Park and Planning Commission, the County Department of Recreation, and Community Use of Schools with regards to Lessee's use and scheduling of the outdoor recreation areas. Lessee will have the use of outdoor recreation and athletic fields in compliance with the terms and conditions of the Fields Lease. In the event Lessee desires use of these areas during the times reserved for the community, Lessee will schedule such use with the Maryland-National Capital Park and Planning Commission, the Community Use of Schools or The Department of Recreation, as appropriate. Lessor shall hold Lessee harmless and defend Lessee from any claim of liability made or arising out of community or Lessor's use of the parking facilities or the athletic fields and adjoining grounds whether same are a part of or not a part of the leased premises except for damage or liability arising from the negligent acts or omissions of Lessee, Lessee's agents, employees, guests or contractors.

8. PARKING:

Lessee shall be entitled to full use of the parking facilities which are a part of the Leased Premises. Parking for Lessee and any other occupants of the building, their staff, clients and guests will be confined to the existing surfaced parking areas. The above notwithstanding, Lessee may add parking facilities subject to approval as a capital improvement. Lessee shall, at Lessee's risk and expense, be responsible for the ongoing maintenance, cleaning, and repair of said parking

facilities. Lessee shall grant access to said parking facilities to Lessor's representatives at all times or community users of the premises during times of community use as set forth in Articles 6 and 7 hereinabove. Lessee agrees to make repairs as necessary to maintain the parking area in a safe state and as necessary for compliance with any laws, including, but not limited to the Americans with Disabilities Act [42 U.S.C. 1210], et. seq.

9. CAPITAL IMPROVEMENTS:

A. Capital Improvement Definitions:

1. **"Elective Capital Improvements"** are improvements or additions made by Lessee and/or its approved occupants, including the Smith School, to meet its or their programmatic needs, which are not otherwise (i) required for the preservation of the building structure or systems, or (ii) mandated by County, State, or Federal Code or Regulation.
2. **"Non-Elective Capital Improvements"** include roof replacement, boiler replacement, HVAC system replacement, replacement of failing exterior structural walls, electrical system replacement, conversion from oil fired boilers to gas heat, asbestos removal, underground storage tank removal, window replacement (excepting window pane replacement), capital improvements required to protect and preserve the Premises, and other items mandated by County, State, or Federal Code and/or regulations.
3. **"Qualified Capital Improvements"** are Elective or Non-Elective Capital Improvements or additions that have been reviewed and approved in writing by Lessor and specifically identified in that approval as Qualified Capital Improvements.

B. Approval Process for Non-Elective and Elective Capital Improvements:

1. Lessee must obtain the prior written consent of Lessor for all Capital Improvements. Lessee must submit complete plans, drawing, and specifications at least 45 days prior to beginning work. Lessee's submittal must be of sufficient detail and content to permit Lessor to evaluate Lessee's anticipated project. In the event the Capital Improvements are of an elective nature, two copies of the submission must be sent by Lessee to Lessor. Lessor will respond in writing to Lessee's submission within 45 days of the receipt of all required documentation. Lessor reserves the right to deny approval of any and all improvements proposed by Lessee.
2. In the event of an emergency need for a capital improvement, Lessee will notify Lessor immediately, and Lessor will respond within a reasonable and appropriate period of time, as dictated by the emergency situation.
3. Lessor has the right to inspect all work and materials before, during and after construction.
4. The total cost of all Capital Improvements will be borne solely by Lessee (and/or its approved occupants). Lessee and/or approved occupants (including the Smith School) will be solely responsible for obtaining all permits and licenses from all appropriate County, State, and/or municipal authorities.

C. Rent Credits for Capital Improvements:

Lessor shall credit Lessee's annual rent in an amount not to exceed fifty percent (50%) of the annual amortized cost of Qualified Capital Improvements as defined herein. Said annual rent credit will be subject to the following conditions:

1. Rent credits will not exceed fifty percent (50%) of Lessee's current annual rent.

2. Lessee will not be entitled to credit for any finance charges, fees, administrative costs, bonds, permit fees, insurance, operating, maintenance, or repair expenses, or any other costs except the actual cost of construction and/or installation of capital improvements, which costs must be fully documented by Lessee.
3. Capital improvements completed by Lessee and/or approved occupants (including the Smith School) without the prior written approval of Lessor will not receive rent credit.
4. Lessor has the right to audit all construction or other costs for which Lessee requests credit.
5. Lessor has the right to inspect all work and materials before, during, and after construction.
6. In the event the work performed is not in compliance with the plans and specifications previously approved by Lessor, Lessee will immediately undertake or cause approved occupants to undertake any necessary corrections at Lessee's sole risk and expense. Corrective measures are not eligible for reimbursement. If Lessee fails to take corrective actions, Lessee's right to rent credits for that capital project will be terminated. If necessary in the sole reasonable judgment of Lessor, Lessor may perform the corrective action and charge Lessee the cost of that corrective action as additional rent hereunder.
7. Rent credits for elective improvements will be made only to the degree that said improvements are determined, at the sole determination of Lessor, to be of value to Lessor and/or other public agencies.

8. The foregoing rent credit provisions will not be in force and effect in the event of default by Lessee of any of the terms and conditions of the Lease Agreement.
9. Amortization of capital improvements will be made over their anticipated useful lives. In order to determine an appropriate amortization schedule for capital improvements, in connection with the herein set forth rent credits, the anticipated lives of such improvements will be determined by the IRS depreciation lifespan schedule.

D. Reimbursement of Unamortized Improvements in the Event of early Termination by Lessor:

In the event Lessor terminates this Lease for reasons other than default on the part of Lessee, Lessor will reimburse Lessee, or one or more approved occupants, as Lessee's designee, for up to fifty percent (50%) of the cost of Qualified Capital Improvements, pro-rated to reflect the remaining unamortized portion of their initial cost beyond the date of any such termination, less any rent credits for capital improvements already granted to Lessee, upon presentation to Lessor of documentation as to the cost of the improvements and the contractor's or manufacturer's warranty. This reimbursement will be subject to the following conditions:

1. Reimbursement will be subject to appropriation. In the event Lessor is unable to secure the funding necessary to reimburse Lessee or the approved occupants, as Lessee's designee, Lessor will, at Lessee's option, not terminate the Lease until such time as funding is appropriated
2. In no event will Lessee or an approved occupant be entitled to receive reimbursement from both Lessor and any other public agency for the same, like item, or work of any nature or description.

3. Capital improvements performed by Lessee or an approved occupant without the prior written approval of Lessor will not receive reimbursement.
4. In the event the work performed is not in compliance with the plans and specifications previously approved by Lessor, Lessee will immediately undertake and/or cause approved occupants to undertake any necessary corrections at Lessee's sole risk and expense. Corrective measures are not eligible for rent credits or amortized reimbursement by Lessor. In the event Lessee fails to take, and/or cause approved occupants to undertake, the corrective action as requested by Lessor, Lessee will forfeit its right to rent credits or reimbursement.
5. Lessor will not reimburse Lessee or an approved occupant for any capital improvements in the event Lessee vacates the premises before the end of the lease term, whether voluntarily or pursuant to legal action for breach.
6. This reimbursement provision will not be in force and effect in the event of default by Lessee of any of the terms and conditions of the Lease Agreement.
7. Neither Lessee nor an approved occupant will be entitled to reimbursement for any finance charges, fees, administrative costs, bonds, permit fees, insurance, operating, maintenance or repair expenses, or any other costs not directly attributable to the actual construction and/or installation of Capital Improvements.
8. Neither Lessee nor an approved occupant will be entitled to reimbursement for Elective Capital Improvements unless the improvements are determined to be Qualified Capital Improvements.

10. OPERATING EXPENSES:

- A. Lessee will be fully responsible, at Lessee's sole risk and expense, to perform all maintenance, repair, and/or replacement which Lessor will determine in its sole discretion is required to protect the Leased Premises from damage or deterioration.
- B. Lessee assumes, at Lessee's exclusive risk and expense, full responsibility for the maintenance, repair, and/or replacement of, including, but not limited to, the building and equipment, fixtures, roof, windows, floors, walls, electrical systems, heating and air conditioning systems, and plumbing systems.
- C. Lessee is fully responsible at Lessee's sole risk and expense, for all operating expenses for the Leased Premises, including, but not limited to, utility bills and expenses, janitorial services, trash removal, pest control, grounds maintenance, preventive maintenance, day to day minor and major maintenance, tree removal, fence repair and/or replacement, repair or replacement of playground equipment.

11. FIXTURES AND EQUIPMENT:

All items which are attached to the building, or are a part of the building's systems at the time the building is delivered to Lessee, shall remain with the building and shall be delivered to Lessee along with the building. All moveable partitions, trade fixtures, floor coverings or equipment installed within the Leased Premises at Lessee's expense shall remain the property of Lessee and may be removed by Lessee at the expiration or other termination of this Lease. Lessee shall, however, repair any damage caused by reason of said removal. Any personal property of Lessee remaining within the Leased Premises after expiration or other termination of this Lease shall become property of Lessor. Lessor shall dispose of any such property in the manner it deems appropriate.

12. CONDITION OF PREMISES:

Lessee accepts the Leased Premises in "as is" condition, and Lessee agrees to maintain the Leased Premises, including all improvements therein, in good condition and state of repair throughout the term of this Lease and any extension thereof. For purposes of maintenance and upkeep, the Leased Premises shall include the building, walkways, parking lot, driveway, play areas and other grounds contiguous to the building. Lessee agrees to keep the Leased Premises clean and neat in appearance at all times, and to keep grass trimmed, trees treated and shrubbery pruned as necessary to maintain them in good condition and appearance. Lessee agrees to make repairs as necessary for the safe use of the Leased Premises, including changes necessary to comply with law, including, but not limited to changes, if required, to comply with the Americans With Disabilities Act [42 U.S.C. 1210], et. seq.

In the event federal or state funds would be available to Lessor if Lessor were responsible for repairs or improvements necessary to cause the Leased Premises to comply with applicable law, Lessor shall cooperate with Lessee to the extent reasonably possible, without cost to Lessor, to cause such funds to be made available to Lessee based on repairs or improvements made by or on behalf of Lessee pursuant to the provisions hereof.

13. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE:

- A. Lessee agrees to obtain and maintain (or cause the approved occupants to obtain and maintain), during the full term of this Lease, and any extension thereof, a policy of general liability insurance with a minimum limit of liability of \$1,000,000 (one million dollars) for bodily injury and property damage including fire legal liability issued by an insurance company licensed in the State of Maryland and acceptable to Lessor.
- B. Lessee agrees to obtain and maintain (or cause the approved occupants to obtain and maintain), during the term of the Lease, and any extension thereof, a policy of workers compensation and employers liability coverage in the amount

of \$100,000 for bodily injury by accident (each person) or by disease (each person) and \$500,000 for bodily injury by disease (policy limits).

- C. Lessee agrees to obtain and maintain (or cause the approved occupants to obtain and maintain), during the term of the Lease, an All Risk Property policy covering 100% of the replacement cost of the improvements and contents thereof.
- D. The general liability policy must list Montgomery County as additional insured and all policies must provide Montgomery County 30 days written notice of cancellation.
- E. Lessee shall, within ten (10) days from execution of this instrument deliver (or cause the approved occupants to deliver) to Lessor a certificate(s) of insurance evidencing the coverage enumerated above. The certificate(s) must be issued to Montgomery County, Maryland, Department of Public Works and Transportation, Division of Facilities and Services, 110 N. Washington Street, Rockville, Maryland 20850. Lessee has the obligation to assure that Lessor always has a valid unexpired Certificate of Insurance.
- F. Lessee will indemnify Lessor and save it harmless from and against any and all claims, action, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence upon or at the Leased Premises, or the occupancy or use by Lessee of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, guests or employees, excepting claims arising out of the acts, omissions or negligence of Lessor, Lessors agents contractors and employees. Lessee shall indemnify Lessor against any penalty, damage or charge incurred or imposed by reason of Lessee's violation of any law or ordinance. In case Lessor shall, without fault

on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall protect and hold Lessor harmless.

14. HOLD HARMLESS:

Lessee agrees to hold harmless and pay for the defense of Lessor from any and all claims of liability, actions, damages and expenses, including, but not limited to, reasonable attorneys fees and litigation costs, arising out of or related to Lessee's use or possession of the premises, including play fields and play areas, breach of this Lease and from any claim, action, damage, liability or expense occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, guests or employees, except such negligence as may be occasioned by the acts or omissions of Lessor, Lessor's employees, agents and contractors. Lessee further specifically agrees to hold Lessor harmless and pay for the defense of Lessor from any claim of liability made in connection with any construction or installation of equipment within the Leased Premises, notwithstanding that any such construction or equipment may or may not be deemed to be a part of the Leased Premises hereinabove described.

15. RESPONSIBILITIES OF LESSEE:

Lessee covenants and agrees as follows:

- A. Lessee shall not strip, overload, damage or deface the Leased Premises, hallways, stairways or other approaches thereto or the fixtures therein or used therewith, nor suffer or permit any waste in or upon said Leased Premises.
- B. Lessee shall not keep gasoline or other flammable material or any explosive within the Leased Premises which will increase the rate of fire insurance on the Leased Premises beyond the ordinary risk established for the type of operations described in Article 3 hereof. Any such increase in the insurance rate due to the above, or due to Lessee's special operations within the Leased Premises, shall be borne by Lessee. Lessee shall not willfully do any act or thing in or about the Leased Premises which may make void or voidable any insurance on

the Leased Premises, and Lessee agrees to conform to all rules and regulations established from time to time by Lessor, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

- C. Lessee shall not use or allow to be used the Leased Premises or any part thereof for any illegal, unlawful or improper purpose or for any activity which will constitute a nuisance to adjacent properties or the adjacent neighborhood.
- D. Lessee shall not place upon the Leased Premises any placard, sign, lettering or awning except such, and in such place and manner as shall have been first approved in writing by Lessor. Lessor's approval shall not be unreasonably withheld.
- E. Lessee acknowledges that all responsibilities of Lessee relating to the use or misuse of the Leased Premises and anything therein shall be construed to include use or misuse thereof by Lessee's agents, employees, patrons, guests and sublessees.
- F. Lessee shall comply with all reasonable rules and regulations with regard to the use of the Leased Premises that may be from time to time promulgated by Lessor, and any violation of said rules and regulations shall be deemed to constitute a violation of this Lease. It is understood that such rules and regulations shall not interfere or prevent the intended uses of the Leased Premises as set forth in this Lease. Notice of any rules and regulations regarding the use of the Leased Premises will be given to Lessee and will become a part of this Lease Agreement, as an attachment, as promulgated.

16. DESTRUCTION OF PREMISES:

- A. In the event that the Leased Premises are destroyed or damaged from whatever cause so as to render all or a substantial portion of the premises unfit for the purposes for which the premises were leased, and the repair of said destruction

or damage cannot reasonably be accomplished by Lessee within ninety (90) days from the date of such damage, Lessee shall be entitled to terminate this Lease by written notice to Lessor within thirty (30) days after the date the irreparable destruction or damage occurred.

- B. In the event that Lessee does not terminate the Lease within thirty (30) days following the date of the casualty as aforesaid, Lessee shall complete said repairs as soon as reasonably possible and this Lease shall not be affected, except that during reconstruction rental payments shall be reduced by a percentage corresponding to the portion of the Leased Premises to which Lessee (or the approved occupants) is not reasonably able to occupy and use. Subject to Unavoidable Delay, such repairs shall be completed no later than two (2) years following the date of the casualty. In any and all events, Lessee shall, immediately following any such casualty, secure the site and otherwise prevent the site from constituting a safety hazard, and shall as soon as reasonably possible undertake any demolition reasonably possible so as to minimize unsightly conditions.
- C. In the event that Lessee does not repair the Leased Premises as hereinabove provided, Lessee and the approved occupants shall not be entitled to any compensation or payment from Lessor for the value of any remaining term of the Lease, including reimbursement for any capital or non-capital improvements made by Lessee or the approved occupants to the Leased Premises.

17. DEFAULT:

- A. Lessee shall be considered in default of this Lease upon the occurrence of any of the following:
  - 1. Failure to perform under any term, covenant or condition of this Lease and the continuance thereof for thirty (30) days after written notice from

Lessor specifying said failure, or such lesser time as the exigencies of the situation may require.

2. The commencement of any action or proceeding for the dissolution or liquidation of Lessee, or for the appointment of a receiver or trustee of Lessee's property, and the failure to discharge any such action within thirty (30) days.
  3. The making of any assignment for the benefit of Lessee's creditors.
  4. The abandonment of the Leased Premises by Lessee.
- B. In the event that Lessee shall be found in default as hereinabove stated, and shall fail to cure said default within thirty (30) days after written notice from Lessor (or such period as may be reasonably required to correct the default with exercise of due diligence), or such lesser time as the exigencies of the situation may require, which period shall run simultaneous with the curative period as provided in Article 17A(1) herein, then, and in every such case thenceforth, at the option of Lessor or Lessor's assigns, Lessee's right of possession shall thereupon end, and Lessor may proceed to recover possession under the laws of the State of Maryland.

18. EMINENT DOMAIN:

- A. In the event that the Leased Premises, or any improvements thereto, shall be taken by any governmental or quasigovernmental authority pursuant to its power of eminent domain, Lessee shall be entitled to claim the unamortized, undepreciated portion of capital expenditures for improvements and betterments made by Lessee or an approved occupant to the Leased Premises at Lessee's or the approved occupants' expense, excepting routine repairs to the premises, and shall make no further claim for compensation or assert any

other right which Lessee may have to any portion of any award made as a result of such governmental taking.

- B. Lessor shall receive any award for the fair market value of the land upon which the improvements are located and for the improvements except as otherwise provided herein.
- C. Nothing contained hereinabove shall be construed to preclude Lessee from claiming, proving and receiving, in a separate claim filed by Lessee against the authority exercising the power of eminent domain, such other sums to which Lessee may be entitled as compensation, provided that such a separate claim does not interfere with or reduce Lessor's award.
- D. Lessor, or, Lessee, at its option, may terminate this Lease upon exercise of eminent domain by a condemning authority that renders the Leased Premises unfit for the use and purpose set forth in Article 3 herein.

19. ASSIGNMENT AND SUBLEASING:

- A. Subject to subparagraph (C) hereof, Lessee will not assign or sublease any part of the Leased Premises without Lessor's express written consent. Lessor's written consent shall be obtained in the following manner:
  - 1. Lessee will submit to Lessor copies of the proposed sublease, a description of the activities and uses of the proposed sublessee, and any other information pertinent to the proposed sublessee's use and occupancy.
  - 2. Lessor will respond in writing not later than thirty (30) days after receipt of all required information, as cited in Article 19A(1) hereinabove or otherwise requested by Lessor. If written response is not received by Lessee within thirty (30) days, Lessor's consent will be assumed.

B. Subleasing or assignment by Lessee shall be permitted only under the following terms and conditions (and Lessor shall not unreasonably withhold its consent to a proposed sublease or assignment, subject to compliance therewith):

1. Subject to subparagraph (C) hereof, Lessee will not be permitted to sublease more than fifty percent (50%) of the net useable square footage of the building.
2. Subleasing or assignment of any portion of the premises by Lessee will have as its primary goal the recovery of reasonable operating and rent expenses incurred by Lessee in the operation, maintenance and administration of the Leased Premises. Lessee does hereby agree that any rental amounts charged to subtenants or assignees will be limited to the subtenants' or assignees' prorated share of actual operating, maintenance and administrative expenses incurred by Lessee, plus an amount equal to the same square foot rate of rent paid by Lessee to Lessor.
3. Lessor will not approve any assignment, sublease or transfer of any right or interest in any portion of the Leased Premises if such an assignment, sublease or transfer results in any profit or financial gain in excess of the permitted costs and expenses. Lessor will require written evidence of compliance hereunder.
4. In the event Lessor approves a sublease, Lessee remains responsible for the payment of all monies due to Lessor and the performance of all obligations required of Lessee.
5. All subtenants or assignees must conform to the existing zoning, and to the Use Provision contained in the Lease between Lessor and Lessee.
6. In the event Lessor determines that Lessee is receiving rental payments from subtenants in excess of the costs permitted herein, Lessee shall

provide all of the rents received, over and above the allowable costs, to Lessor as additional rent.

- C. Lessor, by its execution of the Lease, consents to the Smith School Sublease and the BJE Sublease. In the event Lessor terminates this Lease for default by Lessee, Lessor agrees, so long as no event of default exists under the Smith School Sublease, to recognize the Smith School Sublease and the BJE Sublease and not disturb the possession of the Smith School and BJE thereunder.

20. MARKETABILITY OF LEASE:

Lessee acknowledges and agrees that this Lease is non-marketable. Lessee may not market, sell, trade, assign, or transfer any right, title or interest in this Lease to any third party, except as provided for in Article 19 herein.

21. ACCESS:

Lessee shall allow Lessor and Lessor's employees or agents to have access to said Leased Premises at all reasonable times and after reasonable notice, during normal working hours for the purpose of inspection, or, at any time in the event of fire or other property damage, or for the purpose of performing any work required to be performed by Lessor, or which Lessor considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Leased Premises. Lessee shall not alter or change the exterior locks installed on the premises without providing Lessor with keys to the facility, said keys to be used by Lessor to obtain access to the facility only in emergency situations.

22. SURRENDER OF POSSESSION:

Lessee covenants, at the expiration or other termination of this Lease, to remove all goods and effects from the Leased Premises not the property of Lessor, and to yield up to Lessor the Leased Premises and all keys, locks and other fixtures connected therewith (except trade fixtures and other fixtures belonging to Lessee), in good repair, order and condition in all respects,

reasonable wear and use thereof and damage by fire or other casualty and damage from any risk with respect to which Lessee is not herein expressly made liable excepted (provided that insurance proceeds with respect to the building, obtained as a result of fire or other casualty or damage, if not used to restore the Leased Premises, have been paid to the Lessor).

23. HOLDOVER:

In the event that Lessee shall continue to occupy said Leased Premises or any part thereof after the conclusion of the term of this Lease, the tenancy thus created shall be deemed to be upon a month to month basis and may be terminated by either party giving the other not less than sixty (60) days' written notice, to expire on the day of the month from which the tenancy commenced. During any month to month tenancy, both parties shall continue to observe all agreements and covenants contained in this Lease. Lessee shall continue to pay monthly rental under rates to be negotiated a minimum of thirty (30) days prior to the expiration of the initial lease term or extension thereof, which month to month rental rates shall in no event be less than the rental rates in effect at the time of expiration of the Lease term.

24. NOTICE OF DEFECTS:

Lessee shall give to Lessor prompt written notice of accidents in or damages to the Leased Premises.

25. LESSOR'S TITLE AND COVENANT OF QUIET ENJOYMENT:

Lessor covenants that it has full right and power to execute and perform this Lease, and that it will put Lessee into complete and exclusive possession of the Leased Premises. Lessor covenants and agrees that, if Lessee shall perform all the covenants, conditions, and agreements herein contained to be performed on Lessee's part, Lessee shall at all times during the term of this Lease have the peaceable and quiet enjoyment and possession of the Leased Premises for the purposes leased without hindrance from any person or persons whomsoever, regardless of whether the building is sold or otherwise conveyed to a third party(s).

26. COMPLIANCE WITH LAWS:

It is understood, agreed and covenanted by and between the parties hereto that Lessee, at Lessee's expense, will promptly comply with, observe and perform all of the requirements of all of the statutes, ordinances, rules, orders and regulations now in effect or hereinafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County Government, Montgomery County Department of Environmental Protection or Montgomery County Fire Marshal's Office. The foregoing shall not be construed to preclude Lessee from exercising its legal right to contest the validity of legislation through judicial process, provided that Lessee shall continue to fully comply with the provisions of this Article 26 pending the outcome of Lessee's efforts.

27. BENEFIT AND BURDEN:

The provisions of this Lease shall be binding upon, and shall inure to the benefit of the parties hereto and each of their respective successors, assignees or representatives.

28. DISPUTES:

Lessor and Lessee agree that any dispute concerning a question of fact arising under this Lease which is not resolved by agreement of the parties shall be decided by the Chief Administrative Officer of Montgomery County, who shall notify the parties in writing of the determination made. Lessee and Lessor shall be afforded an opportunity to be heard and offer evidence in support of their respective positions. Pending final decision of a dispute hereunder, Lessee and Lessor shall proceed diligently with the performance of all provisions under this Lease Agreement. The decision of the Chief Administrative Officer shall be final and conclusive. This Article 28 does not preclude consideration of questions of law by a court of competent jurisdiction in connection with the aforesaid decisions.

29. WAIVER:

No waiver of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.

30. NONDISCRIMINATION:

Lessee agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 27-19 of the Montgomery County Code 1994, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. Lessee assures Lessor that in accordance with applicable law, it does not, and agrees that it will not discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or disability.

31. CONTRACT SOLICITATION:

Lessee represents that Lessee has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial, selling or leasing agencies maintained by Lessee for the purpose of securing business or an attorney rendering professional legal services consistent with applicable canons of ethics.

32. PUBLIC EMPLOYMENT:

Lessee understands that unless authorized under Sections 11B52 and Chapter 19A of the Montgomery County Code 1994, 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.

33. FORCE MAJEURE:

Neither party shall be deemed in default with respect to the performance of any of the terms, covenants and conditions of this Lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or upsurged power, sabotage, inability to obtain any material or service, through Act of God or other cause beyond the control of either party (collectively "**Unavoidable Delay**"); provided, however, that this provision shall not excuse any non-payment of rent. For purposes of this provision, lack of funds shall not be considered a cause beyond the control of a party.

34. RESIDENT AGENT:

The Resident Agent for Lessee is:

Greater Washington Jewish Community Foundation  
6101 Montrose Road  
Rockville, Maryland 20852  
Attn: Director, Facilities and Services

and Lessee's address for receipt of notices and service of process is:

6101 Montrose Road  
Rockville, Maryland 20852  
Attn: Director, Facilities and Services

35. PROHIBITION OF HAZARDOUS SUBSTANCES:

Lessee agrees to not store or bring hazardous substances onto the Leased Premises, except as reasonably required in connection with the use herein contemplated, and provided the same are used and stored in accordance with all applicable laws. Lessee shall be responsible for any personal injuries or personal and real property damage as a result of any hazardous substance being brought on the premises by Lessee, its agents, contractors, employees or guests.

36. MAILING NOTICES:

All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail and shall be deemed to be effective when received or refused by the addressee. Notices to the respective parties shall be addressed as follows:

LESSEE

GREATER WASHINGTON JEWISH  
COMMUNITY FOUNDATION  
6101 Montrose Road  
Rockville, Maryland 20852  
Attn: Director, Facilities and Services

LESSOR

MONTGOMERY COUNTY, MARYLAND  
Division of Facilities & Services  
Leasing Management  
110 N. Washington St., Suite 318  
Rockville, Maryland 20850

A copy of any notice given hereunder shall simultaneously be sent to the Smith School at the address for notices set forth in the Smith School Sublease (or such other address as may subsequently be elected by the Smith School by written notice to Lessor and Lessee).

37. INDEMNITY BOND:

Upon the request of Lessor, concurrent with the effective date of the Lease or at any time during the term of this Lease, Lessee agrees to obtain and maintain an executed miscellaneous indemnity bond in the amount of the annual rent for the current lease year to remain in full force and effect throughout the remainder of the lease term, as security for the faithful performance of all the terms and conditions of this Lease.

For good cause shown, Lessor shall have the right, but not the obligation, to request such a bond. Lessor, in its sole discretion, may accept an appropriate substitute surety. Lessee shall, within fifteen (15) days from the date of the request by the Lessor, deliver to Lessor the said surety, evidencing the coverage hereinabove stated. Failure to deliver the bond or surety as required is considered by Lessor to be a material breach of the Lease.

38. GENERAL PROVISIONS:

This Lease is governed by the Laws of the State of Maryland. Should any provision of this Lease be found invalid or unenforceable no other unrelated provision will be affected and will continue in full force and effect.

39. RIGHT TO PURCHASE:

Lessee shall have the right to purchase the Leased Premises at any time during the lease term or any extension thereof, subject to the approval of the Montgomery County Council and the Montgomery County Executive, and subject to any restrictions, conditions or requirements which the County Executive and the County Council may elect to attach to such a purchase. Lessee's right to purchase is further subject to the approval of the State of Maryland Board of Public Works, which may also elect to place restrictions, conditions or requirements on the purchase. Lessee's right to purchase and Lessor's acceptance thereof shall be exercised in accordance with all applicable State and local statutes and regulations governing the disposition of public property. Lessor and Lessee recognize that the purchase price for the Leased Premises should fully reflect the Leased Premises' condition on the Commencement Date, and should accordingly be established prior to the planned repair and renovation of the Leased Premises by the Smith School. The price to be paid by Lessee for the Leased Premises shall be established by appraisals, to be performed within one hundred twenty (120) days following the commencement of the Renovation Period, but prior to the beginning of Lessee's repair and renovation work. Lessor and Lessee also recognize that such a "baseline" price will not be fully reflective of the value of the Leased Premises as time passes. The parties therefore agree that the initial "baseline" price to be paid for the Leased Premises shall be adjusted on an annual basis as set forth herein. The initial "baseline" price for the Leased Premises shall be established in the following manner:

Lessor and Lessee shall each select a licensed real estate appraiser having experience in the valuation of improved real estate in the Washington, D.C. metropolitan area, and who is a member of the American Institute of Real Estate Appraisers (each certified as an "MAI appraiser"). The two MAI appraisers so selected shall choose a third MAI appraiser within fifteen (15) days of their selection, and notify Lessor and Lessee of their choice. Each party shall bear

the cost of its MAI appraiser, and shall share equally the cost of the third MAI appraiser. If the two MAI appraisers selected by the parties cannot agree on the choice of a third MAI appraiser and notify the parties as to their choice within said fifteen (15) day period, then the parties shall request that the President of the Montgomery County Board of Realtors designate a third MAI appraiser within fifteen (15) days of the parties' request to do so. The "baseline" price for the Leased Premises shall be the average of the fair market values as submitted by each of the three appraisers. Prior to the commissioning of the three appraisals, Lessor and Lessee shall agree on a set of written instructions to be delivered to each of the three appraisers, which instructions will be followed by the appraisers in the performance of their work.

Once established, this "baseline" price shall be the effective price of the Leased Premises for the twelve (12) month period following completion of the appraisals. In the event that Lessee does not exercise its option to purchase the Leased Premises within the first twelve (12) months following completion of the appraisals, the initial "baseline" price for the Leased Premises shall be adjusted as follows:

On the first anniversary of the establishment of the "baseline" price, and on each anniversary thereafter for the remainder of the lease term or extension thereof, the "baseline" price shall be multiplied by a fraction, the numerator of which shall be the most currently published value of the index now known as the "U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers, All Items, (1984 = 100)", and denominator of which shall be the value for said index published for the month and year during which the "baseline" price was initially established. The resulting number shall be the effective sales price under which Lessee may exercise its option to purchase the Leased Premises.

Lessee may not sell, transfer or assign its option to purchase the Leased Premises to any third party without Lessor's prior written approval. Lessor consents, however, to the transfer thereof to the Smith School.

In the event Lessor acquires title to the Fields from MCPS, Lessee shall have a right to purchase the Fields on the same terms and conditions hereinabove set forth.

40. APPROVAL OF BOARD OF PUBLIC WORKS:

Lessee and Lessor acknowledge that this Lease is contingent upon the approval of the Board of Public Works of the State of Maryland. If approval is not granted, then this Lease and all subleases hereunder shall be null and void and the Original Lease shall continue in full force and effect.

41. COMPLIANCE WITH ADVERTISING REQUIREMENT

Lessee and Lessor acknowledge that this Lease is contingent upon the completion of the requirements set forth in Article 25A, section 5(B), of the Annotated Code of Maryland.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be properly executed.

WITNESS:

LESSOR:

MONTGOMERY COUNTY, MARYLAND

By: Katharine Nessel

By: William L. Honey

Title: Assistant CAO

Date: 10/6/98

WITNESS:

LESSEE:

THE GREATER WASHINGTON JEWISH  
COMMUNITY FOUNDATION

By: Allanna Peterson

By: [Signature]

Title: \_\_\_\_\_

Date: 9/24/98

APPROVED AS TO FORM & LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

RECOMMENDED

By: [Signature]

By: [Signature]

REY JUNQUERA, LEASING MANAGER  
DIVISION OF FACILITIES AND SERVICES

Date: 9.11.98

Date: 9/17/98