

AD 2-4 #  
26-000869

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (this “Lease”) is entered into as of the date last executed below, (the “Effective Date”) by and between the **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**, an interstate compact agency organized pursuant to Public Law 89-774, 80 Stat. 1324; Maryland Acts of General Assembly, Chapter 869-1965; Virginia Acts of Assembly, Chapter 2-1966; and Resolution of D.C. Board of Commissioners adopted November 15, 1966, (“**WMATA**”) with offices at 300 Seventh Street SW, Washington, DC and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic and a political subdivision of the State of Maryland (“**County**”) with offices at 101 Monroe Street, Rockville, MD. WMATA and County are individually referred to as the “**Party**” and collectively as the “**Parties.**”

**RECITALS:**

- R-1** WMATA is the fee simple owner of the real property located at 15910 Somerville Drive, Rockville, MD 20855 (“**Premises**”), as further outlined on **Exhibit A**.
- R-2** WMATA previously leased the Premises to the County pursuant to a lease agreement dated January 28, 1992 (the “**Original Lease**”), under which County constructed a childcare facility (“**Building**”) located on the Premises.
- R-3** The Original Lease expired December 27, 2021.
- R-4** The County desires, and WMATA is willing, to enter into this Lease to allow for the County’s continued use of the Premises and Building for the provision of childcare services.
- R-5** The Parties acknowledge and agree that the County will enter into a separate license agreement with a selected childcare provider (“**Childcare Provider**”) for the Permitted Uses (as hereinafter defined).
- R-6** It is the desire and intent of the Parties hereto that the Premises and Building be maintained and operated in accordance with and subject to the terms and conditions as set forth in this Lease.

**NOW, THEREFORE**, in consideration of the agreements, terms, covenants, and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1.01** **Term.**
  - a. This Lease shall commence on the Effective Date and shall remain in full force and expire on December 31, 2032.
  - b. **Renewal Option(s).** Provided that County is not in default in the observance or performance of the covenants, conditions, obligations, or responsibilities contained herein after the delivery of any required notice and the expiration any applicable cure period, County shall have the right to extend the Term of the Lease, upon the same terms and conditions described herein, for two (2) additional periods of ten (10) years each. County shall notify WMATA in writing of its desire to extend the Term (or any renewal thereof) of

this Lease at least one hundred eighty (180) days prior to the expiration of the Term, as it may be extended.

- c. **Holdover.** If the County shall continue to occupy said Premises or any part thereof after the conclusion of the Term, with WMATA's permission, 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 thirty (30) days' written notice, to expire on the last day of the following month. During any month-to-month tenancy, both Parties shall continue to observe all agreements and covenants contained in this Lease.

2.01 **Consideration.**

In consideration of services provided and for the rights and obligations set forth in this Lease by the Parties, it shall be the County's obligation to perform the operation, maintenance and repair of the Premises, as more specifically set forth in Section 4.01 below and to continuously use the Premises as a childcare facility for the Term, as may be extended.

3.01 **Permitted Use.**

The Premises shall be used only as a childcare facility as part of the County's childcare program and for no other use (the "**Permitted Use**").

4.01 **Operations and Maintenance of the Premises.**

- a. The County will maintain, at the County's sole cost and expense, the Premises including the Building and other improvements located thereon in a manicured, clean, safe, and good operating condition at all times during the Term. The County shall require its Childcare Provider to conduct its operations in a professional, efficient, and safe manner in accordance with all pertinent rules and regulations governing the operation of childcare facilities in Montgomery County, Maryland, and with safety precautions and rules as WMATA may from time to time reasonably require, in a manner that will not interfere with WMATA's activities and operation. The County will be responsible for providing adequate security for the Premises as it deems necessary and appropriate.
- b. The County may require its Childcare Provider to be responsible for all security, operating, and maintenance expenses relating to the use and occupancy of the Premises which shall include all maintenance and repair of the Building, the equipment, roof, windows, electric systems, heating and air conditioning systems, plumbing systems, utilities, janitorial services, refuse removal, snow and ice removal or treatment, pest control, telephones, fixtures, security to persons or property and any other expenses incurred by virtue of the use and operation of the Premises.
- c. In no event shall WMATA be responsible for any maintenance, operation, repair, or replacement of the Building or of any of the Building's electrical, plumbing, or mechanical systems.

5.01 **Indemnification.**

- a. County agrees to indemnify and hold harmless WMATA, its directors, officers, employees and agents from and against any and all claims, actions, damages, liability, and expense (including, reasonable attorneys' fees and court costs that may be awarded by a court of law) in connection with loss of life, personal injury, or damage to property arising from or out of any occurrence upon or at the Premises or the occupancy or use by the County of the Premises or any part thereof occasioned wholly or in part, to such extent, by any negligent act or omission of the County. For purposes of this Subparagraph (a), the "County" includes Montgomery County, Maryland, its officers, directors, managers, officials, employees, and volunteers.
- b. County shall contractually require the Childcare Provider to, indemnify, defend (the obligation to defend does not apply to the County) and hold harmless WMATA, its directors, officers, employees and agents from any and all claims, actions, proceedings, liabilities, losses, demands, damages, obligations, penalties, costs, charges and expenses, including, but not limited to, reasonable attorney's fees (in the case of the County, only to extent awarded by a court of law) of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property occurring in connection with, or in any way arising out of the use, occupancy of the Premises, and/or any acts in connection with activities to be performed under this Lease resulting in whole or in part from the negligent or wrongful acts, errors or omissions of the Childcare Provider, its employees, agents, contractors and subcontractors, volunteers or invitees.
- c. County shall, and County shall contractually require the Childcare Provider and all other contractors, subcontractors and agents to, indemnify, defend (in the case of the County, to pay for the defense of) and hold harmless WMATA, its directors, officers, employees and agents from all claims, actions, proceedings, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorney's fees ("Claims"), related to, arising from or attributable to any effluent or other hazardous waste or substance, toxic waste or substance, contaminant, pollutant, petroleum or petroleum-based product, asbestos, residue, contaminated soil or other similar material discharged from, removed from, or introduced on, about or under the Premises. County's agreement to indemnify and hold harmless under this subparagraph (b) to is limited to Claims arising or resulting from the acts of the County, its employees and volunteers at, upon or around the Premises.
- d. If any claim, demand, action or proceeding relating to the indemnification required by this Section is brought against WMATA, then upon written notice from WMATA to County, County shall require the Childcare Provider to resist or defend such action or proceeding by counsel approved by WMATA in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. WMATA reserves the right to use its own counsel under this indemnity at the Childcare Provider's sole cost and expense. The Childcare Provider shall be jointly and severally liable with any contractor directly responsible for any claim, demand, action, proceeding,

liability, loss, damage, obligation, penalty, cost, charge or expense arising under this Permit.

- e. County understands and agrees that it is County's and the Childcare Provider's, responsibility to provide indemnification to WMATA pursuant to this Section. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of insurance to fully fund any indemnification shall not relieve County and other parties of any obligation assumed under this indemnification.
- f. Notwithstanding the provisions of subparagraph (d) above, any obligation or liability of the County arising in any way from this Lease is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. § 5-301 et seq. (the "LGTCA") and Md. Code Ann., Cts. & Jud. Proc. § 5-5A-02 (collectively the "County Indemnification Statutes"), all as amended from time to time. Any indemnification given by the County in this Agreement is not intended to create any rights or causes of action in any third parties or to increase the County's liability over and above the caps provided in the County Indemnification Statutes, as applicable.

**6.01 Insurance.**

- a. During the Term, for so long as the tenant is County, in lieu of the requirements in Exhibit B, County shall have the right to self-insure for the "all risk" property insurance and commercial general liability coverage pursuant to its County-wide self-insurance program. In the event that County elects to self-insure, then County shall provide WMATA with certificates of self-insurance or County's standard self-insurance letter specifying the extent of self-insurance coverage hereunder. This right to self-insure is limited to County alone and may not be assigned to any other person or entity. The liability limits of the County's self-insurance program are as set forth in the County Indemnification Statutes.
- b. The insurance requirements for the Childcare center subleasing the space indicated on this Lease are defined in **Exhibit B**, attached hereto and made a part hereof.
- c. County shall require that the Childcare Provider maintain insurance at the requirements set forth in Exhibit B.

**7.01 Improvements and Alterations.**

- a. The County may from time to time during the Term make such non-structural alterations, changes, and improvements to the Premises as the County may deem desirable for the operation of the childcare facility. Such non-structural changes shall not require prior written approval of WMATA.

- b. Any structural alterations, changes or additions shall require the prior written approval of WMATA and shall be at the County's sole cost and expense. The County hereby acknowledges that any structural changes may incur additional costs for review from WMATA's Joint Development and Adjacent Construction team.

8.01 **Destruction of the Building.**

In the event that the Building is destroyed or damaged from whatever cause to render all or substantial portion of the Building unfit for purposes for which the Building is used, and the repair of said damage or destruction cannot be accomplished by County within a reasonable amount of time, WMATA and the County shall each be entitled to terminate this Lease by written notice to the other party within thirty (30) days after the destruction or damage occurred. In the event that the Building as part of the Premises is destroyed or damaged from whatever cause but all or a substantial portion of the Building is still fit for its Permitted Use and County is able to undertake the repair of the Building, County shall complete said repairs within ninety (90) days or a time period mutually agreeable to WMATA and the County from the date of destruction, then this Lease shall not be affected.

9.01 **Conduct and Safety of Premises.**

Throughout the Term of this Lease, County shall conduct all its operations hereunder in a workmanlike, efficient safe and careful manner; shall observe such safety precautions and rules in its operations as WMATA from time to time may reasonably require; shall maintain an adequate number of employees to supervise and regulate the use of the Premises and shall maintain the Premises at all times in safe and good operating condition and repair.

10.01 **WMATA's Right to Inspection.**

WMATA shall be entitled to visit and inspect the Premises during the standard hours of operation and with twenty-four (24) hours prior notice, except in the case of emergencies in which no notice is required, but WMATA shall be under no obligation to make any visits or inspections.

11.01 **Signs.**

The County and/or the Childcare Provider shall be permitted to install signage at the Leased Premises at its sole cost and expense, subject to WMATA's approval of such signage, which will not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, WMATA hereby approves of the signage existing on the building as of the Effective Date.

12.01 **Quiet Possession.**

WMATA covenants and warrants that it has delivered to the County exclusive possession of the Premises for the purposes set forth in this Lease, and that for so long as the County observes all its obligations under this Lease, it shall enjoy quiet possession of the Premises.

13.01 **Notice of Accidents and/or Defects.**

The County shall give, and shall require the Childcare Provider to give, prompt written notice to WMATA of accidents on or about or of damages or defects in the Premises or the Building of which the Premises is a part.

14.01 **Limitations on Damages; Non-Liability of WMATA.**

- a. Notwithstanding anything to the contrary herein, WMATA shall not be liable for any loss of business or any indirect, incidental, special, consequential, or exemplary damages or lost profits.
- b. WMATA shall have no liability, including financial liability, for the actions or negligence of County, its employees, customers, contractors, or agents as a result of County's use of the Premises. County further acknowledges that County's staff parking is at their own risk; WMATA assumes no liability, including financial liability, for County's staff, equipment, or vehicles.

15.01 **Eminent Domain.**

WMATA is entitled to receive any award from a governmental authority for the fair market value of the Premises. The County is not precluded from claiming, proving, and receiving, in a separate claim filed by the County against the authority exercising the power of eminent domain, such sums to which the County may be entitled as compensation, provided that such a separate claim does not interfere with or reduce WMATA's award. The County or WMATA may terminate this Lease upon exercise of eminent domain by a condemning authority that renders the Leased Premises unfit for the Permitted Use, as determined by either party in their sole discretion.

16.01 **Default/Termination.**

- a. County shall be deemed to be in default of this Lease if it shall fail to observe or perform any of the provisions, covenants, conditions, or agreements contained herein and such failure shall continue for a period of thirty (30) calendar days after written notice is received from WMATA. If an event of default shall have occurred and be continuing, WMATA, at its option, may at once, or at any time thereafter, terminate this Lease by written notice to County, whereupon this County shall end and all rights of County hereunder, but not County's liabilities, shall expire and terminate. Upon such termination by WMATA, and without in any way limiting the remedies available to WMATA at law, in equity or under the terms of this Lease, County shall at once remove all persons and effects from the Premises. WMATA may enter into or repossess the Premises by summary proceeding or as otherwise allowed by law. WMATA shall have no liability by reason of any such reentry, repossession, or removal.
- b. If County abandons the Premises for a period of thirty (30) calendar days after written notice from WMATA to County, then County is deemed to have abandoned the equipment, and an Event of Default shall occur.

- c. If County shall be deemed to be in default in the observance or performance of any term or condition of this Lease, WMATA without being under any obligation to do so and without thereby waiving such default, may remedy such default at the expense of County, immediately and without notice in case of emergency, or in any other case, if County shall fail to remedy such default within the time set forth in this Lease. In the event WMATA exercises such right, County shall pay to WMATA immediately upon demand all of WMATA's actual cost of performing the same.
- d. No failure by WMATA to insist upon the strict performance of any of the terms of this Lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any of the terms of this Lease. No waiver of any default of this Lease shall be implied from any omission by WMATA to take any action on account of such default if such default persists or is repeated. One or more waivers by WMATA shall not be construed as a waiver of a subsequent breach of the same term or condition.
- e. Notwithstanding the foregoing, WMATA may, for any reason whatsoever, terminate this Lease at any time upon Three Hundred Sixty-Five (365) days' prior notice thereof to County, unless the Building is not being used for its Permitted Use, in which event WMATA may terminate this Lease at any time upon Thirty (30) days' prior notice thereof to County. Upon such termination by WMATA, and without in any way limiting the remedies available to WMATA at law, in equity or under the terms of this Lease, County shall at once remove all persons and effects from the Premises. County shall restore the Premises to their original condition prior to termination of this Lease.
- f. County shall have the right to terminate this Lease upon thirty (30) days' prior written notice to WMATA.
- g. County's obligations pursuant to Sections 5.01, 14.01, and 23.01 hereof shall survive any termination of this Lease.

17.01 **Waiver.**

No consent or waiver, expressed or implied, by any party to this Lease to or for any breach of any covenant, condition or duty of the other respective party to this Lease shall be construed as a consent or waiver to or for any other breach of the same or any other covenant, condition or duty.

18.01 **Assignment and Licensing; Benefit and Burden.**

- a. County shall not assign this Lease without the prior written consent of WMATA, provided that such consent will not be unreasonably withheld, conditioned, or delayed. The above notwithstanding, WMATA hereby approves the County licensing the Leased Premises to a licensed Childcare Provider selected by the County for the sole purpose of operating a childcare program, subject to such Childcare Provider providing adequate insurance to County, with the minimum insurance requirements as outlined in **Exhibit B**.
- b. All of the covenants, conditions and obligations contained in this Lease shall be binding upon the permitted heirs, executors, administrators, successors or assigns of the

respective parties to the same extent as if each such permitted heir, executor, administrator, successor or assign were in each case named as a party to this Lease.

19.01 **Surrender of Possession.**

The County, at the expiration or other termination of this Lease, agrees, at WMATA's sole option, to remove the Building and all goods and fixtures installed on the Premises, at its sole cost and expense, within Ninety (90) days of said expiration or other termination. The Premises shall be restored to its original order and condition in all respects, reasonable wear and tear caused by the Permitted Use thereof, excepted. If the County does not remove the Building within Ninety (90) days, WMATA may demolish the Building at its option and the County shall be responsible for all demolition costs. In the event WMATA determines that the Building should remain on the Premises, the County shall convey the Building and the legal title in fee to the Building to WMATA within Ninety (90) days of WMATA's request to do the same.

20.01 **Parking.**

The parking spaces, and drop-off/pick up area immediately adjacent to the Building may be used by County for parking. Notwithstanding the foregoing, WMATA shall not be required to provide additional parking, nor shall employees be authorized to park in WMATA's parking areas without payment of the applicable daily fee(s).

21.01 **Officials Not to Benefit.**

- a. No member (i.e., Representative or Senator) of, or delegate to Congress, or any similar official, or resident commissioner, or any member of such person's family, shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom; but this provision shall not apply if this Lease is made with a corporation or other entity with which such official or family member has only a de minimis (in WMATA's sole opinion) contractual or ownership interest. County shall forthwith deliver written notice to WMATA of any breach of the foregoing warranty representation and Lease and shall make reasonable inquiries from time to time to determine whether any such breach has occurred.
- b. No member of or delegate to Congress shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom and no member, officer, or employee of the Public Body or of a local public body during his tenure or one year thereafter shall have any interest, direct or indirect, in this Lease or the proceeds thereof.

22.01 **Federal Transit Administration and Federal Interest.**

- a. County acknowledges that WMATA is the recipient of Federal grants through the Federal Transit Administration ("FTA"), which funded, in part, the Premises. County further acknowledges that pursuant to FTA grant requirements, WMATA must demonstrate and retain satisfactory continuing control over the use of the Premises. County agrees that it will not exercise any right permitted under this Lease in a manner which compromises or otherwise diminishes WMATA's obligation to retain satisfactory continuing control over the use of the Premises.

- b. County acknowledges the Federal interest in the Premises and agrees that it will take no action which compromises or otherwise diminishes such interest.
- c. County acknowledges that WMATA must comply with all applicable Federal statutes, regulations, orders, certification and assurances, or other Federal law (collectively referred to as “**Federal Laws**”), including, but not limited to, those set forth in the current Master Agreement governing transit projects supported with Federal assistance awarded through the FTA. County agrees that it will take no action seeking compliance with non-Federal Laws to the extent such laws conflict with applicable Federal Laws

23.01 **Non-Interference with WMATA Activities.**

Pursuant to the terms of this Lease, County may only enter the Premises for the Permitted Use in such manner as herein described and shall not interfere with the use, construction, maintenance, repair, and/or operations of WMATA or of any tenant located at the Premises. Neither County nor any other permitted users shall contact any tenant. County shall not permit any mechanics' liens to be filed against the Premises or any part thereof. The requirements of this Section shall survive the expiration or any earlier termination of this Lease.

24.01 **Non-Appropriation.**

The County's obligations under this Lease are subject to, limited by and contingent upon the appropriation and availability of funds. If the County, in its sole discretion, elects not to appropriate funds sufficient to perform its obligations under this Lease in future years of this Lease, then this Lease shall automatically terminate at 11:59 p.m. on the last day for which funding is appropriated. The County's fiscal year begins July 1 and ends June 30. The County shall give WMATA notice, in writing, thirty (30) calendar days after the County makes a final decision not to appropriate funds sufficient to perform its obligations under this Lease. 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. Notwithstanding anything to the contrary, in the event that the County surrenders the Premises due to expiration or termination of this Lease, the County shall comply with the restoration obligations of Section 19.01 above.

25.01 **No Rights in Third Parties.**

- a. The parties agree that no provision of this Lease shall create in the public, or in any person or entity other than the parties, any right as a third-party beneficiary hereunder.
- b. Notwithstanding the foregoing, the Parties agree that the County's Childcare Provider is a third-party beneficiary of this Lease.

26.01 **Notices.**

Notices given in connection with this Lease shall be in writing and shall be sent by (a) hand delivery; or (b) a nationally recognized overnight courier service for next business day delivery. Notices and other communications shall be deemed to have been given on the

earlier of actual receipt or, in the case of overnight courier, on the first business day after delivery to such courier.

If to WMATA: Office of Real Estate and Development  
Attn: Director, Real Estate Asset Management  
Washington Metropolitan Area Transit Authority  
300 Seventh Street SW  
Washington, DC 20024

with a copy to: Executive Vice President, Chief Legal Officer and General Counsel  
Department of Legal and Compliance  
Washington Metropolitan Area Transit Authority  
300 Seventh Street SW  
Washington, DC 20024

If to County: Montgomery County, Maryland  
Office of Real Estate  
101 Monroe Street, 9th Floor  
Rockville, Maryland 20850  
Attn: Director of Real Estate

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

Either party may, by like written notice, designate a new address to which such notices shall be directed.

27.01 **Compliance with Laws.**

The Parties agree to promptly comply with, observe, and perform all requirements of all applicable Federal, State, County and Local statutes, ordinances, rules, orders, and regulations in effect during the Term.

28.01 **Non-Discrimination.**

The County 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, gender identity, or genetic status and to require its County's Childcare Provider, other agents, or related parties to follow the same non-discrimination requirements.

29.01 **Covenant Against Contingent Fees.**

The parties warrant that no person or selling agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the parties for the purpose of

securing business or an attorney rendering professional legal service consistent with applicable canons of ethics.

30.01 **Intentionally Omitted.**

31.01 **Gratuities.**

In connection with this Lease, or any amendments or modifications thereto, the giving of, or offering to give, gratuities (in the form of entertainment, gifts or otherwise) by County or any agent, representative, or other person deemed to be acting on behalf of County, or any contractor, subcontractor or supplier furnishing material to or performing work under this Lease, to any director, officer or employee of WMATA, or to any director officer, employee of any of WMATA's agents, consultants or representatives, with an intent to secure an agreement or favorable treatment or the making of any determinations with respect to performance under this Lease is expressly forbidden. The terms of this Section shall be broadly construed and strictly enforced against the offending person in the event of violation.

32.01 **No Partnership.**

This Lease does not create the relationship of principal and agent or of mortgagee and mortgagor or of partnership or of joint venture or of any association or agency between WMATA and County, the sole relationship between these parties being that of landlord and tenant.

33.01 **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.

34.01 **Invalidity of Specific Provisions.**

If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

35.01 **Amendments; Entire Agreement.**

- a. No amendments or alterations of any of the terms of this Lease shall be binding upon WMATA or County unless the same shall be in writing and duly executed by both parties hereto.
- b. This Lease contains all the agreements and conditions made between the Parties and may not be modified in any manner other than by an agreement in writing duly executed by the Parties or their respective successors in interest.

36.01 **Interest in Property.**

Nothing in this Lease shall be interpreted to create anything other than a lease and shall specifically not otherwise create any right, title or interest in property nor shall it create an easement.

37.01 **Rights and Remedies.**

In addition to all rights and remedies specifically mentioned in this Lease, the Parties shall have all rights and remedies granted by Law or in equity. Resort to one remedy shall not be construed as a waiver of any other remedy. Failure by the Parties to resort to any or all their respective rights or remedies shall not be a waiver of such rights or remedies, nor to be acquiescence of any Party in any action or default.

38.01 **Sovereign Immunity.**

- a. Nothing in this Agreement shall be deemed to waive WMATA's sovereign immunity.
- b. Nothing in this Agreement shall be deemed to waive the County's sovereign immunity.

39.01 **Authority.**

Each individual signing on behalf of a party to this Lease states that he or she is the duly authorized representative of the signing party and that his or her signature on this Lease has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

40.01 **Governing Law; Venue.**

- a. This Lease shall be governed by the laws of the State of Maryland, except that, to the extent that state law conflicts with the WMATA Compact, WMATA shall be governed by the WMATA Compact.
- b. The venue for any action commenced against WMATA shall only be in the United States District Court for District of Maryland and each party irrevocably consents to the sole and exclusive jurisdiction of such federal court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to venue laid therein.

41.01 **Consents.**

Except as herein otherwise provided, whenever the consent or approval of either party is required under this Lease, such consent or approval shall be in writing, signed by an officer or agent duly authorized by the party granting such consent or giving such approval.

42.01 **Headings, Captions, etc.**

The Section headings, subheadings and captions of this Lease are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Lease nor in any way affect this Lease.

43.01 **Counterparts.**

The parties hereto agree that this Lease may be executed in one or more identical counterparts, each of which shall be deemed to be an original thereof and shall be enforceable against each of the parties hereto.

44.01 **Use of WMATA Compact.**

At no time shall County, by virtue of this Lease, assert, or attempt to assert, for any reason, the WMATA Compact, Public Law 89-774, 80 Stat. 1324, as same may be amended.

*[signatures on following page]*

WMATA and County have caused this Lease to be executed by their respective officials, thereunto duly authorized to bind the respective entities.

**WASHINGTON METROPOLITAN AREA TRANSIT  
AUTHORITY**, an interstate compact agency

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Printed Name: Joel E. Blockowicz, Sr.  
Title: Director, Real Estate Asset Management

**MONTGOMERY COUNTY, MARYLAND**, a body corporate  
and politic and a political subdivision of the State of Maryland



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Fariba Kassiri  
Deputy Chief Administrative Officer

APPROVED AS TO FORM & LEGALITY RECOMMENDED:  
OFFICE OF COUNTY ATTORNEY



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**Neal Anker, Assistant County Attorney**

**Recommended**

*Cynthia Brenneman 1/5/2026*

Cynthia Brenneman 1/5/2026 (Jan 5, 2026 15:13:16 EST)

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Cynthia L. Brenneman  
Director, Office of Real Estate

EXHIBIT A:  
PREMISES



**EXHIBIT B:  
 INSURANCE REQUIREMENTS**

Montgomery County – 15910 Somerville Drive, Gaithersburg

**I. MINIMUM REQUIRED INSURANCE: MINIMUM LIMITED OF INSURANCE**

<b>INSURANCE TYPE</b>	<b>LIMITS</b>	<b>BASIS</b>
<b>Workers' Compensation</b>	Statutory	
<b>Employers' Liability</b>	\$500,000	Each Accident
	\$500,000	Disease Policy Limit
	\$500,000	Disease Each Employee
<b>Commercial General Liability</b>	\$1,000,000	Each Occurrence Limit
	\$2,000,000	General Aggregate Limit
	\$1,000,000	Products-Completed Operations Limit
<b>Business Auto Liability</b>	\$2,000,000	Combined Single Limit

**II. MINIMUM REQUIRED INSURANCE: MINIMUM INSURANCE COVERAGES AND COVERAGE PROVISIONS**

- A. County is required to ensure the Childcare provider maintains prescribed insurance outlined in this Exhibit B during the portion of the Term such Childcare provider provides services under this Lease. Neither County nor the Childcare provider will be allowed to operate childcare services until all required insurance has been approved by WMATA.
- B. The prescribed insurance coverage and limits of insurance are minimum required coverages and limits. County is encouraged, at its sole cost and expense, to purchase any additional insurance coverages and or limits of insurance that County deems prudent and necessary to manage risk in the completion of this Lease that is not included within their self-insured insurance program.
- C. Upon written request from WMATA, the Childcare provider shall provide copies of any requested certificates of insurance endorsement pages, within ten (10) business days of such request.
- D. Receipt, review or communications regarding certificates of insurance (COI), or other materials utilized to document compliance with these Minimum Insurance Requirements does not constitute acceptance by WMATA.

- E. Insurance companies must be acceptable to WMATA and must have an A. M. Best rating of at least A- VII.
- F. County must incorporate these Minimum Insurance Requirements into contract requirements of all subcontractors of every tier; however, County, at its sole peril, may amend these Minimum Insurance Requirements for its subcontractors, but doing so does not relieve County from its respective liability to WMATA.
- G. Compliance with these Minimum Insurance Requirements does not relieve County from County's respective liability to WMATA, even if that liability exceeds the Minimum Insurance Requirements.

**III. COVERAGE-SPECIFIC REQUIREMENTS**

**A. Commercial General Liability**

- 1. Commercial General Liability (CGL) shall be written on ISO Occurrence Form CG0001 (12/04) or its equivalent. Equivalency determination shall be made in WMATA's sole and unreviewable discretion.
- 2. Required minimum limits of coverage may be achieved through a combination of the aforementioned CGL coverage form and an Umbrella/Excess Liability coverage form(s), provided that the Umbrella/Excess Liability coverage form(s) provides the same or broader coverage than the prescribed CGL coverage form.
- 3. Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" Section below.
- 4. Policy shall be endorsed with a Waiver of Subrogation Endorsement(s) in compliance with the "Waiver of Subrogation" section below.
- 5. The definition of "Insured Contract" shall be modified to provide coverage for contractual liability for any contracts involving construction or demolition operations that are within 50 feet of a railroad. Evidence of this modification shall be provided to WMATA along with all other required documents.
- 6. Explosion, Collapse and Underground (XCU) activities shall be included.
- 7. Defense Costs (Allocated Loss Adjustment Expense) must be included and outside of the policy limits for all primary liability and Umbrella/Excess Liability policies.

**B. Business Auto Liability**

- 1. Business Auto Liability insurance shall be written on ISO Business Auto Coverage Form CA 00 01 03 06, or its equivalent. Equivalency determination shall be made in WMATA's sole and unreviewable discretion.
- 2. Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" Section below.

3. Policy shall be endorsed with a Waiver of Subrogation Endorsement(s) in compliance with the “Waiver of Subrogation” section below.
4. Business Auto Liability minimum Combined Single Limit requirements may be obtained through the combination of a primary business auto liability policy and an Umbrella/Excess Liability policy provided that the Umbrella/Excess Liability policy complies with items 2 and 3 above.

**IV. ADDITIONAL INSURED**

- A. County’s subcontractors of every tier are required to add WMATA and WMATA Board of Directors as additional insured on all required insurance including excess liability policies with the exception of Workers’ Compensation and Professional Liability.
- B. Coverage provided to Additional Insured shall be primary and non-contributory to any other insurance available to the Additional Insured, including coverage afforded to WMATA as an additional insured by subcontractors and from other third parties.
- C. Coverage provided to any Additional Insured shall be for claims arising out of both ongoing operations and products and completed operations hazard.
- D. Coverage available to any Additional Insured under the products and completed operations hazard can only be limited to the applicable statute of repose in the jurisdiction(s) where the Work takes place.
- E. Commercial General Liability and Umbrella/Excess Liability forms must provide defense coverage for additional insureds. The Additional Insured Endorsement shall provide coverage for Ongoing as well as Products and Completed Operations with no limitation on when claims can be made.

**V. WAIVER OF SUBROGATION**

- A. County’s subcontractors of every tier are required to have all insurance policies except Professional Liability endorsed to waive the respective insurance company’s rights of recovery against WMATA and the WMATA Board of Directors.
- B. Waiver shall be provided on an endorsement that is acceptable to WMATA.

**VI. CERTIFICATE OF INSURANCE (COI)**

- A. County shall provide WMATA an ACORD Certificate of Insurance (COI) and copies of all required endorsements of the County’s subcontractors as evidence that the insurance requirements of this Section have been satisfied. Certificates of Insurance shall reference “Montgomery County – 15910 Somerville Drive Lease” in the “Description of Operations” box and be sent to WMATA. The Certificate Holder box should read:

Washington Metropolitan Area Transit Authority  
Risk Management Department  
PO Box 23298

Washington, DC 20026-3298

- B. Proposed material modifications to required insurance, including notice of cancellation, must be received by WMATA in writing at least thirty (30) days prior to the effective date of such change or cancellation.
- C. WMATA's receipt of copies of any COI, policy endorsements, or policies does not relieve County of the obligation to remain in compliance with the requirements of this Section at all times. County's failure to comply with these insurance requirements shall constitute a material breach of the Lease.
- D. Receipt of the COI does not constitute acceptance of the insurance outlined above.

End of Document