

LEASE AGREEMENT
BETWEEN
SENECA CENTER II, LLC
AND
MONTGOMERY COUNTY, MARYLAND

DATE: February 19, 2015

TABLE OF CONTENTS

Paragraph

1. Leased Premises
2. Term
3. Delivery of Premises
4. Use
5. Rent
6. Services & Operating Expenses
7. Liability, Property Damage & Fire Insurance
8. Landlord's Property Damage & Liability Insurance
9. Right of Entry
10. Alterations
11. Assignment
12. County's Duties & Covenants
13. Damages/Destruction of Leasing Premises
14. Return of The Leased Premises
15. Default By County
16. Default By Landlord
17. Force Majure
18. Rules & Regulations
19. County's Right of Quiet Enjoyment
20. Waiver
21. Non-Discrimination
22. Ethics Requirement
23. Contract Solicitation/Broker's Fees or Commission
24. Eminent Domain
25. Holdover
26. Entire Agreement
27. Modification
28. Notices
29. Governing Law
30. Claims
31. No Partnership
32. Subordination, Attornment, and Non-Disturbance
33. Acknowledgement Concerning Statutory Limitations
34. Estoppel Certificate
35. Public Employment
36. Counterparts
37. Right of First Offer

| | | |
|---------|---|--|
| EXHIBIT | A | Leased Premises |
| | B | Rules & Regulations |
| | C | Form of Estoppel Certificate |
| | D | Form of Subordination, Non- Disturbance and Attornment Agreement |

LEASE

THIS LEASE is dated this 19th day of February, 2015, by and between **SENECA CENTER II, LLC**, a Maryland limited liability company (the "Landlord") and **MONTGOMERY COUNTY, MARYLAND**, a political subdivision of the State of Maryland (the "County") (the County and the Landlord together the "Parties").

1. PREMISES:

The Landlord leases to the County and the County leases from the Landlord the Leased Premises described as approximately 13,483 square feet of warehouse space, as is, located at 18753 North Frederick Avenue, Gaithersburg, Maryland (the "Building") consisting of Bays 100 (aka "N"), 101 (aka "O"), 102 (aka "P") and 103 (aka "Q") as depicted on the attached Exhibit "A" (the "Leased Premises"). The Leased Premises include the non-exclusive right to use parking and other common areas as set forth in this Lease. For the purposes of this Lease, "Property" or "Premises" is defined as the entire building and land in which the Leased Premises are located and "Leased Premises" is defined as the space(s) located in or on the Property which are being leased pursuant to this Lease.

2. LEASE TERM:

A. Term: The term of this Lease is for Five (5) lease years, commencing on May 1, 2015 (the "Commencement Date"). Landlord and the County shall execute a Confirmation of Commencement Date in accordance with the provisions of this Section. The term "Lease Year" as used herein shall mean a period of twelve (12) consecutive full calendar months. The first Lease Year shall commence on the Commencement Date. Each succeeding Lease Year shall commence upon the anniversary date of the first Lease Year.

B. The County's Option to Extend Term: In accordance with this Lease, the County shall have the option to extend this Lease under the same terms and conditions for an additional Five (5) year period (the "Option Term"). The Base Rent payable in the first Lease Year of the Option Term will be equal to the Base Rent payable in the last Lease Year of the Initial Lease Term, increased by Three (3%) percent. Base Rent will increase annually each Lease Year of the Option Term by Three (3%) percent.

C. Recording the Lease or a Memorandum of Lease: The County may, at its sole cost and expense, including any transfer and recordation taxes incurred in connection therewith, record the Lease regardless of the Term. If recorded, the Parties agree that the end of the County's tenancy, whenever that occurs, the Parties will execute and acknowledge a mutually agreeable instrument in recordable form confirming the expiration or termination of this Lease (a "Release") and to cause a Release to be recorded promptly after the expiration or earlier termination of this Lease.

3. DELIVERY OF LEASED PREMISES

A. On the Commencement Date of this Lease, Landlord will deliver to the County, and the County has agreed to accept, the Leased Premises in broom clean condition.

4. USE

A. Use: The Leased Premises must only be used and occupied for offices, storage, and warehousing for the Board of Elections and other administrative programs, as permitted by the applicable zoning codes of the City of Gaithersburg.

5. RENT

A. Rent: Commencing on July 1, 2015 (the "Rent Commencement Date"), and for the first lease year thereafter (the "Base Lease Year"), the County will pay to the Landlord rent in the amount of \$9.75 per square foot for an annualized rental amount of One Hundred Thirty One Thousand Four Hundred Fifty Nine Dollars and 25/100 (\$131,459.25) payable in equal monthly installments of Fourteen Thousand Four Thousand Thirty Eight Dollars and 05/100 (\$10,954.94). After the Base Lease Year, the rent will be increased annually by an amount equal to (3%) in accordance with the Rent Table, below. All rental payments are to be made in advance on the first day of each month during each lease year, and must be payable by check to the Landlord as follows: Seneca Center II, LLC, c/o Klinedinst Management, Inc., 4405 East-West Highway, Suite 211, Bethesda, Maryland, 20814.

| Lease Year | Amount per Sq. Ft. | Annual Rent | Monthly Installment |
|------------|--------------------|--------------|---------------------|
| 2 | \$10.04 | \$135,369.32 | \$11,280.78 |
| 3 | \$10.34 | \$139,414.22 | \$11,617.85 |
| 4 | \$10.65 | \$143,593.95 | \$11,966.16 |
| 5 | \$10.97 | \$147,908.51 | \$12,325.71 |

B. Additional Rent: The County will pay to the Landlord throughout the Term of this Lease, as Additional Rent, the County's proportionate share of the Common Area Expenses defined in Section 7. D., below, and the County's proportionate share of the Real Estate Taxes during each calendar year. In the event that the Commencement Date or expiration date of this Lease are other than the first day of a calendar year, then the County's proportionate share of expense and tax increases will be adjusted to reflect the actual period of occupancy during the calendar year.

C. Annual Reconciliation: Within one hundred twenty (120) days after the end of each calendar year, the Landlord shall submit a statement to the County showing the

actual Common Area Expenses (to the extent billed back to the County by the Landlord) and Real Estate Taxes (to the extent billed back to the County by the Landlord) for such calendar year and the County's proportionate share of the amount. If, for any calendar year, the County's estimated monthly payments exceed the amount determined to be due from the County pursuant to such annual reconciliation, the Landlord must give the County a credit in the amount of the overpayment toward the County's next monthly payment of Additional Rent. If, for any calendar year, the County's estimated monthly payments are less than the amount determined to be due from the County pursuant to such annual reconciliation, the County shall pay the total amount of such deficiency to the Landlord within thirty (30) days after receipt of the statement from the Landlord. The Landlord and the County's obligations with respect to any overpayment or underpayment of Additional Rent shall survive the expiration or termination of this Lease.

D. The County's Right to Audit: In the event the County shall dispute the amount set forth in the Landlord's annual reconciliation of actual Common Area Expenses and Real Estate Taxes, the County shall have the right, not later than sixty (60) days following receipt of such statement, to cause the Landlord's books and records with respect to the preceding calendar year to be audited by an independent Certified Public Accountant mutually acceptable to the Landlord and the County. Such audit shall occur upon no less than five (5) days prior written notice to the Landlord, at the Landlord's place of business or the actual location of the Landlord's books and records if different from the Landlord's place of business, during the Landlord's normal business hours. The amounts payable under this Section by the Landlord to the County or by the County to Landlord, as the case may be, shall be appropriately adjusted on the basis of such audit. If such audit discloses a liability for further refund by the Landlord to the County in excess of five (5%) percent of the payments previously made by the County for such calendar year, the cost of such audit shall be borne by the Landlord and shall not be considered as a Common Area Expense for purposes of this Lease; otherwise, the cost of such audit shall be borne by the County. If the County does not request an audit in accordance with the provisions of this section within sixty (60) days of receipt of the Landlord's annual reconciliation of actual Common Area Expense and Real Estate Tax Expense, such statement shall be conclusively binding upon the Landlord and the County.

E. Non-appropriation: The Landlord acknowledges that the County has appropriated funds only for payment of rent for the first year of the term of this Lease. Landlord further acknowledges and agrees that the County's obligations under the Lease, to pay rent in future years, is subject to the appropriation of funding for such purpose in future years by the County. The term "County", as used herein, includes the County Executive, the County Council, and all County employees and agents of the County. The County makes no warranty, guarantee, or representation and undertakes no obligation to request or obtain an appropriation of funds in future years for payment of rent. The Landlord acknowledges and agrees that the County's budget constitutes an executive and legislative function that cannot be contracted away. The Landlord irrevocably waives any claim against the County for unpaid rent or other damages which occur after the date of non-appropriation, if funds are not appropriated in future years for payment of Rent, including any claim that the failure to appropriate such funds constitutes a breach of any express or implied covenant of good faith and fair dealing or any other implied obligation on the part of the County to appropriate funds. Landlord does not waive any claims which arise from the County's performance of its obligations under the Lease prior to the date of

non-appropriation. If the County, in its sole discretion, elects not to appropriate funds for payment of rent 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. It is anticipated that the final action on the County's budget will take place each May, for the upcoming fiscal year, between the 15th and 31st of the month. The County shall give the Landlord notice, in writing, seven (7) business days after the County makes a final decision not to appropriate funds sufficient for the County to pay rent for a full fiscal year under this Lease. Such notice will clearly state the number of months, if any, in the upcoming fiscal year for which the County has appropriated funds sufficient to pay rent and will state the date by which the County will vacate the Leased Premises. If this Lease is terminated under this section due to non-appropriation, the County shall immediately pay Landlord a termination fee equivalent to Landlord's unamortized transaction costs ("Transaction Costs"). The Transaction Costs shall include (i) the rent abatement, and (ii) the brokerage commissions. These Transaction Costs shall be amortized on a straight-line basis over the Initial Lease Term. Landlord shall provide a final accounting of all Transaction Costs within sixty (60) days after the Commencement Date. The County's obligation to pay the termination fee shall not be contingent on appropriation of funding for such purpose in future years.

F. [Intentionally Deleted].

G. Default: The County's failure to pay Rent or Additional Rent, except for reason of non-appropriation as set forth in this Section, including any and all late fees, when due, constitutes a default, which if not timely cured will be an "Event of Default" as set forth in Article 14 for which the Landlord may pursue any and all remedies set forth in Article 14.

6. SERVICES AND OPERATING EXPENSES

A. By the Landlord: The Landlord agrees to provide within the Leased Premises and the Property of which they are a part, at the Landlord's sole cost and expense the following:

1. All major roof, plumbing rough-in, and electric service to existing panels systems.

2. The Landlord covenants and agrees to provide, but the Tenant shall pay the common area maintenance charges and charges for exterior maintenance of building, grounds, parking lot, utilities, gas, sewer, water and electricity service. Utility services to the Leased Premises shall be separately metered, however, should the Landlord elect not to meter said services separately, then the charges for utilities, gas, sewer, water and electricity shall be prorated between the tenants, based on the square footage leased by such tenants.

3. Landlord shall be responsible for, but the County shall pay its pro-rata share of the cost of the following Common Area Maintenance: keeping the parking lot repaired, lighted, striped, cleaned and free of all debris and significant accumulations of ice, snow and replaced as necessary and available at all times as a free parking lot for customers of the property (except when necessary to close portions for repairs and maintenance); and maintaining the

landscaping on the project and all other common areas clean, lighted and in good repair, and all sidewalks and common areas (except for that area that County is required to maintain) cleaned and free of all debris and significant accumulations of ice and snow, maintenance of the roof, downspouts and gutters, common signs and sign boxes including replacement as necessary, insurance, refuse removal, management fees and other fees associated with running the property.

B. By the County: The County agrees to provide within the Leased Premises at County's sole cost and expense the following:

1. The County, at its sole cost and expense, shall keep the interior of the Leased Premises in good repair, and replace if necessary, exposed plumbing, heating and air conditioning units, doors and door closers, except for reasonable wear and tear; provided that the County shall be entitled to all parts and service guaranties and any warranties in effect on equipment which it is responsible for maintaining under the terms hereof. The County will, at the County's sole cost and expense, replace all broken glass and glass frames, doors and door frames on said Leased Premises with glass, frames and doors of the same size and quality as received. County shall be responsible for keeping glass window and glass doors in a clean and safe condition, and keep the area immediately fronting and adjacent to said premises properly hand swept, snow and ice within three (3'-0") feet of the Leased Premises removed therefrom, and free from all obstruction and trash. Should the County fail to comply with the terms of this paragraph within twenty-four (24) hours of receipt of written notice from the Landlord, Landlord may, but shall not be required to clear snow or debris or make repairs, in which event the County agrees to pay Landlord, together with and as part of the next monthly installment of rent, as additional rent, the costs and expenses incurred by Landlord to clean or repair. An itemized statement by Landlord to County shall be sufficient evidence of the amount of the cost thereof.

C. Common Areas: Common Areas are all that portion of the building improvements excepting the Leased Premises. Common areas include the parking areas provided by the Landlord for the building, the public conveniences of the building, and all other areas in the building now or later constructed and intended to be used in common by the County and/or other tenants, clients, and customers of the building. The use and occupation by the County of the Leased Premises shall include the use in common with others of the Common Areas, parking areas, service roads, loading facilities, sidewalks, and other facilities as may be designated from time to time by the Landlord, subject however to the terms and conditions of this Lease and to the rules and regulations attached to this Lease as Exhibit D. The Common Areas will at all times be subject to the exclusive control and management of the Landlord and the Landlord has the right from time to time to change the area, level, location and arrangement of the Common Areas, to restrict parking for the tenants and their employees to employee parking areas, and to make all rules and regulations and do such thing from time to time as in the Landlord's sole discretion may be necessary for the proper operation of the said Common Areas.

D. Common Area Expenses: Common Area Expenses are all expenses and costs of every kind and nature which the Landlord incurs because of, or in connection with the ownership, maintenance, management and operation of the Property which expressly includes the land, Building and the Common Areas, including without limitation, property management fees, and Landlord's building and general liability insurance, provided however, that the costs of any

premiums attributable to insurance coverage required by the County to be carried by Landlord in excess of the Landlord's existing coverage, or limits of coverage, will be borne by the County exclusively. The County's share of the Common Area Expenses will be based on a fraction the numerator of which is the total rentable square footage of the Leased Premises, and the denominator of which is the total rentable square footage of the Building, or 14.89% (i.e., County's Square Footage/Entire Square Footage).

E. Real Estate Taxes: "Real Estate Taxes" shall mean all taxes and assessments, including but not limited to, general or special, ordinary or extraordinary, foreseen or unforeseen, assessed, levied or imposed by any governmental authority upon the Building and the Land. Real Estate Taxes also shall include special assessments which are in the nature of, or in substitution for real estate taxes, including, without limitation, road improvement assessments, special tax district assessments, special use area assessments, and school district assessments. If at any time the method of taxation prevailing at the date of this Lease shall be altered so that in lieu of, as a substitute for, or in addition to the whole or any part of the taxes now levied or assessed, there shall be levied or assessed a tax of whatever nature, then the same shall be included as Real Estate Taxes. Reasonable expenses incurred by Landlord in obtaining or attempting to obtain a reduction of any real estate taxes shall be added to and included in the amount of any such real estate taxes. Landlord shall have no obligation to contest, object or litigate the levying or imposition of any real estate taxes and may settle, compromise, consent to waive or otherwise determine in its discretion any real estate taxes without consent or approval of Tenant. The County's share of the Real Estates Taxes will be based on a fraction the numerator of which is the total rentable square footage of the Leased Premises, and the denominator of which is the total rentable square footage of the Building, or 14.89% (i.e., County's Square Footage/Entire Square Footage):

F. Signage: The County agrees not to install any additional signage other than the signage permitted under the Original Lease.

7. COUNTY'S PROPERTY DAMAGE AND LIABILITY INSURANCE

A. The County shall obtain and maintain, during the full term of this Lease and any extension thereof, a policy of public liability insurance with bodily injury limits of \$200,000 (two hundred thousand dollars) for injury (or death) to one person, \$500,000 (five hundred thousand dollars) per occurrence, and property damage insurance with a limit of two hundred thousand dollars (\$200,000). The County shall have the right to self-insure. These are the maximum limits of liability for which the Montgomery County Self-Insurance Program is responsible, as determined by the Local Government Tort Claims Act, 1986 MD. Ann. Code, Cts & Jud. Proce. Sec. 5-301 et seq. (2006 Repl. Vol) as amended (the "LGTCA"). If the LGTCA is amended to increase any of these limits, then the increased limits shall automatically apply to this Lease.

B. The County agrees that it will not keep in or upon the Premises any article which may be prohibited by the standard form of fire or hazard insurance policy. In the event the County's occupancy causes any increase in the insurance premiums for the Premises or any part thereof, then the County shall pay the additional premiums as they become due.

C. The County will indemnify Landlord and save it harmless from and against any and all claims, actions, 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 Premises, or the occupancy or use by the County of the Premises or any part thereof, or the County's use or the exterior areas provided by Landlord for the comfort and convenience of the County, occasioned wholly or in part, to such extent, by any act or omission of the County, or its employees, except to the extent that such claims arise out of the wrongful acts or omissions of the Landlord, Landlord's agents, contractors, and employees, provided, however, that the Landlord provides to the County within 30 days of the receipt thereof, notice of any and all claims under which Landlord will rely on this indemnification. The County shall indemnify the Landlord against any penalty, damage or charge incurred or imposed by reason of the County's violation of any law or ordinance. This indemnification is subject to the Limitations stated in Section 33, below.

D. Notwithstanding anything in this Lease to the contrary, the County further agrees that all personal property in the Premises shall be and remain at the County's sole risk, and the Landlord shall not be liable for any damage to or loss of such personal property except to the degree damage arises out of the wrongful acts or omission of the Landlord, Landlord's agents, contractors or employees.

E The County shall deliver to Landlord a certificate of insurance evidencing the coverage hereinabove described within thirty (30) days from execution of this Agreement. The County reserves the right to self-insure.

8. LANDLORD'S PROPERTY DAMAGE AND LIABILITY INSURANCE

A. The Landlord shall obtain and maintain, during the full term of this Lease, and any extension thereof, a policy of general liability insurance with limits of one million dollars (\$1,000,000) including fire legal liability, contractual liability, products and completed operations, and personal injury.

B. The Landlord shall provide an All Risk Property Policy to protect against loss caused by the perils insured in the amount of 100 percent of the insurable values of the property. The policy shall also endorse a demolition and clearing clause, extra expense and loss of use coverage.

C. All such insurance required to be carried by the Landlord: (a) shall be with an insurance company licensed to do business in the State of Maryland and rated not lower than A-XII in the A.M. Best Rating Guide, (b) may, with respect to the liability insurance described in this Section, consist of a combination of primary insurance coverage and umbrella insurance coverage, (c) may be insured under a blanket insurance policy covering multiple properties or locations, provided the minimum amount required to be applicable to the Building shall not be diminished by virtue of such blanket coverage, (d) shall name the County as an additional insured and (e) shall provide for a minimum thirty (30) day notice of cancellation or material change. If requested by the County, copies of insurance policies shall be provided. The

Landlord's property insurance shall provide or contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured has released its right of action against any party before the occurrence of a loss. The Landlord shall provide a certificate of insurance or other reasonable documentation evidencing the coverage hereinabove described within thirty (30) days from the execution of this Agreement.

D. The Landlord will indemnify the County and save it harmless from and against any and all claims, actions, 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 Premises, or the occupancy or use by the Landlord of the Premises or any part thereof including exterior areas, to the extent caused by any wrongful act or omission of the Landlord, its agents, contractors, or employees, excepting claims arising out of the acts or omissions of the County, the County's agents, and employees. Provided, however, that the County provides to Landlord within 30 days of the receipt thereof, notice of any and all claims under which County will rely on this indemnification. The Landlord shall indemnify the County against any penalty, damage or charged incurred or imposed by reason of the Landlord's violation of any law or ordinance.

9. RIGHT OF ENTRY

A. Routine Repairs and Inspection: The County shall permit the Landlord, its agents or employees, at reasonable times and upon reasonable prior notice (not less than twenty-four (24) hours prior notice) to enter the Leased Premises without charge and without diminution of rent to: (1) examine, inspect and protect the Leased Premises; (2) to make such alterations and repairs or perform such maintenance which the Landlord is authorized to perform under this Lease; (3) to exhibit the Premises to prospective purchasers or tenants or to present or future mortgagees. The County may deny access to the Landlord at any time that the Landlord's presence interferes with the County's use of the Leased Premises as a Board of Elections facility. The Parties will work together to facilitate reasonable access for the Landlord without comprising public safety, or any security requirements inherent in the operation of a secured Board of Election facility. The County has the right to accompany Landlord during any inspection to maintain the security and integrity of voting machines, ballots, and other official voting paraphernalia.

B. Emergency Access: In cases of emergency, the Landlord, its agents or employees, without prior notice to the County, may enter the Leased Premises, however, the Landlord will notify the County of any such entry under this section as soon as is practicable under the circumstance.

10. ALTERATIONS

The County will not make or permit any alterations, additions, or improvements of any kind to the Leased Premises without the Landlord's prior written consent. The Landlord may impose any reasonable conditions to its consent, including, but not limited to: (1) prior approval of the plans and specifications and the County's contractors with respect to the alternations; and (2) the right of the Landlord's representatives to inspect the alterations during

the course of their installation and payment of Landlord's plan review and inspection fees paid to Landlord's property management company, such consent shall not be unreasonably withheld, conditioned, or delayed.

11. ASSIGNMENT

This Lease Agreement is not assignable.

12. COUNTY'S DUTIES & COVENANTS

A. The County shall not drive, park or permit any vehicle greater in weight than 8,600 pounds gross vehicle weight or in size larger than a single-axle box truck to enter upon or within the loading bays servicing the Leased Premises. Any vehicle greater in weight than 8,600 pounds gross vehicle weight or in size than a single-axle box truck, must perform any off-loading from the exterior driveway entrance to the loading bay servicing the Leased Premises unless the County has obtained Landlord's prior written consent which consent will not be reasonably withheld, conditioned, or delayed.

B. The County will not strip, overload, damage, or deface the Leased Premises or any part of the Premises, including, but not limited to, hallways, stairways, or elevators

C. The County will not permit any business, activity, trade or occupation to be carried on or any use made of the Leased Premises outside of the scope of permitted use provided for under this Lease. Further, the County will obey any and all federal, state, county and local laws and regulations relating to their operation of business on and in the Leased Premises and Premises.

D. The County will conform to, and comply with all Rules and Regulations established from time to time by the Landlord and provided in writing to the County, not less than 30 days prior to enforcement.

E. The County will not interfere with the Landlord's use, or other tenant's use of the Premises.

F. The County will pay all of its bills and expenses relating to the County's use of the Leased Premises including, but not limited to utilities and Common Area Expenses on time and must not permit any disruption in any service, including but not limited to, utilities, to any portion of the Leased Premises.

G. The Parties agree to and must perform any and all obligations under this Lease in a timely manner.

H. Upon removal of the County's personal property from the Leased Premises, the County at its sole expense must repair any damage to the Leased Premises caused by such

removal so that the Leased Premises are in substantially the same condition as at the commencement of the Initial Lease Term, reasonable wear and tear excepted.

13. DAMAGES/DESTRUCTION OF LEASED PREMISES

In the event of damage or destruction of the Leased Premises by fire or any casualty, this Lease shall not be terminated, but the Leased Premises shall be promptly and fully repaired and restored as the case may be by the Landlord to the extent of Landlord's insurance proceeds provided such repair and restoration returns the Leased Premises to substantially the condition prior to such damage or destruction. Due allowance, however, shall be given for reasonable time required for adjustment and settlement of insurance claims, and for such delays as may result from governments restrictions, and controls on construction, if any, and for strikes, national emergencies and other conditions beyond the control of the Landlord. It is agreed that in the event of damage or destruction, this Lease shall continue in full force and effect, except for abatement of rent as provided herein. If the condition is such as to make the entire Lease Premises "Untenantable", then the rental which the County is obligated to pay hereunder shall abate as of the date of the occurrence until the Leased Premises have been fully restored by the Landlord. Any unpaid or prepaid rent for the month in which said condition occurs shall be prorated and credited or paid to the appropriated party. If the Leased Premises are partially damaged or destroyed, then during the period that County is deprived of the use of the damaged portion of said the Leased Premises, County shall be required to pay rental prorated to reflect that portion of the Leased Premises which continues to be "Tenantable" and appropriate for County's use. Landlord will proceed at its expense and as expeditiously as may be practicable to repair the damage. Notwithstanding any of the foregoing, in the event of substantial damage or destruction, and Landlord should decide not to repair or restore the Leased Premises or the building, in which event and at Landlord's sole option, Landlord may terminate this Lease forthwith, by giving County a written notice of its intention to terminate within ninety (90) days after the date of casualty. No compensation, or claim, or diminution of rent other than as described above will be allowed or paid, by Landlord, by reason of inconvenience, annoyance, or injury to business, arising from the necessity of repairing the Lease Premises or any portion of the Building of which they are a part.

14. RETURN OF THE LEASED PREMISES

A. At the conclusion of the Initial Lease Term or Option Term as set forth in this Lease, or following the termination of this Lease for any other cause the County will remove all of its personal property from the Leased Premises and return to the Landlord all keys, locks, and other fixtures belonging to the Landlord, in good repair, reasonable wear and tear excepted. The County, at its sole expense must repair any damage to the Leased Premises caused by such removal so that the Leased Premises are in substantially the same condition as at the commencement of the Initial Lease Term, reasonable wear and tear excepted.

B. The County will return the Leased Premises to the Landlord in "broom clean" condition, reasonable wear and tear excepted.

C. Following termination of this Lease the County must remove any and all signs erected by or on behalf of the County, as directed by Landlord.

D. At the time of termination of this Lease and at the Landlord's option, the County will participate in a walk-through with the Landlord's agent or employee to inspect the Leased Premises.

15. DEFAULT BY COUNTY

A. If the County shall default in payment of the rents, including any amounts denominated as additional rent reserve hereunder for a period of seven (7) days after any of the same shall have become due and payable as aforesaid, or if County shall abandon or appear to abandon the Leased Premises or fail to conduct business therein, for a period of sixty (60) consecutive calendar days except for repairs or restoration of the Leased Premises with the consent of the Landlord, or if default shall be made by County in any of the other covenants and agreements herein contained to be kept and fulfilled on the part of the County for a period of thirty (30) days after written notice of such default is given by the Landlord to the County without action by the County to remedy such default and continuance of such action to remedy such default to conclusion with reasonable diligence or if County makes any transfer, assignment, conveyance, sale, pledge or disposition of all or a substantial portion of its property, or removes a substantial portion of its personal property from the Leased Premises, then and forthwith thereafter the Landlord shall have the right at its option and without prejudice to its rights hereunder, to terminate this Lease and/or to re-enter and take possession of the Leased Premises, or the Landlord, without such re-entry may recover possession of the Leased Premises in the manner prescribed by the statute.

B. Should Landlord elect to re-enter, or take possession pursuant to legal proceedings then the County's tenancy shall be immediately terminated, and, upon payment of all rent or additional rent due at or before the time of terminating the County will have no further obligation under this Lease.

C. Each Party must pay its own legal costs expenses in any suit or claim filed under this Lease.

D. In order to defray the additional expenses involved in collecting and handling delinquent payments, County shall pay on demand a late charge of One Hundred Dollars (\$100.00) when any installment of rent (minimum or additional) is paid more than ten (10) days after the due date thereof. This charge is intended to compensate Landlord for additional costs incurred by it and is not to be considered interest. Such past due rent charge shall not be imposed the first time it would otherwise be due during any twelve (12) month period, provided County shall make such payment within seven (7) days after written notice from Landlord that payment has not been timely received.

E. Should any controversy arise by and between the Parties concerning

any of the terms and conditions contained in this Lease, or the payment of monies due hereunder, each of the Parties hereby knowingly, voluntarily and intentionally waives its right to a jury trial and freely elects to be tried by a court of competent jurisdiction located in, Montgomery County, Maryland.

16. DEFAULT BY LANDLORD

In the event that the Landlord or his assigns shall fail or neglect to keep and perform each and every one of the covenants, conditions, and agreements contained in this Lease, and such failure or neglect is not remedied within thirty (30) days (or such longer period as either otherwise provided herein or as may reasonably be required to correct the default with exercise of due diligence) after written notice from the County specifying the default, then the County, at County's option, may terminate this Lease upon written notice to Owner, in which event the Landlord and County shall be released from all liability to the other hereunder.

17. FORCE MAJURE

Except as otherwise provided, neither the Landlord or the County shall be considered in default of an obligation under this Lease nor liable for loss or damage for failure to perform an obligation (nor shall the other party be released from any of its obligations under this Lease if the non-performing party is delayed in performing an obligation), where the performance of such obligation by the non-performing party is delayed as a result of an event of "force majeure" which shall mean any acts of God, strikes, lockouts, labor difficulties, materials shortages, moratoria, explosions, sabotage, accidents, riots, civil unrest, acts of war, fire or casualty, energy shortages or other causes beyond the reasonable control of the non-performing party, provided that in no event shall financial inability to pay be considered an event of "force majeure".

18. RULES AND REGULATIONS

The rules and regulations are appended to this Lease as Exhibit D and are hereby made a part of this Lease, and the County agrees to comply with and observe the same. The County's failure to keep and observe said rules and regulations shall constitute a breach of the terms of this Lease in the manner as if the same were contained herein as covenants. Landlord reserves the right from time to time to amend or supplement said rules and regulations and to adopt and promulgate additional rules and regulations applicable to Leased Premises and the Premises. The Landlord shall provide thirty (30) days written notice to the County of such additional rules and regulations, and amendments and supplements, if any, and the County agrees thereupon to comply with and observe all such reasonable rules and regulations, and amendments thereto and supplements thereof, provided the same shall apply uniformly to all tenants of the Premises.

19. COUNTY'S RIGHT OF QUIET ENJOYMENT

If the County pays all rent, and performs all of its obligations under this Lease, the County shall at all times during the term of this Lease, and any extensions of this Lease, have

the peaceable and quiet enjoyment and possession of the Leased Premises for the purposes stated in this Lease.

20. WAIVER:

The waiver at any time by either of the Parties of any particular covenant, condition, obligation, or duty under this Lease shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver must not be construed or understood as waiving any further or other rights of either Party.

21. NON-DISCRIMINATION

The Landlord agrees to comply with the non-discrimination policies in County contracts as required in Sections 11B-33 and Chapter 27 of the Montgomery County Code, (2004), as amended as well as all other applicable state and federal laws and regulations regarding employment discrimination. The Landlord assures the County that in accordance with applicable law; it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, sex, marital status, national origin, ancestry, disability, sexual orientation or genetic status.

22. ETHICS REQUIREMENT

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

23. CONTRACT SOLICITATION/BROKER'S FEES OR COMMISSIONS

Each of the Parties represents and warrants that there are no claims for brokerage commission or finder's fees in connection with the execution of this Lease, except to Avison Young, Inc., (whose commission shall be paid by Landlord) and each of the Parties agrees to indemnify the other against, hold it harmless from, all liabilities arising from any such claim (including without limitation, the cost of counsel fees in connection therewith). The Landlord represents that it 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, except from bona fide employees or bona fide established commercial, selling or leasing agencies retained by the Landlord for the purpose of securing business or an attorney rendering professional legal service consistent with applicable canons of ethics.

24. EMINENT DOMAIN

If the whole (25% or more) of the Premises, Building or Property shall be taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including, without limitation, sale under threat of such a taking), then the Term

shall cease and terminate as of the date when title vests in such governmental or quasi-governmental authority, and rent shall be prorated to the date when title vests in such governmental or quasi-governmental authority. If less than a substantial part of the Leased Premises is taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose (including, without limitation, sale under threat of such a taking), rent and the County's proportionate share shall be reduced by the ratio that the portion so taken bears to the rentable square footage of the Leased Premises before such taking, effective as of the date when title vest in such governmental or quasi-governmental authority, and this Lease shall otherwise continue in full force and effect. The County shall have no claim against the Landlord (or otherwise) as a result of such taking, and the County agrees to make no claim against the condemning authority for any portion of the amount that may be awarded as compensation or damages as a result of such taking; provided, however, that the County may, to the extent allowed by law, claim an award for moving expenses and for the taking of any of the County's property (other than its leasehold interest in the Premises) which does not, under the terms of this Lease, become the property of the Landlord at the termination of this Lease, as long as such claim is separate and distinct from any claim of the Landlord and does not diminish the Landlord's award.

25. HOLDOVER

A. No Right to Holdover: The County shall have no right to holdover and continue to occupy the Leased Premises upon expiration or termination of this Lease without first obtaining the prior written permission of the Landlord.

B. Holdover with Consent: If the County holds over after the expiration of this Lease with the Landlord's written consent, the tenancy created by such holding over will be a month to month tenancy, but in all other respects will be governed by the terms of this Lease, provided, however, that (1) in all cases (except a default by the County) a thirty (30) day notice will be required to terminate the tenancy created by such consented hold-over; and (2) the monthly rent payable under this Lease during any such holdover period will be 150% of the Rent in effect for the last month of the Term then ending plus Additional Rent, and except that (a) if, upon the expiration of this Lease, the County and the Landlord are actively engaged in good faith negotiations for a renewal or extension of this Lease, the Landlord agrees that the rent in effect immediately prior to the expiration of the Lease will be the rent due plus a one time 3% increase per annum until a new Lease is executed by the Parties. In no event will the holdover period be longer than 180 days following expiration of the Initial Lease Term and Optional Term as defined above.

C. Holdover without Consent: Notwithstanding the foregoing, if the County holds over the expiration of this Lease without the Landlord's written consent, the County shall be the tenant at sufferance and must pay to the Landlord holdover damages equal to 150% the Rent in effect for the last month of the Initial Term or Option Term then ending plus Additional Rent.

26. ENTIRE AGREEMENT

This Lease (which contains and includes the Attachments) is the entire agreement between the Parties, and no representations, inducements, or agreement, oral or otherwise, between the Parties not contained in this Lease shall be of any force or effect.

27. MODIFICATION

This Lease (other than the Rules and Regulations, which may be changed from time to time) must not be modified in any manner except by an instrument in writing executed by both Parties with the same formality as this Lease.

28. NOTICES

All notices required or desired to be given in accordance with this Lease by either party must be given by first class mail with a nationally recognized receipted delivery service, postage prepaid, addressed to the County or Landlord, respectively. Notices to the Parties must be addressed as follows:

THE LANDLORD:

Seneca Center II, LLC
c/o Klinedinst Management, Inc.
4405 East-West Highway, Suite 211
Bethesda, Maryland 20814

With a copy that does not constitute notice to:

Miller, Miller & Canby
200-B Monroe Street
Rockville, Maryland 20850
Attn: Robert E. Gough, Esq.

THE COUNTY:

Montgomery County, Maryland
Department of General Services
Office of Real Estate and Management Services
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attn: Director Office of Real Estate

With a copy that does not constitute notice to:

Office of the County Attorney

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

29. GOVERNING LAW

This Lease and its performance is to be governed, interpreted, construed, and regulated by the laws of Montgomery County and the State of Maryland.

30. CLAIMS

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

31. NO PARTNERSHIP

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between the Landlord and the County, or to create any other relationship between the Landlord and the County other than that of landlord and tenant.

32. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE

In the event that the original Landlord, or any successor owner of the Premises shall sell or convey the Premises, all liabilities and obligations on the part of the original landlord, or such successor owner, under this Lease occurring thereafter shall terminate as of the day of such sale, and all such liabilities and obligations shall be binding on the new owner. The County agrees to attorn to such new owner. Any successor to the Landlord's interest shall not be bound by (i) any payment of Base Rent or Additional Rent for more than one (1) month in advance or (ii) as any mortgagee or any purchaser at foreclosure, any amendment or modification of this Lease made without the consent of such mortgagee. The County shall, without charge, attorn to such successor-in-interest upon written request from Landlord, using the Subordination, Attornment, and Non-Disturbance form attached as Exhibit F.

33. ACKNOWLEDGEMENT CONCERNING STATUTORY LIMITATIONS

The Landlord acknowledges that the County is a political subdivision of the State of Maryland and, as such, is subject to the terms of the Maryland Local Government Tort Claims Act, Section 5-301, *et seq.* of the Courts and Judicial Proceedings Article of the Maryland Annotated Code, as the same may be amended from time to time (the "Local Government Tort Claims Act" or "LGTC"). As the County is subject to the terms of the LGTC by virtue of being a political subdivision of the State of Maryland, certain indemnities which may be provided for in this Lease may be limited by the provisions of such LGTC. Without limitation, any programs of the State of Maryland (the "State") which are being administered by the County within the Leased Premises shall be subject to the limited immunity granted to State employees and programs under the LGTC and under the Maryland Tort Claims Act, Section 12-101, *et*

seq. of the Government Article of the Maryland Annotated Code, as the same may be amended from time to time (the "State Tort Act"). For purposes of this Lease, the LGTCA and the State Tort Act are referred to collectively as the "Tort Acts." 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. Any indemnification given by the County in this Lease is limited by the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. §§ 5-301, et seq. (2006 Repl. Vol.) (the "LGTCA"); Md. Code Ann. Art. 25A, § 1A (2005 Repl. Vol.); and Md. Code Ann., Cts. & Jud. Proc. § 5-509 (2006 Repl. Vol.), (together the "County Indemnification Statutes"), all as amended from time to time, and that any indemnification given by the County in this Lease is not intended to create any rights or causes of action in any third parties or to increase the County's liability above the caps provided in the County Indemnification Statutes, as applicable. Any statutory changes increasing the caps during the Initial Lease Term or Optional Term shall apply to this Lease automatically.

34. ESTOPPEL CERTIFICATES

The County agrees, at anytime and from time to time, upon not less than (30) days written notice to Landlord, to execute, acknowledge and deliver to Landlord in writing the completed and signed Estoppel Certificate as contained in Lease Exhibit "E": Estoppel Certificate Form.

35. PUBLIC EMPLOYMENT

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

36. COUNTERPARTS

This Lease may be executed in two or more counterparts each of which shall be deemed an original, and all of which when taken together shall constitute one and the same instrument. The Parties agree that signatures scanned into PDF format and sent by e-mail or facsimile signatures shall be deemed original signatures.

37. RIGHT OF FIRST OFFER

Provided that the Lease and the Original Lease are both in full force and effect and that the County is not in default under this Lease or under the Original Lease, the County shall have a right of first offer to lease the space known as Bay 205 and any other non-adjacent space in the Building if such space becomes available for lease (the "Additional Space"). After Landlord becomes aware of the availability of the Additional Space, the Landlord shall provide the County with a written offer notice (the "Offer Notice") which will offer the Additional Space under the same terms and conditions as this Lease and for the same rental rate which the County is then currently paying. The County shall have fourteen (14) days after receipt of the Offer

Notice from the Landlord to accept the offer for the Additional Space by providing the Landlord with a written acceptance of such offer. In the event the County elects to lease all, but not less than all, of the Additional Space, then the County shall notify the Landlord of such election by giving written notice to the Landlord within fourteen (14) days after receipt of the Offer Notice, and the Landlord and the County shall thereupon enter into an amendment to the Lease or a new lease, if Landlord so elects, for the leasing of the Additional Space, which amendment or lease shall contain the terms and conditions set forth in the Offer Notice, provide that the term thereunder shall expire or sooner terminate contemporaneously with the expiration or sooner termination of the term of the Lease, and contain such other terms and provisions as Landlord may require in order to effectuate the incorporation of the Additional Space into the Leased Premises and to otherwise effectuate the intent of this Paragraph 36 (including, without limitation, the County's obligation to pay the costs to construct the Additional Space, if necessary). Should the County fail to accept the Landlord's offer within the fourteen (14) day period, then the County's right of first refusal shall lapse and shall have no further force or effect and the Landlord may lease the Additional Space to any other party on any terms. Notwithstanding the foregoing, the Additional Space shall not be deemed to be "available" as described above if (i) Landlord enters into negotiations with an existing occupant of the Additional Space when such occupant's lease term expires, (ii) the existing occupant of the Additional Space assigns its lease or sublets all or any portion of the Additional Space, (iii) the Additional Space is subject to a right of first offer, right of first refusal, expansion right, or conflicting restriction of another tenant or occupant of the Building as of the date of this Lease, and (iv) as of the date of this Lease the Additional Space is not leased to a tenant, until such time that the space is leased and then subsequently becomes "available." In the event the County elects to lease the Additional Space, then the County shall automatically be deemed to have exercised its option to extend the Initial Lease Term pursuant to Section 2.B hereunder and to have exercised its option to extend the term of the Original Lease pursuant to Section 2.B of the Original Lease.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the PARTIES hereto have duly signed these presents and affixed their respective seals the day and year first above written.

LANDLORD:

SENECA CENTER II, LLC, a Maryland limited liability company

Witness Pamela A. Koerner

Paul Klinedinst
Paul Klinedinst
Managing Member

COUNTY:

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

Witness Julie L. White

By: Ramona Bell-Pearson
Name: Ramona Bell-Pearson
Title: Asst. Chief Admin. Officer

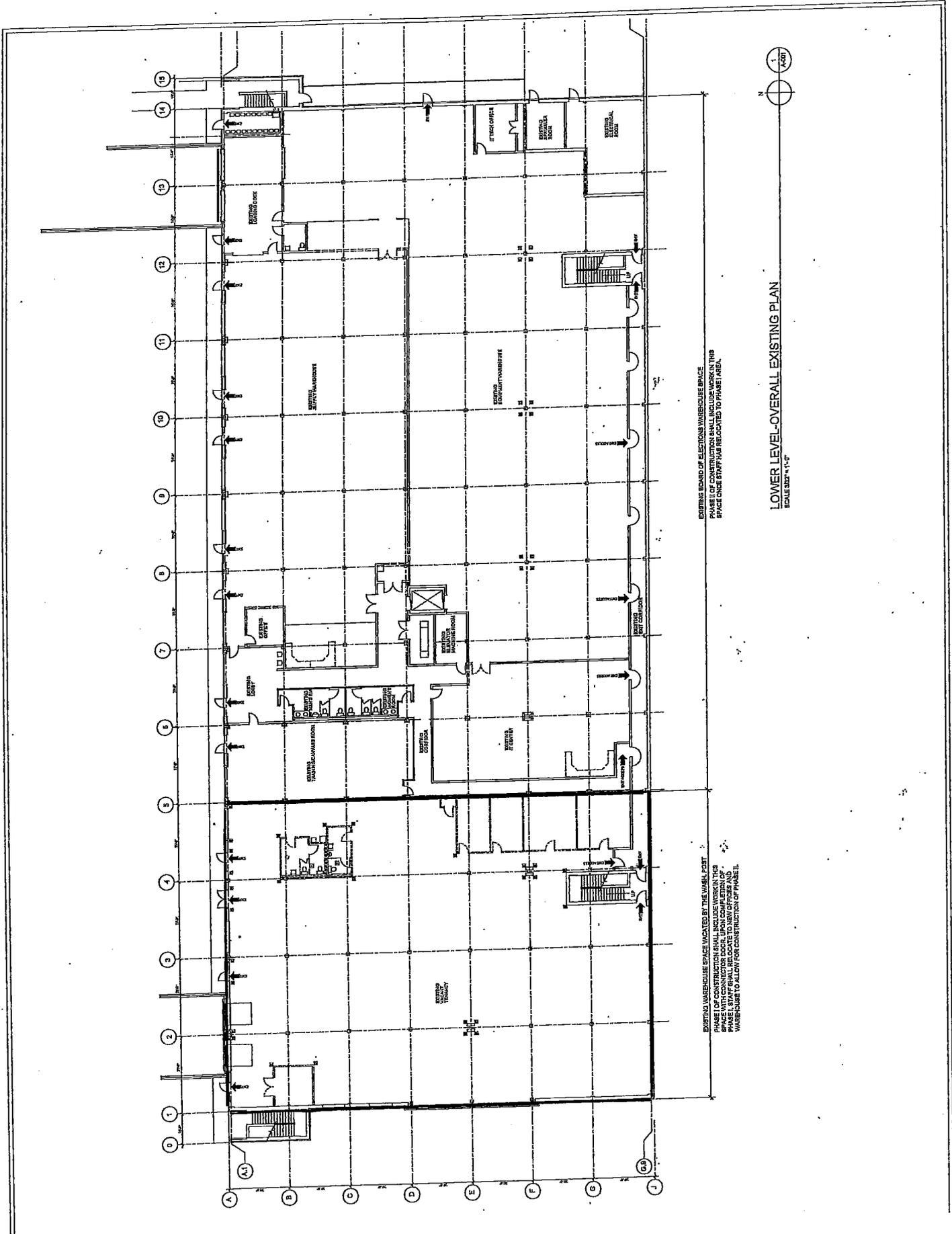
Approved as to form and legality
Office of the County Attorney

Recommended

By: Alexandra Meyer
Name: Alexandra Meyer
Title: Assoc. County Atty

By: Cynthia Brennan
Name: Cynthia Brennan
Title: Director, Office of Real Estate

EXHIBIT A
Leased Premises



EXISTING BOARD OF ELECTIONS WAREHOUSE SPACE
PHASE I OF CONSTRUCTION SHALL INCLUDE WORK IN THIS
SPACE ONCE STARTUP FOR PHASE I AND II

EXISTING WAREHOUSE SPACE VACATED BY THE WALK POST
PHASE I OF CONSTRUCTION SHALL INCLUDE WORK IN THIS
SPACE WITH CONNECTOR DOOR UPON COMPLETION OF
PHASE I AND II TO ALLOW FOR CONSTRUCTION OF PHASE II
WAREHOUSE TO ALLOW FOR CONSTRUCTION OF PHASE II

LOWER LEVEL-OVERALL EXISTING PLAN
SCALE 3/32" = 1'-0"

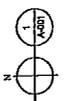


EXHIBIT B

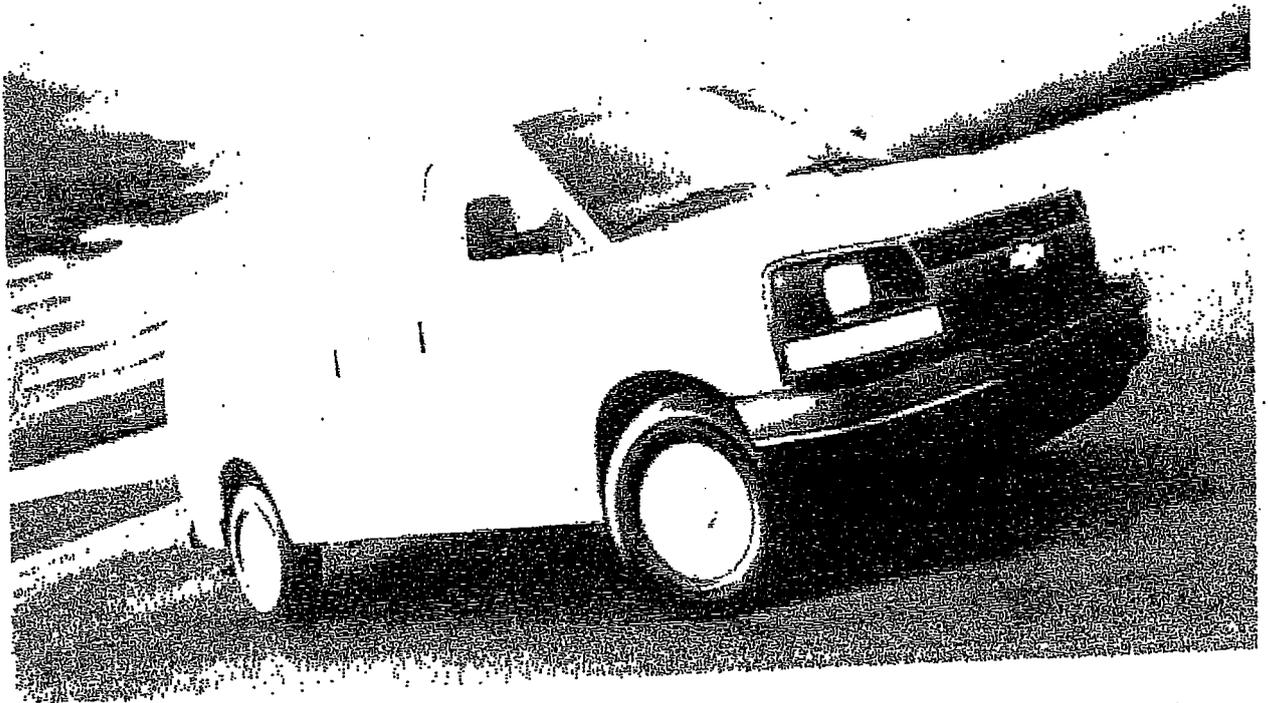
➤ RULES AND REGULATIONS:

Tenant shall, at all times during the term of this Lease:

1. Use, maintain and occupy the demised premises in a careful, safe, proper and lawful manner, keep the demised premises and its appurtenances in a clean and safe condition;
2. Keep all glass in the doors and windows of the demised premises clean and in good repair;
3. Not place, maintain or sell any merchandise in any vestibule or entry to the demised premises, on the sidewalks or enclosed area adjacent to the demised premises, or elsewhere on the outside of the demised premises without the prior written consent of Landlord;
4. Keep the demised premises and an area within 15 feet of the front of the demised premises in clean, orderly and sanitary condition, free of debris, insects, rodents, vermin and other pests;
5. Not permit undue accumulations of garbage, trash, rubbish and other refuse in the demised premises, and keep refuse in closed containers within the interior of the demised premises until removed;
6. Not use, permit or suffer the use of any apparatus or instruments for musical or other sound reproduction of transmission in such manner that the sound emanating therefrom or cause thereby shall be audible beyond the interior of the demised premises;
7. Light the exterior signs of the demised premises from dusk to 11:00 p.m. each evening;
8. Keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the confines of the demised premises;
9. Not cause or permit objectionable odors to emanate or be dispelled from the demised premises;
10. Not overload the floors and electrical wiring and not install any additional electrical wiring or plumbing without Landlord's prior written consent;
11. Not conduct, permit or suffer any public or private auction sale to be conducted on or from the demised premises.
12. Not solicit business in the common areas of the Center or distribute handbills or other advertising materials in the common areas, and if this provision is violated Tenant shall pay Landlord the costs of collecting same from the common areas for trash disposal.
13. Not place into any trash receptacle or dumpster that Landlord may provide any Hazardous Substances or any substance declared to be infectious under any applicable law or regulation.

Klinedinst Management, Inc.
Seneca Center II, LLC
Lease provisions for Board of Elections

- **Loading Bay Restrictions:** Tenant shall not drive, park or permit any vehicle greater in weight than 8,600 pounds gross vehicle weight or in size larger than a single-axle box truck to enter upon or within the loading bays servicing the Demised Premises. Any vehicle greater in weight than 8,600 pounds gross vehicle weight or in size than a single-axle box truck, must perform any off-loading from the exterior driveway entrance to the loading bay servicing the Demised Premises unless Tenant has obtained Landlord's prior written consent. Tenant shall indemnify, defend and hold Landlord harmless from any injury, damage or loss of any kind resulting from or arising out of Tenant's failure to comply with the foregoing restrictions.



TENANT ESTOPPEL CERTIFICATE

EXHIBIT C

To: its successors and/or assigns ()
its successors and/or assigns ()

Re: Property Address: () Lease Date: Between () and
Montgomery County, Maryland (Tenant) Square Footage Leased: Suite
No./Floor: ()

Landlord has requested that Tenant provide Landlord with an estoppel certificate as permitted from time to time under the terms of the above-referenced lease ().
Tenant hereby acknowledges the following:

- (1) The Lease, which includes the Lease and all amendments to the Lease attached as Exhibit AA, is a true, correct, and complete copy of the Lease, as amended; is in full force and effect; and has not been modified, supplemented, or amended in any way other than in writing attached as part of Exhibit A. The Lease as amended in Exhibit A represents the entire agreement between the Landlord and Tenant as to the Premises or any part of the Premises.
- (2) The Lease Term commenced on _____, and terminates on _____, and terminates on _____ option(s) of _____ (months/years) each. The Lease provides for _____ renewal/extension renewal/extension options on the date that this Certificate is issued by Tenant.
- (3) The amount of fixed monthly rent is \$ _____; the monthly common area or other charges are \$ _____. The base year for operating expenses and real estate taxes, as defined in the Lease, is calendar year 200__.
- (4) Tenant paid no security deposit under the terms of the Lease. Tenant has paid rent for the Premises through _____, 200__.
- (5) Tenant currently occupies the Premises.
- (6) All work to be completed by Landlord for the Tenant prior to occupancy has been performed as required and has been accepted by the Tenant (if not, specify what punchlist or other items remain to be completed, and the amount budgeted for completion; and any payments, free rent, or other payments, credits, allowances or abatements required to be given by Landlord up to the date of issuance of this Certificate have been credited or paid to Tenant.
- (7) As of the date that this Certificate is issued by Tenant, Tenant has no knowledge of any default by Landlord other than those specified in Exhibit B, attached. As of the date that this Certificate is issued by Tenant, Tenant has no knowledge of any offset, defense, deduction or claim against Landlord other than those listed in Exhibit B, attached.
- (8) Tenant is not in default under the Lease.

- (9) Tenant has not assigned the Lease or sublet all or any portion of the Premises, except as listed in Exhibit C, attached. Any sublease or assignment documents are attached as part of Exhibit C.
- (10) Any notices to be sent to Tenant should be sent in the form required in the Lease to:

Montgomery County, Maryland
Department of General Services
101 Monroe Street, 3rd Floor
Rockville, MD 20850
Attn: Director

With a copy that does not constitute notice to:

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

TENANT:
Montgomery County, Maryland

By: _____
Diane Schwartz Jones
Assistant Chief Administrative Officer

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

MONTGOMERY COUNTY

EXHIBIT D

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT ("Agreement") is entered into as of _____ the ("Effective Date") by and between _____ (the "Mortgagee") and MONTGOMERY COUNTY MARYLAND (hereinafter, collectively the "Tenant"), with reference to the following facts:

_____, whose address is _____, (the "Landlord") owns fee simple title or a leasehold interest in the real property described in Exhibit "A" attached hereto (the "Property").

Mortgagee intends to make a loan to Landlord in the original principal amount of _____ (\$ _____) (the "Loan");

To secure the Loan, Landlord intends to encumber all the Property by entering into that certain Mortgage to be dated _____ in favor of Mortgagee (as amended, increased, renewed, extended, spread, consolidated, severed, restated, or otherwise changed from time to time, the "Mortgage") to be recorded in the Land Records in and for the Montgomery County, State of Maryland.

Pursuant to the Lease effective _____ (the "Lease"), Landlord demised to Tenant a portion of the Property consisting of the following (the "Leased Premises"):

Tenant and Mortgagee desire to agree upon the relative priorities of their interests in the Property and their rights and obligations if certain events occur.

NOW, THEREFORE, for good and sufficient consideration, Tenant and Mortgagee agree:

Definitions. The following terms shall have the following meanings for purposes of this Agreement.

(a) Foreclosure Event. A "Foreclosure Event" means: (i) foreclosure under the Mortgage; (ii) any other exercise by Mortgagee of rights and remedies (whether under the Mortgage or under applicable law, including bankruptcy law) as holder of the Loan and/or the Mortgage, as a result of which a Successor Landlord becomes owner of the Property; or (iii) delivery by Landlord to Mortgagee (or its designee or nominee) of a deed or other conveyance of Landlord's interest in the Property in lieu of any of the foregoing.

(b) Former Landlord. A "Former Landlord" means Landlord and any other party that was landlord under the Lease at any time before the occurrence of any attornment under this Agreement.

(c) Offset Right. An "Offset Right" means any right or alleged right of Tenant to any offset, defense (other than one arising from actual payment and performance, which payment and performance would bind a Successor Landlord pursuant to this Agreement), claim, counterclaim, reduction, deduction, or abatement against Tenant's payment of Rent or performance of Tenant's other obligations under the Lease, arising (whether under the Lease or under applicable law) from Landlord's breach or default under the Lease.

(d) Rent. The "Rent" means any fixed rent, base rent or additional rent under the Lease.

(e) Successor Landlord. A "Successor Landlord" means any party that becomes owner of the Property as the result of a Foreclosure Event.

(f) Other Capitalized Terms. If the initial letter of any other term used in this Agreement is capitalized and no separate definition is contained in this Agreement, then such term shall have the same respective definition as set forth in the Lease.

Subordination. The Lease shall be, and shall at all times remain, subject and subordinate to the terms of the Mortgage, the lien imposed by the Mortgage, and all advances made under the Mortgage.

Nondisturbance, Recognition and Attornment.

(a) No Exercise of Mortgage Remedies Against Tenant. So long as the Tenant is not in default under the Lease beyond any applicable grace or cure periods (an "Event of Default"), Mortgagee shall not name or join Tenant as a defendant in any exercise of Mortgagee's rights and remedies arising upon a default under the Mortgage unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Landlord or prosecuting such rights and remedies. In the latter case, Mortgagee may join Tenant as a defendant in such action only for such purpose and not to terminate the Lease or otherwise adversely affect Tenant's rights under the Lease or this Agreement in such action.

(b) Nondisturbance and Attornment. If an Event of Default by Tenant is not then continuing, then, when Successor Landlord takes title to the Property: (i) Successor Landlord shall not terminate or disturb Tenant's possession of the Leased Premises under the Lease, except in accordance with the terms of the Lease and this Agreement; (ii) Successor Landlord shall be bound to Tenant under all the terms and conditions of the Lease (except as provided in this Agreement); (iii) Tenant shall recognize and attorn to Successor Landlord as Tenant's direct landlord under the Lease as affected by this Agreement; and (iv) the Lease shall continue in full force and effect as a direct lease, in accordance with its terms (except as provided in this Agreement), between Successor Landlord and Tenant. Tenant acknowledges notice of the Mortgage and assignment of rents, leases and profits from the Landlord to the Mortgagee. Tenant agrees to continue making payments of rents and other amounts owed by Tenant under the Lease to the Landlord and to otherwise recognize the rights of Landlord under the Lease until notified otherwise in writing by the Mortgagee (as provided in the Mortgage), and after receipt of such notice the Tenant agrees thereafter to make all such payments to the Mortgagee, without any further inquiry on the part of the Tenant, and Landlord consents to the foregoing.

(c) Further Documentation. The provisions of this Article 3 shall be effective and self-operative without any need for Successor Landlord or Tenant to execute any further documents. Tenant and Successor Landlord shall, however, confirm the provisions of this Article 3 in writing upon request by either of them within thirty (30) days of such request.

Protection of Successor Landlord. Notwithstanding anything to the contrary in the Lease or the Mortgage, Successor Landlord shall not be liable for or bound by any of the following matters:

(a) Claims Against Former Landlord. Any Offset Right that Tenant may have against any Former Landlord relating to any event or occurrence before the date of the attornment, including any claim for damages of any kind whatsoever as the result of any breach by Former Landlord that occurred before the date of attornment.

(b) Prepayments. Any payment of Rent that Tenant may have made to Former Landlord more than thirty (30) days before the date such rent was first due and payable under the Lease with

respect to any period after the date of attornment other than, and only to the extent that, the Lease expressly required such a prepayment.

(c) Payment: Security Deposit. Any obligation: (i) to pay Tenant any sum(s) that any Former Landlord owed to Tenant unless such sums, if any, shall have been delivered to Mortgagee by way of an assumption of escrow accounts or otherwise; (ii) with respect to any security deposited with Former Landlord, unless such security was actually delivered to Mortgagee; (iii) to commence or complete any initial construction of improvement in the Leased Premises or any expansion or rehabilitation of existing improvements thereon; (iv) to reconstruct or repair improvements following a fire, casualty or condemnation; or (v) to perform day-to-day maintenance and repairs.

(d) Modification, Amendment or Waiver. Any modification or amendment of the Lease, or any waiver of the terms of the Lease, made without Mortgagee's written consent.

(e) Surrender, Etc. Any consensual or negotiated surrender, cancellation, or termination of the Lease, in whole or in part, agreed upon between Landlord and Tenant, unless effected unilaterally by Tenant pursuant in the express terms of the Lease.

Exculpation of Successor Landlord. Notwithstanding anything to the contrary in this Agreement, or the Lease, upon any attornment pursuant to this Agreement, the Lease shall be deemed to have been automatically amended to provide that Successor's Landlord's obligations and liability under the Lease shall never extend beyond Successor Landlord's (or its successors' or assigns') interest, if any, in the Leased Premises from time to time, including insurance and condemnation proceeds, security deposits, escrows, Successor Landlord's interest in the Lease, and the proceeds from any sale, lease or other disposition of the Property (or any portion thereof) by Successor Landlord (collectively, the "Successor Landlord's Interest"). Tenant shall look exclusively to Successor Landlord's Interest (or that of its successors and assigns) for payment or discharge of any obligation of Successor Landlord affected by this Agreement. If Tenant obtains any money judgment against Successor Landlord with respect to the Lease or the relationship between Successor Landlord and Tenant, then Tenant shall look solely to Successor Landlord's Interest (or that of its successors and assigns) to collect such judgment. Tenant shall not collect or attempt to collect any such judgment out of any other assets of Successor Landlord.

Notice to Mortgagee and Right to Cure. Tenant shall notify Mortgagee of any default by Landlord under the Lease and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation thereof or of an abatement shall be effective unless Mortgagee shall have received notice of default giving rise to such cancellation or abatement and (i) in the case of any such default that can be cured by the payment of money, until thirty (30) days shall have elapsed following the giving of such notice or (ii) in the case of any other such default, until a reasonable period for remedying such default shall have elapsed following the giving of such notice and following the time when Mortgagee shall have become entitled under the Mortgage to remedy the same, including such time as may be necessary to acquire possession of the Property if possession is necessary to effect such cure, provided Mortgagee, with reasonable diligence, shall (a) pursue such remedies as are available to it under the Mortgage so as to be able to remedy the default, and (b) thereafter shall have commenced and continued to remedy such default or cause the same to be remedied, but in no event shall such period of time exceed one hundred and twenty (120) days. Notwithstanding the foregoing, Mortgagee shall have no obligation to cure any such default.

Miscellaneous.

(a) Notices. Any notice or request given or demand made under this Agreement by one party to the other shall be in writing and may be given or be served by hand delivered personal service, or by depositing the same with a reliable overnight courier service or by deposit in the United States mail, postpaid, registered or certified mail, and addressed to the party to be notified, with return receipt requested. Notice deposited in the mail in the manner hereinabove described shall be effective from and after the expiration of three (3) days after it is so deposited; however, delivery by overnight courier service shall be deemed effective on the next succeeding business day after it is so deposited and notice by personal service shall be deemed effective when delivered to its addresses. For purposes of notice, the addresses of the parties shall, until changed as herein provided, be as follows:

If to Mortgagee, at: _____

If to Tenant, at Montgomery County, Maryland

Department of General Services
Tenth Floor
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attn: Director of Real Estate

With Copy Not To Constitute
Notice To:

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

(b) Entire Agreement. This Agreement constitutes the entire agreement between Mortgagee and tenant regarding the subordination of the Lease to the Mortgage and the rights and obligations of tenant and Mortgagee as subject matter of this Agreement.

(c) Interaction with Lease and with Mortgage. If this Agreement conflicts with the Lease, then this Agreement shall govern as between the parties and any Successor Landlord, including upon any attornment pursuant to this Agreement. This Agreement supersedes, and constitutes full compliance with, any provisions in this Lease that provide for subordination of the Lease to, or for delivery of nondisturbance agreements by the holder of, the Mortgage.

(d) Mortgagee's Rights and Obligations. Except as expressly provided for in this Agreement, Mortgagee shall have no obligations to Tenant with respect to the Lease. If an attornment occurs pursuant to this Agreement, then all rights and obligations of Mortgagee under this Agreement shall terminate, without thereby affecting in any way the rights and obligations of Successor Landlord provide for in this Agreement.

(e) Interpretation: Governing Law. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the State in which the leased Premises are located, excluding such States principles of conflict of laws.

(f) Amendments. This Agreement may be amended, discharged or terminated, or any of its provisions, waived only by written instrument executed by the party to be charged.

(g) Due Authorization. Tenant represents to Mortgagee that it has full authority to enter into this Agreement, which has been duly authorized by all necessary actions. Mortgagee represents to Tenant that it has full authority to enter into this Agreement, which has been duly authorized by all necessary actions.

In WITNESS WHEREOF, the Mortgagee and Tenant have caused this Agreement to be executed as of the date first above written.

ATTEST:

Name: _____
Title: _____

ATTEST:

By: _____

APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: _____

Date: _____

MORTGAGEE

By: _____
Name: _____
Title: _____

TENANT:

MONTGOMERY COUNTY, MARYLAND

By: _____
Diane Schwartz Jones
Chief Administrative Officer

RECOMMENDED:

By: _____
Cynthia L. Brenneman, Director
Office of Real Estate

Date: _____