

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2011 Legislative Session

Legislative Day No. 4

Bill No. 15 - 2011

Introduced by: The Chairperson at the request of the County Executive

AN ACT approving, in accordance with Section 612 of the Howard County Charter, a thirty-two year lease of the land and proposed recreation center located on Mt. Ida Drive, Ellicott City, Howard County, Maryland by and between the Howard County Housing Commission, and Howard County, Maryland and, pursuant to Section 13.1312(s) of the Howard County Code, authorizing the County Council and the County Executive to approve a commercial facility adjacent to a housing project.

Introduced and read first time _____, 2011. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2011.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2011 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2011 at ____ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2011

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, the Howard County Housing Commission (the “Commission”) seeks to
2 redevelop the Hilltop apartment complex, the Ellicott Terrace apartment complex, and the Roger
3 Carter Recreation Center into a 278-unit, mixed-income, multi-generational, sustainable and
4 universally designed community, with a public recreation facility, located on a separate lot adjacent
5 to the residential lot, that will include an indoor swimming pool, basketball court, a fitness facility,
6 multi-purpose room, and classrooms (the “Recreation Center”) that will serve both the redeveloped
7 community and the neighborhood at large (collectively, the “Redevelopment”); and

8
9 **WHEREAS**, as part of the Redevelopment, the Commission intends to issue bonds to
10 finance the design and construction of the Recreation Center which will replace the existing Roger
11 Carter Center in Ellicott City; and

12
13 **WHEREAS**, the County desires to operate the Recreation Center through its Department of
14 Recreation and Parks and has agreed with the Commission on the principal terms of the Agreement
15 of Lease, the proposed form of which is attached hereto as Exhibit A, for a term of thirty-two (32)
16 years and rent payments based on the debt service on the bonds; and

17
18 **WHEREAS**, the Agreement of Lease requires the expenditure of County funds in future
19 fiscal years and therefore requires County Council approval as a multi-year agreement pursuant to
20 Section 612 of the Howard County Charter; and

21
22 **WHEREAS**, Section 13.1312(s) of the Howard County Code authorizes the County Council
23 to approve the Commission’s development of a commercial facility that is adjacent to the site of a
24 housing project, which Recreational Center shall be operated by the County’s Department of
25 Recreation and Parks pursuant to the Agreement of Lease and shall serve the citizens of the County.

26
27 **NOW, THEREFORE,**

28
29 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in accordance*
30 *with Section 612 of the Howard County Charter, it approves the terms of the Agreement of Lease,*

1 *the form of which, is Exhibit A attached to this Act.*
2

3 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that the
4 *County Executive is hereby authorized to execute and deliver the Agreement of Lease for such term*
5 *in the name of and on behalf of the County.*
6

7 ***Section 3. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
8 *the County Executive, prior to execution and delivery of the Agreement of Lease, may make such*
9 *changes or modifications to the Agreement of Lease as he deems appropriate in order to*
10 *accomplish the purpose of the transactions authorized by this Act, provided that such changes or*
11 *modifications shall be within the scope of the transactions authorized by this Act; and the*
12 *execution of the Agreement of Lease by the County Executive shall be conclusive evidence of the*
13 *approval by the County Executive of all changes or modifications to the Agreement of Lease, and*
14 *the Agreement shall thereupon become binding upon the County in accordance with its terms.*
15

16 ***Section 4. And Be It Further Enacted*** by the County Council of Howard County, Maryland that the
17 *Commission's development of the Recreation Center, a commercial facility, that is adjacent to the*
18 *site of a housing project is hereby approved.*
19

20 ***Section 5. And Be It Further Enacted*** by the County Council of Howard County, Maryland that this
21 *Act shall be effective immediately upon its enactment.*

LEASE AGREEMENT

DATED AS OF _____

BY AND BETWEEN

HOWARD COUNTY HOUSING COMMISSION,
AS LESSOR

AND

HOWARD COUNTY, MARYLAND,
AS LESSEE

TABLE OF CONTENTS

	<u>PAGE</u>
1. RECITATIONS	2
2. PREMISES	2
3. INITIAL TERM	2
4. RENT	2
5. OBLIGATIONS OF COUNTY ABSOLUTE	3
6. CONTINUATION OF TERM BY COUNTY	4
7. NONSUBSTITUTION	4
8. NONAPPROPRIATION	5
9. ESSENTIAL USE.....	5
10. PREPAYMENT, TERMINATION, <u>CONVEYANCE OF OWNERSHIP</u>	5
11. USE OF THE PROJECT	8
11A. HAZARDOUS MATERIALS	8
12. CONSTRUCTION AND IMPROVEMENTS.....	9
13. OPERATION OF THE PROJECT	9
14. ALTERATIONS AND IMPROVEMENTS	9
15. OPERATING EXPENSES AND RESPONSIBILITY	10
16. LIABILITY AND PROPERTY INSURANCE	10
17. EMINENT DOMAIN	12
18. HOLD HARMLESS	12
19. DESTRUCTION OF PREMISES.....	13
20. DEFAULT	13
21. ASSIGNMENT AND SUBLEASING.....	14
22. Reserved.....	14
23. Reserved.....	14
24. LIENS AND ENCUMBRANCES	15
25. SURRENDER OF POSSESSION	15
26. HOLDOVER.....	15
27. NET-NET-NET-LEASE.....	15
28. NOTICE OF DEFECTS.....	15
29. COUNTY'S ACQUISITION OF BONDS PROHIBITED.....	16
30. Reserved.....	16
31. QUIET POSSESSION	16
32. COMPLIANCE WITH LAWS	16
33. BENEFIT AND BURDEN	16
34. WAIVER.....	16
35. NON-DISCRIMINATION.....	16
36. CONTRACT SOLICITATION.....	16
37. COUNTY ETHICS LAWS.....	16
38. SEVERABILITY	17
39. FURTHER ASSURANCES	17
40. ENTIRE AGREEMENT; AMENDMENT.....	17
41. MAILING NOTICES.....	17

42.	COUNTERPARTS	18
43.	GOVERNING LAW	18

EXHIBIT A - DESCRIPTION OF LEASED PREMISES

EXHIBIT B - DESCRIPTION OF PROJECT

EXHIBIT C - LEASE PAYMENTS

EXHIBIT D - ISSUER CONTRIBUTION PAYMENTS

LEASE AGREEMENT

THIS LEASE AGREEMENT (including all Exhibits attached hereto, collectively the "Lease Agreement") is made and entered into as of _____, 2011, by and between the HOWARD COUNTY HOUSING COMMISSION (the "Issuer"), a public body corporate and politic, duly existing under and by virtue of the laws of the State of Maryland and of Howard County, Maryland, as lessor, and HOWARD COUNTY, MARYLAND, a body corporate and politic, duly organized and existing under the Constitution and laws of the State of Maryland (the "County"), as lessee.

WITNESSETH

WHEREAS, pursuant to a deed dated _____ and recorded among the land records of Howard County, Maryland at Liber ____, Folio ____ (including all Exhibits thereto) the Issuer is the fee simple owner of the Leased Premises, as herein defined and more particularly described on Exhibit A attached hereto;

WHEREAS, the Issuer is developing a multi-family mixed income residential community on the property adjacent to the Leased Premises;

WHEREAS, pursuant to the County Executive's and the County Council's approval, the Issuer will acquire, develop, construct and lease certain improvements on the Leased Premises, including a recreation center and parking garage and the related structures and site improvements, which may include an indoor swimming facility, to be located on the Leased Premises (the "Project") as described more fully in the project description attached hereto as Exhibit B, which may be amended as provided for in this Lease Agreement;

WHEREAS, in order to finance the cost of developing, constructing and equipping the Project on the Leased Premises, for the benefit of the County and its residents, the Issuer will issue its revenue bonds designated "Howard County Housing Commission _____" (the "Bonds") and use and apply the proceeds thereof for the costs of developing, constructing and equipping the Project on the Leased Premises, in exchange for the County entering into and performing its obligations under this Lease Agreement; and

WHEREAS, the County desires to enter into this Lease Agreement with the Issuer for the use and enjoyment of the Leased Premises and the Project and in furtherance of its recreation programs in Ellicott City, Maryland.

NOW THEREFORE, in consideration of the foregoing and of the covenants and mutual promises herein contained and other good and valuable consideration, as hereinafter provided, the parties hereto mutually agree as follows:

1. RECITATIONS. The recitations set forth above are hereby incorporated herein by reference.

2. PREMISES. The Issuer does hereby lease and demise unto the County, and the County hereby enters into this Lease Agreement with the Issuer, for the exclusive use and operation of the Leased Premises and the Project, together with all easements, rights, provisions, advantages, or appurtenances pertaining or appertaining thereto.

3. INITIAL TERM. The initial term of this Lease Agreement shall be thirty-two (32) years, commencing on the date of its execution and delivery and terminating on _____, 2043. Subject to the provisions of Paragraph 8 and Paragraph 23 hereof, the parties shall have the right by mutual agreement to renew this Lease Agreement beyond the initial term for ten (10) additional years in two (2), five (5) year renewal terms on the same terms and conditions under this Lease Agreement. Except where the context otherwise requires, any reference to the term of this Lease Agreement shall include any extension thereof in accordance herewith.

4. RENT.

(A) From the date of this Lease Agreement to the date of the issuance of the Bonds referred to in Paragraph 22 hereof, the County shall pay to the Issuer as rent hereunder the sum of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged by the Issuer. Commencing upon the date of issuance of the Bonds and continuing so long as the Bonds are outstanding and unpaid, the County shall pay to the Issuer as rent hereunder the amounts set forth in Exhibit C hereto (the "Lease Payments") on the dates prescribed therefor in Exhibit C hereto (the "Lease Payment Dates"). The parties agree that, if, on the date of execution of this Lease Agreement, the amounts to be set forth in Exhibit C are unascertained, the parties hereto shall execute an addendum to this Lease Agreement in order to add Exhibit C to this Lease Agreement no later than the date of issuance of the Bonds. Such Exhibit C shall provide for semiannual payments of the Lease Payments on _____ and _____ in each year, commencing on _____, 2014, said date targeted for the completion of the Project, and continuing for so long as the Bonds are outstanding, subject to the conditions set forth in this Section 4(A). The amounts to be set forth in Exhibit C shall be equal to the amounts required to pay the principal of and the interest on the Bonds.

(B) The parties recognize and agree that integral to the issuance of the Bonds for the Project, the Issuer will assign certain of its rights under this Lease Agreement to a trustee (the "Trustee") for the benefit of the owners of the Bonds pursuant to a trust agreement to be executed by and between the Issuer and a Trustee (the "Trust Agreement"). The parties agree that so long as the Bonds remain outstanding and unpaid, all Lease Payments due to the Issuer under subparagraph (A) of this Paragraph 4 shall be paid by the County to the Trustee, as assignee of the Issuer, for deposit into the Lease Payment Fund to be created under the Trust Agreement (the "Lease Payment Fund") and for disbursement to the owners of the Bonds, all as shall be provided in the Trust

Agreement. The parties further agree that any amounts transferred by the Trustee to the Lease Payment Fund pursuant to the Trust Agreement shall be treated, *pro tanto*, as a payment of rent by the County pursuant to subparagraph (A) of this Paragraph 4.

(C) Commencing on _____, 2014, and continuing on each Lease Payment Date thereafter for so long as the Bonds are outstanding, the Issuer shall contribute funds toward the Lease Payments in the amount calculated pursuant to the terms of Exhibit D (the "Issuer Contribution Payments"). The Issuer shall send the Issuer Contribution Payments to the Director of Finance of Howard County at 3430 Court House Drive, Ellicott City, Maryland 21043. The Issuer Contribution Payment is a material term of this Lease Agreement and is an absolute and unconditional obligation of the Issuer to the County. Notwithstanding anything herein to the contrary, the Issuer's failure to make the Issuer Contribution Payments shall not constitute an event of default under this Lease Agreement. In addition, nothing in this subparagraph 4(C) shall affect or impair the obligation of the County, which is absolute and unconditional (subject to Paragraph 8 (Nonappropriation), to pay the Lease Payments as provided in this Lease Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Issuer to institute suit to enforce and collect such payment.

5. OBLIGATIONS OF COUNTY ABSOLUTE. Subject to Paragraph 8 (Nonappropriation) under this Lease Agreement, the obligation of the County to pay Lease Payments and all other amounts payable hereunder shall be absolute, irrevocable, complete and unconditional and the amount, manner and time of payment of such amounts shall not be decreased, abated, rebated, set-off, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever, regardless of any right of set-off, recoupment, or counterclaim that the County might otherwise have against the Issuer or any party or parties and regardless of any contingency provided for in this Lease Agreement, an act of God, event of casualty, or an act or cause such as the following:

- (a) any damage to or destruction of any part or all of the Project;
- (b) the taking or damaging of any part or all of the Project or the Leased Premises by any public authority or agency in the exercise of the power of eminent domain or otherwise, except as otherwise provided herein;
- (c) any assignment, novation, merger, consolidation, sale or transfer of assets, leasing or other similar transaction of or affecting the County, whether with or without the approval of the Issuer, except as otherwise expressly provided herein;
- (d) the expiration of any term, covenant or condition of this Lease Agreement pursuant to any provisions hereof or by operation of law, including without limitation this Lease Agreement being terminated by operation of the provisions of Paragraph 3 (Term), Paragraph 23 (Termination; Succession by County), or Paragraph 8 (Nonappropriation) hereof;

(e) any change or delay in the time of availability to the County for use of the Project or delays in the construction or equipping of the Project by the County;

(f) the failure to complete or to maintain satisfactory progress in the construction of the Project, whether due to the fault or negligence of Issuer or any other cause or reason (including, without limitation, any failure of the Issuer to comply with the provisions of Paragraph 14);

(g) failure of consideration, failure of title or commercial frustration; and/or

(h) any change in the tax or other laws of the United States of America or any other governmental authority.

Notwithstanding anything to the contrary contained in this Paragraph 5, the County is not waiving any separate claims or actions that it may have against Issuer arising out of or relating to this Lease Agreement, including those which may be set forth in this Paragraph 5.

6. CONTINUATION OF TERM BY COUNTY. The County agrees, subject to the provisions of Paragraph 8, to pay the Lease Payments due hereunder, as set forth in Exhibit C. The County reasonably believes that funds of an amount sufficient to make all Lease Payments during the term of this Lease Agreement will be available. The County Executive, pursuant to Council Bill _____, agrees to annually request the appropriation of funds from which the Lease Payments and all other payments to be made by the County under this Lease Agreement may be made, including (without limitation) the inclusion of such funds in the budget of the County to be submitted to the County Council for Howard County, Maryland (the "County Council") for approval and a request for adequate funds to meet its annual obligations hereunder in full in its next fiscal year budget. Nothing in this Paragraph 6 shall obligate the County Council to make any appropriation and is not intended to be a pledge of the County's full faith and credit.

7. NONSUBSTITUTION. The County agrees, to the extent permitted by law and subject to (i) applicable public policy, (ii) Issuer not being in default under this Lease Agreement, and (iii) other conditions or contingencies as set forth in this Lease Agreement, (a) not to terminate this Lease Agreement under Paragraph 8 in any fiscal year for which sufficient funds are appropriated for the payment of Lease Payments due in that fiscal year for the acquisition (by either purchase or lease or otherwise), retention and/or operation of the Project, and (b) the County Executive will use best efforts to obtain the authorization and appropriation of such funds, including, without limitation, the inclusion of such funds in the budget of the County to be submitted to the County Council and a request for adequate funds to meet its obligations hereunder in full in its next fiscal year budget. The County agrees to apply funds that are appropriated for the Project to the payment of its obligations hereunder, subject to the conditions set forth in this Paragraph 7 and this Lease Agreement. This Paragraph shall not be construed so as

to permit the County Executive to, and the County Executive shall not, by failing to comply with the provisions of Paragraph 6 hereof, terminate this Lease Agreement in order to acquire (through construction, purchase, lease or otherwise) similar, functionally similar or competitive improvements from any other party or to allocate funds to perform indirectly essentially the same functions to the same extent for which the Project is intended. It is the intention of the parties hereto that any official or agency of the County which may be required to take any action in order to carry out the provisions of this Lease Agreement shall take such action to the extent permitted by applicable law.

8. NONAPPROPRIATION. In the event sufficient funds shall not be appropriated for the payment of the Lease Payments required to be paid under Exhibit C, the County may terminate this Lease Agreement at the end of the last fiscal year or earlier date for which an appropriation is available and the County shall not be obligated to make payment of the Lease Payments provided for in this Lease Agreement beyond the last date for which an appropriation is available. Notwithstanding any provision of this Lease Agreement to the contrary, if a request for an appropriation to pay a Lease Payment has been made by the County Executive to the County Council and the County Council fails to make the appropriation requested, the County shall have the right to terminate this Lease Agreement as set forth in this Paragraph 8. The County shall deliver written notice to the Issuer of such termination no later than seven (7) days after the County has knowledge that an appropriation will not be available. The failure to give such notice shall not extend the Term beyond such fiscal year nor affect the termination of this Agreement pursuant to this Paragraph 8. Upon termination of this Lease Agreement for nonappropriation, the obligations of the County requiring the expenditure of money will cease so long as all payments previously approved or appropriated have been made, and all interest of the County in the Project and the County's leasehold interest in the Leased Premises under this Lease Agreement will terminate and be conveyed to the Issuer (or the Trustee as the assignee of the Issuer as provided in the Trust Agreement). The Issuer (or the Trustee as the assignee of the Issuer) may thereupon take possession of the Project and the Leased Premises.

9. ESSENTIAL USE. The County represents that the Project will serve the needs of the citizens of Howard County, Maryland, and the County will use the Project so that it can close a recreational center that does not provide all the recreational facilities and amenities as the Project. The County further covenants and agrees that the County will use the Project only for the purpose of performing one or more essential functions of the County consistent with the permissible scope of the County's authority and within the scope of authorized public purposes.

10. PREPAYMENT, TERMINATION, CONVEYANCE OF OWNERSHIP.

(A) The County shall have the option to prepay the Lease Payments in whole on any Lease Payment Date on or after _____, by paying a prepayment price equal to the aggregate unpaid principal amount of all then-outstanding Bonds, plus that amount of interest required to be paid with respect to all then-outstanding Bonds on the

next following Payment Date (as shall be defined in the Trust Agreement), all pursuant to the terms of the Bonds and the Trust Agreement. Such prepayment price and interest shall be applied by the Trustee to the redemption of the Bonds pursuant to the Trust Agreement. The County shall give the Trustee and the Issuer written notice of its intention to exercise its option hereunder not less than sixty (60) days in advance of the date of exercise.

(B) The County shall have the option to prepay the Lease Payments in part on any Lease Payment Date on or after _____, by paying a prepayment price in any integral multiple of \$5,000 (for the purposes of this subparagraph only, the “prepayment price”) plus that amount of interest payable with respect to Bonds in a principal amount equal to the prepayment price on the next following Payment Date, all pursuant to the terms of the Bonds and the Trust Agreement. Such prepayment price and interest shall be applied by the Trustee to the partial redemption of the Bonds pursuant to the Trust Agreement. The County shall give the Trustee and the Issuer notice of its intention to exercise its option hereunder not less than sixty (60) days in advance of the date of exercise. Upon the redemption of the Bonds with a prepayment made by the County pursuant to this subparagraph (B), the Trustee shall recalculate the Lease Payments set forth in Exhibit C hereto, such that the amounts therein will be sufficient to meet future principal and interest payments on the Bonds, and the Issuer and the County shall take all actions necessary, in the judgment of bond counsel, to amend Exhibit C hereto in order to render such recalculations fully and legally binding and enforceable. Partial prepayments of the principal portion of the Lease Payments shall be applied to the Lease Payments in the order of maturity directed by the Issuer. Upon any such partial redemption of Bonds resulting from an optional prepayment of Lease Payments, the Trustee shall amend Exhibit C hereto to reflect the principal portion of all remaining Lease Payments and shall recalculate the amount of the interest portion of each remaining Lease Payment accordingly.

(C) In the event that the Trust Agreement shall be discharged pursuant to its terms as a result of any prepayment of the Lease Payments under this Paragraph 10, all properly creditable amounts then held by the Trustee under the Trust Agreement shall be credited toward the amounts then required to be so prepaid, including amounts then on deposit in the Lease Payment Fund, (or other funds as created under and defined in the Trust Agreement) to the extent not required to be deposited to the Rebate Fund (as it shall be created under and defined in the Trust Agreement) or otherwise rebated to the United States under Section 148(f) of the Internal Revenue Code of 1986, as amended (the “IRC”).

(D) Notwithstanding any other provision of this Lease Agreement, the County may, on any date, secure the payment of all Lease Payments due under subparagraph (A) of Paragraph 4 by means of a security deposit with the Trustee to be deposited in the Security Deposit Fund (to be created under the Trust Agreement) of an amount of:

(1) cash, together with amounts held by the Trustee under the Trust Agreement and together with permissible interest to accrue thereon (to the extent not required to be deposited to the Rebate Fund (to be created under the Trust Agreement) or otherwise rebated to the United States under Section 148(f) of the IRC), or

(2) (i) Federal Securities (as shall be defined in the Trust Agreement), together with permissible interest to accrue thereon, and (ii) if needed, cash, and (iii) if needed, all or a portion of moneys or Federal Securities then on deposit with the Trustee under the Trust Agreement (to the extent not required to be deposited to the Rebate Fund created under the Trust Agreement or otherwise rebated to the United States under Section 148(f) of the IRC), which, in the opinion of an independent certified public accountant, will be fully sufficient to pay all unpaid payments of the principal of, and the interest and redemption premiums (if any) on, the Bonds, when and as the same shall become due and payable in accordance with the terms of the Bonds and the Trust Agreement. Such security deposit shall be deemed to be and shall constitute a special fund in full satisfaction of the County's obligation to make payment of the Lease Payments in accordance with this Lease Agreement and the Trust Agreement.

(E) Under the Trust Agreement, the County may be obligated to prepay the Lease Payments, in whole or in part, on any Lease Payment Date, from and to the extent of any net proceeds (net of any expenses of collection) of any insurance award or condemnation award received or from any moneys allocated from self-insurance to be deposited in a lease payment fund which may be created under and defined in the Trust Agreement. The County and the Issuer hereby agree that such net proceeds or such moneys available from self-insurance so deposited, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the County's obligations under this subparagraph 10.(E) In the event of a partial redemption of the Bonds resulting from a mandatory prepayment of the Lease Payments as provided in the Trust Agreement, the Trustee shall recalculate the Lease Payments set forth in Exhibit C hereto, such that the amounts therein will be sufficient to meet future principal and interest payments on the Bonds, and the Issuer and the County shall take all actions necessary, in the judgment of bond counsel to the Issuer, to amend Exhibit C hereto in order to render such recalculations fully and legally binding and enforceable. Partial prepayments of the principal portion of the Lease Payments shall be applied to the Lease Payments in the order of the maturity directed by the Issuer. Upon any such partial redemption of Bonds resulting from a mandatory prepayment of Lease Payments, the Trustee shall amend Exhibit C hereto to reflect the principal portion of all remaining Lease Payments and shall recalculate the amount of the interest portion of each remaining Lease Payment accordingly.

(F) In the event that the County elects to prepay all Lease Payments under this Paragraph 10 and the Bonds shall have been retired and paid in full, or when provision for their payment has been made pursuant to Paragraph 10 hereof and the Trust

Agreement, or in any other event when the Bonds are paid in full and retired, then the Issuer shall at the written request of the County convey title to the Leased Premises and the Project to the County for no additional payments or consideration. Upon said conveyance of ownership to the County, this Lease Agreement shall terminate and be of no further force and effect. The County may exercise its rights under this Paragraph 10.(F) by giving written notice to the Issuer at any time after retirement of the Bonds or after provision for their payment has been made pursuant to Paragraph 10 hereof and the Trust Agreement.

11. USE OF THE PROJECT. The term "Project", wherever used in this Lease Agreement, shall be construed to include the recreation center and parking garage (including all equipment, fixtures, furnishings, and systems located therein) and the related structures and site improvements, which may include a swimming facility, which will be constructed on the Leased Premises, and all repairs thereto or replacements thereof. The Project is further described in Exhibit B hereto, which may be amended as provided in Section 12 of this Lease Agreement. The Leased Premises shall be used by the County solely for the operation, and maintenance of the Project, thereon, subject to the provisions of this Lease Agreement. The County shall not use, nor shall it permit any person to use, the Leased Premises or the Project in any way that would or might cause the Bonds to be considered "private activity bonds" under Section 141(a) of the IRC, nor take or permit to be taken any other action that would or might adversely affect the excludability of the interest payable on the Bonds from the gross income of the registered owners thereof for federal income tax purposes or impair any collateral securing the Bonds.

11A. HAZARDOUS MATERIALS. The County hereby covenants not to place, manufacture, store or use, or permit to be placed, manufactured, stored or used on the Leased Premises any Hazardous Materials, except such Hazardous Materials as are customarily or necessarily placed, manufactured, stored, or used in connection with the operation of facilities such as the Project and which will be placed, manufactured, stored or used in compliance with all applicable federal, state and local laws.

As used in this Paragraph 11A, "Hazardous Materials" means (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (c) any "oil" as defined by the Maryland Environment Code Ann. Section 4-401(c)(1), as amended from time to time, and regulations promulgated thereunder; (d) any "hazardous substance" as defined by the Maryland Environment Code Ann., Section 7-201, as amended from time to time, and regulations promulgated thereunder; (e) any substance the presence of which on the Leased Premises is prohibited by any federal, state or local law similar to those set forth in this definition and regulations promulgated thereunder; and (f) any other substance which by applicable federal, state or local law and regulations promulgated thereunder

requires special handling in its collection, storage, treatment, use or disposal. As used in this Paragraph 11A, "Hazardous Materials Contamination" means the contamination of the Leased Premises, facilities, soil, ground water, air or other elements on, or of, the Leased Premises by Hazardous Materials, or the contamination of the buildings, facilities, soil, ground water, air or other elements on, or of, any other property as a result of Hazardous Materials at any time emanating from the Leased Premises or the Project.

12. CONSTRUCTION AND IMPROVEMENTS. The Issuer shall undertake, or cause to be undertaken, the development, including but not limited to the design, construction, equipping and operation, of the Project on the Leased Premises. Pursuant to a competitive bid process, the Issuer has engaged Stavrou at Hilltop, LLC (the "Developer") for the development, design, construction, and equipping of the Project. The Developer, in accordance with Exhibit B, shall direct the design, construction and equipping of the Project in observance with local, State, and Federal codes and regulations, and the drawings, plans and specifications approved in writing by the County as listed in Exhibit B. Prior to and during construction, the parties, by mutual agreement, may amend Exhibit B, upon obtaining approvals under the bond documents, if so required. The County and the Trustee shall have free and unhindered access, during regular business hours, to all documents and data, such as financial records, reports, inspections and construction documents, relating to the planning, design, and construction of the Project and as-builts upon completion of the project (collectively the "Construction Documents"). The Issuer shall provide to the County a complete set of all Construction Documents upon completion of the Project. The Construction Documents shall be retained by the Issuer for not less than six (6) years following completion of the Project.

13. OPERATION OF THE PROJECT. The Project shall be operated by the County under the laws, policies and rules and regulations of the County, including Title 19 of the Howard County Code, in accordance with the policies established now or hereafter by the County for the operation of the Project.

14. ALTERATIONS AND IMPROVEMENTS. Prior to acceptance of the Project for leasing and operating, the County will conduct an inspection of the Project and submit a punch list of items, if any, which need to be repaired or replaced. After acceptance of the Project, the County will have one year to submit repair and replacement requests to the Developer for the Developer's prompt completion. After the one-year punch list period, the Issuer will make all necessary repairs and replacements requested by the County to keep the Project in good condition and repair and safe for use as a recreational and parking facility. After the construction and equipping of the Project is complete, the County shall not make material alterations, additions, or improvements to the Project without the approval of the Issuer, which approval shall not unreasonably be withheld. With respect to the construction, use, and occupancy of the Project, Issuer shall cause the Developer to acquire all necessary permits, approvals, and certificates therefor and for the observation of all building ordinances and regulations then in effect and applicable thereto. All fixed improvements made to the Leased Premises shall, at the

expiration or sooner termination of this Lease Agreement, remain and be surrendered with the Leased Premises, unless otherwise agreed to by the parties.

15. OPERATING EXPENSES AND RESPONSIBILITY.

(A) Project. The County shall at all times during the term of this Lease Agreement maintain the Project in good repair, working order, and operating condition. To this end, the County shall be responsible for all aspects of the operation, maintenance and policing of the Project, including but not limited to the payment of all operating expenses relating to the use and occupancy of the Project, such as costs of maintenance and repair of the building and equipment, fixtures, roof, windows, electrical systems, utilities, janitorial services, refuse removal, telephone service, security, maintenance and repair of heating and air conditioning systems, plumbing systems, pest control, and any other work or expense incurred by virtue of the use, maintenance, and operation of the Project. The County shall be responsible for the collection of fees (if any) received in connection with the operations and programs of the Project and any related facilities, the hiring and supervision of employees and contractors in connection with the operation and management of the Project, and the provision of all appropriate safety equipment and personnel. The Issuer and the County acknowledge and agree that the County may enter into one or more collateral agreements with other persons with respect to the upkeep, operation, maintenance and policing of the Project in which such other persons agree to accept certain responsibilities with respect to all or a portion of the Project; provided that, entry into any such agreements shall not relieve the County of its responsibility, as between the County and the Issuer, for the matters set forth in this subparagraph (A).

(B) Leased Premises. The County shall, at all times during the term of this Lease Agreement, keep the Leased Premises in good and well-maintained condition. To this end, the County shall be responsible for the operation, maintenance, and policing of the Leased Premises, including maintenance of green space, side-walks, landscaping and grounds upkeep, cleaning and refuse removal, exterior lighting, snow and ice removal, upkeep of equipment, and any other work necessary to the proper upkeep, operation, and maintenance of the Leased Premises. The County may enter into one or more collateral agreements with other persons with respect to the upkeep, operation, and maintenance of all or a portion of the Leased Premises; provided, that, entry into any such agreements shall not relieve the County of its responsibility, as between the County and the Issuer, for the matters set forth in this subparagraph (B).

16. LIABILITY AND PROPERTY INSURANCE.

(A) The County agrees to maintain, during the term of this Lease Agreement, general liability insurance with combined single limit of not less than \$1 million per occurrence and aggregate. The maintenance of such insurance does not constitute a waiver of the immunities, liability caps and defenses available to Howard County, Maryland, for its officers, agents and employees under the Maryland Local

Government Tort Claims Act, Section 5-301 *et seq.* of the Courts and Judicial Proceedings Article, Maryland Annotated Code, as amended.

(B) The County agrees to maintain, or cause to have maintained, during the term of this Lease Agreement, coverage similar to that provided in an All Risk property policy, if applicable, and a commercial general liability policy covering the Leased Premises and the Project, through a combination of self-insurance and Excess coverage, with limits of not less than the greater of (i) the replacement cost of the Project, or (ii) the outstanding principal amount of the Bonds.

(C) The County shall, if appropriate, within thirty (30) days from execution of this Lease Agreement and annually thereafter, deliver to the Issuer satisfactory evidence of the coverage hereinabove stated. Any property coverage policy obtained under this Paragraph 16 shall name the Issuer and the Trustee as loss payees, as their interests appear.

(D) The County may, at its option, satisfy its obligations set forth in this Paragraph 16 by means of self-insurance in the amounts prescribed above; provided, however, that doing so shall constitute a representation and warranty, both of which shall continue in effect during the period of self-insurance, that it has sufficient resources or reserves to satisfy the minimum insurance requirements set forth in subparagraphs (A) and (B) of this Paragraph 16.

(E) The County may, at its sole discretion, use the net proceeds (*i.e.*, proceeds net of any expenses of collection) of any property insurance award resulting from any damage to or destruction of the Leased Premises or the Project (including amounts provided by self-insurance) to repair or rebuild the Project to like kind and quality. Should the Property be totally destroyed or should the County otherwise elect not to make repairs, the net proceeds of any property insurance award shall be paid by the County or the Issuer, as the case may be, to the Trustee, as assignee of the Issuer under the Trust Agreement, and deposited in the Insurance and Condemnation Fund (as created under and defined in the Trust Agreement) by the Trustee and applied as set forth in Article VIII of the Trust Agreement.

(F) Waiver of Subrogation. Should damage to the adjacent property of either party to this Agreement occur as a result of the other's fire or other peril, then each party hereby releases the other, to the extent of the amount of insurance coverage less applicable deductibles, from any and all liability for such loss or damage, notwithstanding that such loss, damage or liability may arise out of the negligent or intentionally tortious act or omission of the party, its agents, employees, invitees or assigns, provided that such release shall be effective only as to loss or damage occurring while a policy of insurance of the releasing party provides for the insured's ability to recover thereunder. Each party shall submit documentation that its insurance carriers agree to waive subrogation in the event of a loss.

17. EMINENT DOMAIN.

(A) If all of the Leased Premises and the Project shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, then the term of this Lease Agreement shall cease as of the day possession shall be so taken and the Lease Agreement shall be deemed to be null and void, with no further obligations or liabilities arising hereunder (subject, however, to the provisions of subparagraph (D) of Paragraph 20). If less than all of the Leased Premises and the Project shall be taken permanently, or if all of the Leased Premises or the Project or any part thereof shall be taken temporarily, under the power of eminent domain, then this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking, and the parties waive the benefit of any law to the contrary.

(B) The net proceeds (i.e., proceeds net of any expenses of collection and the County's moving costs incurred) of any eminent domain award resulting from any event described in subparagraph (A) of this Paragraph 17 shall be paid by the County or the Issuer, as the case may be, to the Trustee, as assignee of the Issuer under the Trust Agreement, and deposited in the Insurance and Condemnation Fund (as created under and defined in the Trust Agreement) and applied as set forth in the Trust Agreement.

18. HOLD HARMLESS. Subject to the Maryland Local Government Tort Claims Act Section 5-301 *et seq.* of the Courts and Judicial Proceedings Article, Maryland Annotated Code, as amended, applicable law and the County's budget appropriations, the County agrees to indemnify and save the Issuer and the Trustee harmless from and against all actions, liability, claims, suits, damages, costs, or expenses of any kind which may be brought or made against the Issuer or the Trustee, as the case may be, or which the Issuer or the Trustee, as the case may be, may, with prior County approval, pay and incur by reason of or in any manner resulting from any injury or death to any person or damage to property in any manner connected with the use of the Leased Premises or the Project by the County, or resulting from the County's negligent performance of or failure to perform any of its obligations under the terms of this Lease Agreement, except such negligence as may be occasioned by the willful acts or negligent omissions of the Issuer or its employees, agents, or contractors or the Trustee or its officers and employees, as the case may be. The indemnification arising under this Paragraph 18 shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease Agreement or the termination of this Lease Agreement for any reason, but only as to matters arising prior to the date of such termination. As a condition of indemnification, Issuer agree to notify the County, of any suits, claims or potential claims within 10 days of its own notice of such suits, claims or potential claims. The foregoing indemnification is not to be deemed as a waiver of any immunity that may exist in any action against Howard County, MD for its officers, agents, volunteers and employees.

19. DESTRUCTION OF PREMISES.

In the event that the Leased Premises or the Project is destroyed or damaged from whatever cause so as to render all or a substantial portion of the Leased Premises or the Project unfit for the purposes for which the Leased Premises are leased to the County hereunder, and sufficient monies are available from insurance proceeds and other funding sources to reconstruct the Leased Premises and the Project, then this Lease Agreement shall not terminate but shall continue in full force and effect, and the Leased Premises and the Project shall be reconstructed, within twenty-four (24) months, or longer if good cause exists, from the date of such damage or destruction, and with available insurance proceeds and funding from other sources, unless otherwise agreed to by the parties hereto; provided, however, that nothing herein shall be construed to obligate the County or the Issuer to provide any funds for reconstruction purposes. In the event that the Leased Premises are not reconstructed, then this Lease Agreement shall terminate upon full payment of the Bonds.

20. DEFAULT.

(A) Subject to Paragraph 8 (Nonappropriation) and other express conditions set forth in this Lease Agreement, the County shall be in default of this Lease Agreement upon its failure to perform under any term, covenant, or condition of this Lease Agreement and the continuance thereof for sixty (60) days after written notice from the Issuer specifying such failure; provided, however, that in the case of the County's failure to make Lease Payments or pay any additional rent when due, the County shall be in default if such failure to make Lease Payments or pay any additional rent shall continue for either (i) five (5) days after written notice from the Issuer or the Trustee specifying such failure, or (ii) in the absence of such notice from the Issuer or the Trustee, ten (10) days.

(B) In the event that the County shall be in default as hereinabove stated, and shall fail to cure such default within the applicable sixty (60) day, five (5) day, or ten (10) day period, as the case may be, described in subparagraph (A) of this Paragraph 20 (or, except in the case of a failure to make Lease Payments or pay any additional rent when due, such longer period as may be reasonably required to correct the default with exercise of due diligence), then and in every such case thenceforth, at the option of the Issuer, the County's right of possession shall thereupon end and this Lease Agreement shall be terminated, and the Issuer may proceed to recover possession under Maryland laws, including all public local and public general laws as may be then available therefor.

(C) Notwithstanding any other provision of this Lease Agreement, if the County shall be in default as hereinabove stated, the Issuer may proceed to protect or enforce its rights by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power

herein granted, or by other appropriate proceeding for the enforcement of any other legal or equitable remedy available therefor to the Issuer.

(D) Subject to Paragraph 8 (Nonappropriation) and other express conditions set forth in this Lease Agreement, nothing in this Paragraph 20 or any other provision of this Lease Agreement shall affect or impair the obligation of the County, which is absolute and unconditional, to pay the Lease Payments as provided in this Lease Agreement, or affect or impair the right of action, which is also absolute and unconditional, of the Issuer to institute suit to enforce and collect such payment. No delay or omission of the Issuer to exercise any right or power arising upon the happening of any event of default described in this Paragraph 20 shall impair any such right or power or shall be construed to be a waiver of any such event of default or an acquiescence therein, and every power and remedy given by this Paragraph 20 to the Issuer may be exercised from time to time and as often as shall be deemed expedient by the Issuer.

(E) No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

21. ASSIGNMENT AND SUBLEASING.

(A) The Issuer will assign its rights under this Lease Agreement to the Trustee. Except as expressly provided in this Lease Agreement, the County shall not be entitled to and shall not assign this Lease Agreement or sublease all or any part of the Leased Premises or the Project to any third party, or transfer, pledge, mortgage, or surrender any right or interest in the Leased Premises or the Project to any third party, without the written consent of the Issuer, which shall not unreasonably be withheld, conditioned or delayed. Anything herein contained to the contrary notwithstanding, the Issuer shall have the right to refuse any assignment or subletting of the Leased Premises if, in the opinion of the Issuer or its counsel, such assignment or subletting would adversely affect the excludability of the interest payable on the Bonds from the gross income of the registered holders thereof for federal income tax purposes.

(B) Anything hereinabove to the contrary notwithstanding, the County shall be permitted to issue use permits and execute other instruments, such as licenses, reasonably necessary for and related to the operation and use of the Project without approval from the Issuer, provided that any such use permits or other instruments do not conflict with any provision of this Lease Agreement and do not adversely affect the excludability of the interest payable on the Bonds from the gross income of the registered holders thereof for federal income tax purposes.

22. Reserved.

23. Reserved.

24. LIENS AND ENCUMBRANCES.

The County shall not permit any liens to encumber the Leased Premises for any labor or material furnished to the County or the Issuer in connection with any work performed by or at the direction of the County. The County covenants and agrees that, in the event any mechanic's or materialmen's lien or any other lien is filed against the Leased Premises due to any act or omission, or any alleged act or omission, of the County, the County shall cause such lien to be discharged of record or bonded at the County's sole expense within thirty (30) days after notice to the County of the filing thereof. Any action taken by the County to discharge any such lien shall not be deemed an admission of liability on the part of the County.

25. SURRENDER OF POSSESSION. The County covenants, if not entitled to possession of the Leased Premises, at the expiration or other termination of this Lease Agreement, to remove all goods and effects from the Leased Premises not the property of the Issuer and to surrender to the Issuer the Leased Premises and return all keys, locks, and other fixtures connected therewith; provided, however, that this Paragraph 25 shall not apply in the case of a termination of this Lease Agreement occurring solely by reason of the provisions of Paragraph 10 (E) hereof.

26. HOLDOVER. In the event that the County shall continue to occupy the Leased Premises or the Project or any part thereof after the expiration or sooner termination of this Lease Agreement, the tenancy created by such holding over shall be deemed to be upon a month-to-month basis and may be terminated by either party upon not less than thirty (30) days' written notice to the other party, to expire on the first day of the month next succeeding the expiration of such thirty-day notice period. During any month-to-month tenancy, both parties shall continue to perform and observe all agreements and covenants contained in this Lease Agreement on its respective part to perform and observe.

27. NET-NET-NET-LEASE. Subject to Paragraph 16.(E), this Lease Agreement shall be deemed and construed to be a net-net-net lease, and the County hereby agrees that the amounts payable by it hereunder shall be a net return to the Issuer, free and clear of any expenses, charges, or set-offs whatever. The County expressly waives any right of set-off, at law or in equity, which it may at any time have with respect to amounts payable under this Lease Agreement or any other agreement.

28. NOTICE OF DEFECTS. The County shall give to the Issuer prompt written notice of accidents on or damages to the Leased Premises or the Project, and of the institution of any suits or claims or other actions arising (directly or indirectly) out of the design, construction, operation, or maintenance of the Project.

29. COUNTY'S ACQUISITION OF BONDS PROHIBITED. The County agrees and covenants that it shall not, nor shall any person related to it, pursuant to any arrangement, whether formal or informal, purchase any of the Bonds at any time such Bonds are outstanding.

30. Reserved.

31. QUIET POSSESSION. The Issuer covenants and agrees that if the County shall perform and observe all the covenants, conditions, and agreements herein contained to be performed or observed on the County's part, the County shall at all times during the term of this Lease Agreement have the peaceable and quiet enjoyment and possession of the Leased Premises and the Project for the purposes for which it leases the Leased Premises and the Project.

32. COMPLIANCE WITH LAWS. It is understood, agreed, and covenanted by and between the parties hereto that the County or the Issuer, at their respective expense and as their interests may appear, will promptly comply with, observe, and perform all of the requirements of all applicable statutes, ordinances, rules, orders, and regulations now in effect or hereinafter promulgated whether required by the federal government, State of Maryland, or Howard County, Maryland.

33. BENEFIT AND BURDEN. This Lease Agreement is and shall be binding upon, and shall inure to the benefit of, the parties hereto and each of their respective successors, assigns, or representatives.

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

35. NON-DISCRIMINATION. The County and the Issuer agree to abide by the applicable federal, state and local laws, ordinances and regulations regarding employment discrimination. In accordance with applicable law, the County and the Issuer each represent that it does not, and each agrees that it will not, discriminate in any manner on the basis of age, color, creed, national origin, race, religious belief, sexual preference or handicap.

36. CONTRACT SOLICITATION. The Issuer represents that it has not retained anyone to solicit or secure this Lease Agreement from the County upon an agreement or understanding for a commission, or a percentage, brokerage, or contingent fee, except for bona fide employees or an attorney rendering professional legal services consistent with applicable ethical standards or rules.

37. COUNTY ETHICS LAWS. The Issuer and the County shall comply with the provisions of Section 901 of the Howard County Charter and Section 22.204 of the Howard County Code.

38. SEVERABILITY. In the event that any provision of this Lease Agreement is deemed invalid, illegal, or unenforceable, such provision shall be considered severable, and the balance of this Lease Agreement shall remain in force and be binding upon the parties as if such provision had never been included.

39. FURTHER ASSURANCES. The parties hereto agree that they will, from time to time, take such further action and shall execute and deliver such further instruments or agreements as may reasonably be required for carrying out the intention of the parties to, or facilitating the performance of, this Lease Agreement.

40. ENTIRE AGREEMENT; AMENDMENT. This Lease Agreement, including the Exhibits attached hereto and made a part hereof and the documents referenced herein and made a part hereof, and such other agreements and documents as are expressly provided for herein, set forth all the covenants, promises, agreements, conditions, and understandings between the County and the Issuer concerning the Leased Premises and the Project. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the parties other than as set forth herein. No subsequent alteration, amendment, change or addition to this Lease Agreement shall be effective or binding on either party unless made in accordance with the Trust Agreement.

41. MAILING NOTICES. All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail, first-class postage and other fees prepaid and with return receipt requested, or by overnight delivery and shall be deemed to be effective when received (as evidenced by the return receipt) or refused by the addressee. All notices to, and all payments made hereunder by, a party shall be addressed and delivered to the other party as follows:

If to the Issuer:

6751 Columbia Gateway Drive
Columbia, Maryland 21045
Attention: Executive Director

with a copy to:

Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
Attention: County Solicitor

If to the County:

Department of Finance
Executive Office Building
3430 Court House Drive
Ellicott City, Maryland 21043
Attention: Director of Finance
and

Department of Recreation and Parks
Oakland Mills Road
Columbia, Maryland 21045
Attention: Director

with a copy to:

Office of Law
3450 Court House Drive
Ellicott City, Maryland 21043
Attention: County Solicitor

Either party may change its mailing address by giving notice thereof to the other in the manner set forth in this Paragraph 41.

42. COUNTERPARTS. This Lease Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

43. GOVERNING LAW. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be properly executed and sealed as of the date and year first above written.

(SEAL)

ISSUER, as Lessor:

ATTEST:

HOWARD COUNTY HOUSING
COMMISSION

Stacy L. Spann
Secretary

By: _____
William A. Ross, Sr.
Chairman

Reviewed for Form and Legal Sufficiency
this ____ day of _____, 2011

Margaret Ann Nolan
County Solicitor

STATE OF MARYLAND, HOWARD COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2011, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **William Ross, Chairman of the Howard County Housing Commission**, and he acknowledged that he executed the foregoing Lease for the purposes therein contained, and he further acknowledged the same to be the act of the Howard County Housing Commission.

AS WITNESS my Hand and Notarial Seal:

Notary Public

My Commission Expires:

COUNTY, as Lessee

HOWARD COUNTY, MARYLAND

ATTEST:

Lonnie R. Robbins
Chief Administrative Officer

By: _____
Ken Ulman
County Executive

[Signatures continue on next page.]

APPROVED:

John Byrd, Director
Department of Recreation and Parks

APPROVED FOR SUFFICIENCY OF FUNDS:

Sharon F. Greisz, Director
Department of Finance

APPROVED FOR FORM AND LEGAL SUFFICIENCY

this ____ day of _____, 2011.

Margaret Ann Nolan
County Solicitor

STATE OF MARYLAND, _____ COUNTY, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 2011, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared **Ken Ulman, the County Executive for Howard County, Maryland**, the Lessee in the within Lease Agreement, who acknowledged the same to be the act of the County and that he executed the foregoing Lease Agreement for the purposes therein contained by signing in my presence the name of Howard County, Maryland as County Executive.

AS WITNESS my Hand and Notarial Seal.

My Commission Expires: _____
Notary Public

3-24-11 v7

THE UNDERSIGNED, an attorney admitted to practice before the Court of Appeals of the State of Maryland, hereby certifies that the within instrument was prepared by him.

3-24-11 v7

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

ROBERT H. VOGEL ENGINEERING, INC.
ENGINEERS • SURVEYORS • PLANNERS

DESCRIPTION OF
Proposed RECREATION CENTER PARCEL
HILLTOP DEVELOPMENT PROJECT
209,956 SQUARE FEET OR 4.8199 ACRES
Second Election District
Howard County, Maryland

BEGINNING for the Same at a point along the eighteenth or N 09-22-20 E 817.25 foot line of that same parcel described in conveyance to the Board of County Commissioners of Howard County by a deed dated October 24, 1967 and recorded among the Land Records of Howard County in Liber 477, folio 718, 229.31 Feet from the end thereof, thence binding in part on said eighteenth line, with all bearings being referred to the Maryland State Grid Meridian, viz

- 1) **North 01 degrees 34 minutes 45 seconds East 281.71 Feet** to a 1" Pipe Found at the end of the third line of that parcel described in conveyance to the Board of County Commissioners of Howard County by a deed dated July 14, 1966 and recorded among the Land Records of Howard County in Liber 456, folio 448, thence binding reversely on said third line and on the second and first lines of said conveyance the three following courses
- 2) **South 73 degrees 41 minutes 48 seconds West 24.37 Feet** to a Rebar and Cap Found, thence
- 3) **85.65 Feet by a Curve to the right with a Radius of 175.00 Feet, said Curve being subtended by a Chord bearing South 86 degrees 03 minutes 55 seconds West 84.80 Feet** to a Rebar and Cap Found, thence
- 4) **North 18 degrees 23 minutes 21 seconds East 148.89 Feet** to a Stone Found at the beginning of the first line in conveyance to the Board of County Commissioners of Howard County by a deed dated January 3, 1966 and recorded among the Land Records of Howard County in Liber 448, folio 46, thence binding on part of said first line
- 5) **North 18 degrees 28 minutes 03 seconds West 152.63 Feet** to a point, thence running for new lines of division the two following courses
- 6) **South 69 degrees 21 minutes 42 seconds East 374.94 Feet** to to a point, thence
- 7) **North 86 degrees 38 minutes 18 seconds East 166.41 Feet** to intersect the west right-of-way line of Ellicott Mills Drive, 60' wide R/W, at a point, thence binding on said west right-of-way line the two following courses
- 8) **South 00 degrees 27 minutes 06 seconds West 297.60 feet** to a point, thence
- 9) **149.90 Feet by a Curve to the left with a Radius of 480.00 Feet, said Curve being subtended by a Chord bearing South 08 degrees 29 minutes 36 seconds East 149.30 Feet** to a point, thence running for a new line of division
- 10) **North 88 degrees 20 minutes 09 seconds West 435.28 feet** to the point of beginningContaining **209,956 Square Feet or 4.8199 Acres** of land more or less.

BEING the aggregate of, all or part of, the three following conveyances :

- 1) part of that same parcel of land conveyed to the Board of County Commissioners of Howard County by a deed dated October 24, 1967 and recorded among the Land Records of Howard County in Liber 477, folio 718.
- 2) all of that same parcel of land conveyed to the Board of County Commissioners of Howard County by a deed dated July 14, 1966 and recorded among the Land Records of Howard County in Liber 456, folio 448.
- 3) part of that same parcel of land conveyed to the Board of County Commissioners of Howard County by a deed dated January 3, 1966 and recorded among the Land Records of Howard County in Liber 448, folio 46.

TMH
03-24-2011

Thomas M. Hoffmann Jr 3.24.11

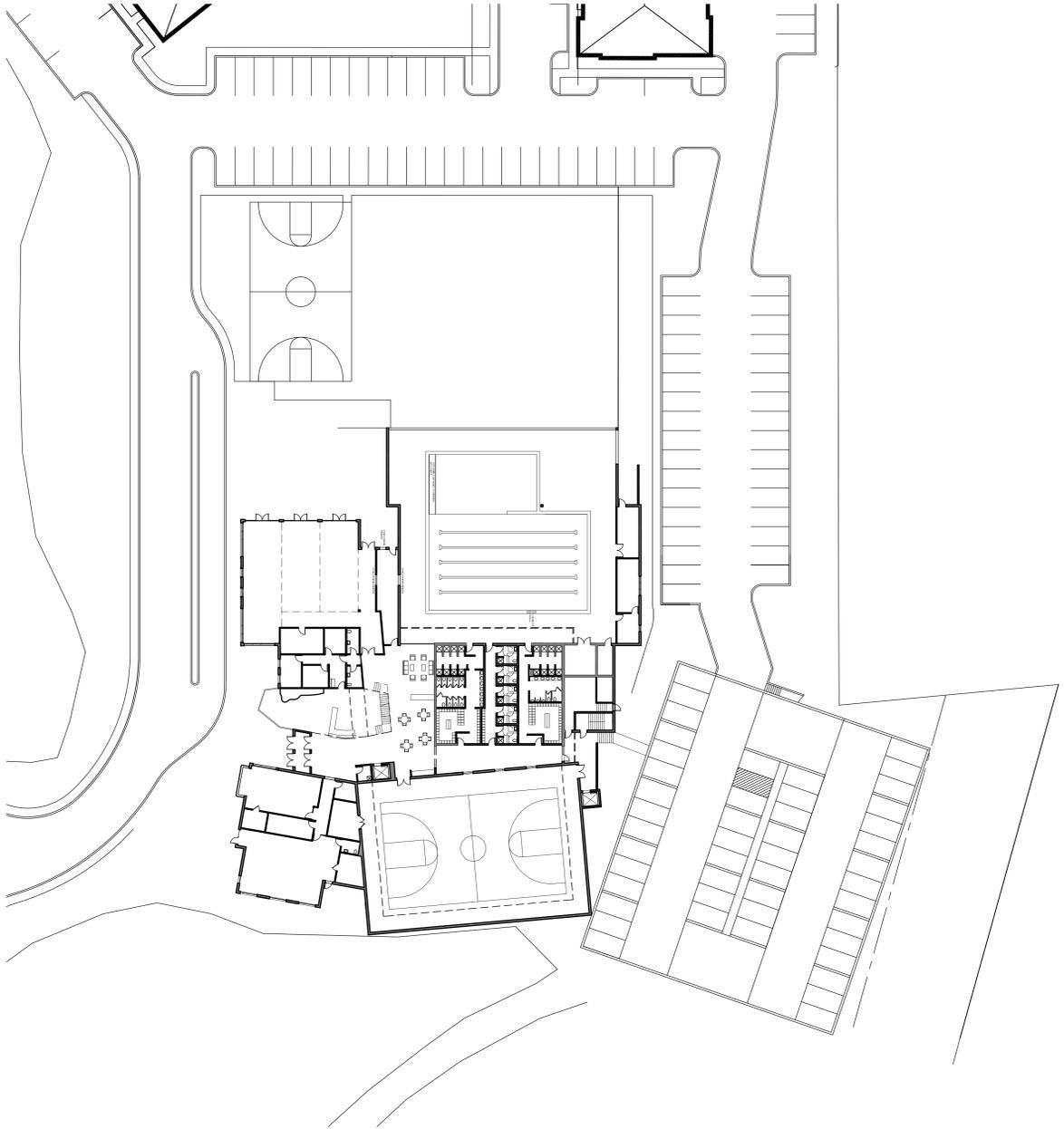


3-24-11 v7

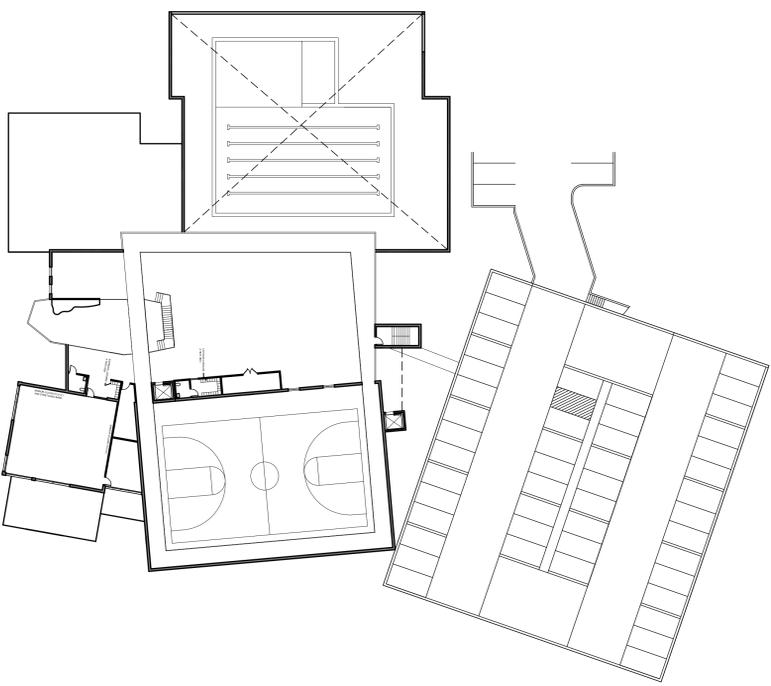
EXHIBIT B

DESCRIPTION OF PROJECT

[This Exhibit B may be amended as provided in Section 12 of the Lease Agreement.]



1 FIRST FLOOR SITE PLAN
SCALE: 1"=30'-0"



2 SECOND FLOOR SITE PLAN
SCALE: 1"=30'-0"

A New Recreation Center
ROGER CARTER RECREATION CENTER

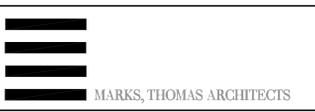
Hilltop Redevelopment
Ellicott City, Maryland

SHEET TITLE
FLOOR PLANS
WITH SITE

DBP	10239	DATE	03.01.11
DRN	NR	CHPO	
REVISIONS			

CONTINUED: ALL RIGHTS RESERVED

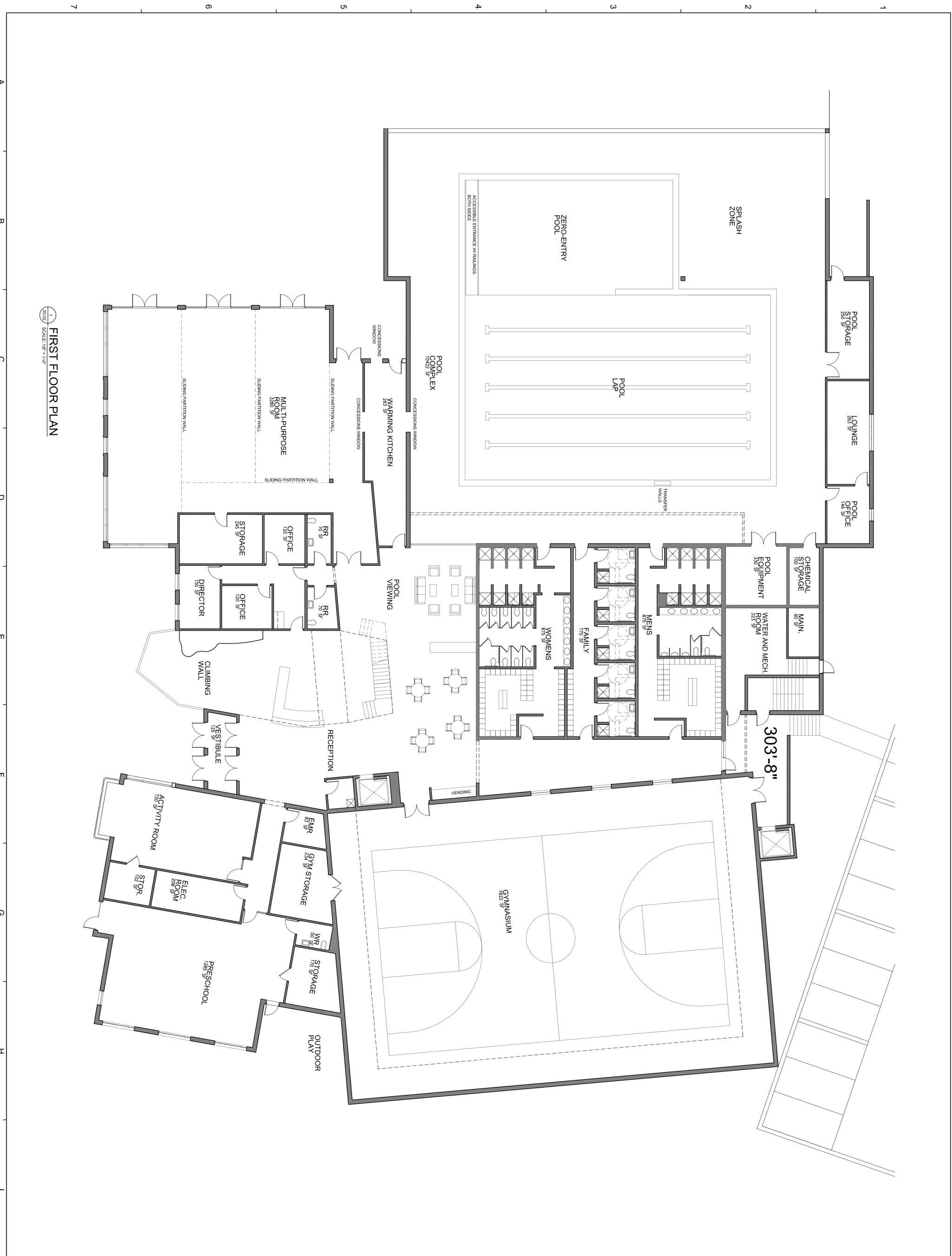
THESE DRAWINGS ARE PREPARED BY
MARKS, THOMAS ARCHITECTS, INC.
UNDER THE CLOSE PERSONAL SUPERVISION
AND DIRECT CONTROL OF A LICENSED
ARCHITECT AND IN FULL COMPLIANCE WITH
THE PROFESSIONAL STANDARDS OF THE



1414 KEY HIGHWAY, 2ND FLOOR, BALTIMORE, MD 21230 PHONE: 410 539 4300

CERTIFIED

30.01
SD



FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

A New Recreation Center
ROGER CARTER RECREATION CENTER
 Hilltop Redevelopment
 Ellicott City, Maryland

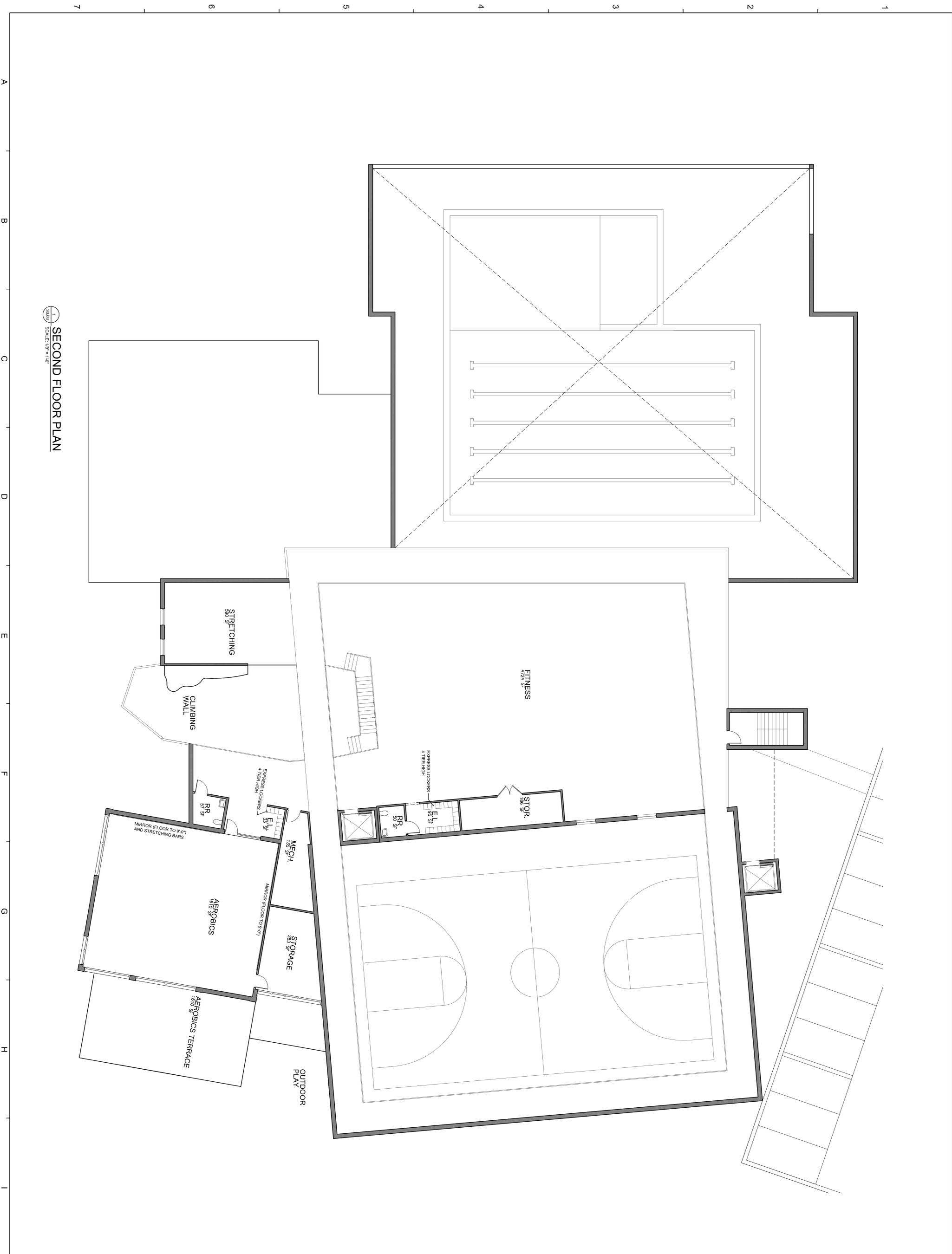
SHEET TITLE
FIRST FLOOR PLAN

DATE	DATE
10/23/19	10/23/19
DRN. NO.	CHNO
102319	102319
REVISIONS	

30.02
SD

MARKS, THOMAS ARCHITECTS

1414 KEY HIGHWAY, 2ND FLOOR, BALTIMORE, MD 21230. PHONE: 410.539.4300



30.03 SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

A New Recreation Center
ROGER CARTER RECREATION CENTER
 Hilltop Redevelopment
 Ellicott City, Maryland

SHEET TITLE
 SECOND FLOOR PLAN

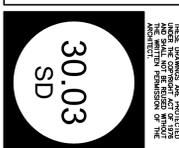
DATE	10/23/19
DRN. NO.	CH040
REVISIONS	

DATE: 10/23/19
 DRN. NO.: CH040
 REVISIONS:

CERTIFIED

MARKS, THOMAS ARCHITECTS

1414 KEY HIGHWAY, 2ND FLOOR, BALTIMORE, MD 21230 PHONE: 410 539 4300



CONTRACT: ALL RIGHTS RESERVED
 THESE DRAWINGS ARE PREPARED BY
 MARKS, THOMAS ARCHITECTS, P.A.
 AND ARE NOT TO BE REPRODUCED OR
 TRANSMITTED IN ANY FORM OR BY
 ANY MEANS, ELECTRONIC OR MECHANICAL,
 INCLUDING PHOTOCOPYING, RECORDING,
 OR BY ANY INFORMATION STORAGE AND
 RETRIEVAL SYSTEM, WITHOUT THE
 WRITTEN PERMISSION OF THE
 ARCHITECT.

EXHIBIT C

LEASE PAYMENTS

Lease payments are unascertained as of the date of execution of this Lease Agreement. In accordance with Paragraph 4(A), the parties hereto shall execute an addendum to this Lease Agreement in order to add Exhibit C to this Lease Agreement no later than the date of issuance of the Bonds.

EXHIBIT D

ISSUER CONTRIBUTION PAYMENTS

In accordance with Section 4.(C) of the Lease Agreement, the Issuer shall deliver to the County on or before the Lease Payment Date, the Issuer Contribution Payment in the amount equivalent to the percentage of the Lease Payment as set forth in the table below:

Lease Year	Percentage of Lease Payment						
1	0%	9	56%	17	87%	25	60%
2	0%	10	60%	18	91%	26	59%
3	23%	11	64%	19	95%	27	58%
4	25%	12	68%	20	98%	28	56%
5	28%	13	72%	21	102%	29	55%
6	30%	14	75%	22	106%	30	54%
7	49%	15	79%	23	109%	31	52%
8	53%	16	83%	24	110%	32	51%

The Issuer Contribution Payment is a material term of this Lease Agreement and is an absolute and unconditional obligation of the Issuer to the County.