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Title: Lease of 145 Gorman Street - Amended and Restated Agreement of Lease between KDBA, LLC and the City of Annapolis for the use of non-city-owned property by the City of Annapolis.

Sponsors: Michael J. Pantelides

Indexes: Economic Matters Committee, Finance Committee

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Attachments: 1. O-22-15 Ordinance.pdf, 2. O-22-15 KDBA-Exhibits.docx, 3. O-22-15 KDBA-2006 Lease-145Gorman.pdf, 4. O-22-15 Summary.pdf, 5. O-22-15 KDBA-LeaseExtOptnLtr.pdf, 6. O-22-15 KDBALeaseOptnSummary.pdf, 7. O-22-15 Staff Report.pdf, 8. O-22-15 Fiscal Impact.pdf, 9. O-22-15 KDBA AmdRestdLease_Signed.pdf

Date	Ver.	Action By	Action	Result
6/22/2015	1	City Council	adopt on second reader	Pass
6/22/2015	1	City Council	adopt on third reader	Pass
6/8/2015	1	City Council		
6/8/2015	1	City Council	postpone	Pass
6/2/2015	1	Finance Committee	recommend favorably	Pass
5/29/2015	1	Economic Matters Committee	recommend favorably	Pass
5/18/2015	1	City Council		
5/11/2015	1	City Council	refer	
5/11/2015	1	City Council	refer	
5/11/2015	1	City Council	adopt on first reader	Pass

Lease of 145 Gorman Street - Amended and Restated Agreement of Lease between KDBA, LLC and the City of Annapolis for the use of non-city-owned property by the City of Annapolis.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 22-15

Sponsored by: Mayor Pantelides

Referred to
Economic Matters
Finance

AN ORDINANCE concerning

Lease of 145 Gorman Street

FOR the purpose of approving an Amended and Restated Agreement of Lease between KDBA, LLC and the City of Annapolis for the use of non-city-owned property by the City of Annapolis.

WHEREAS, KDBA, LLC is the tenant under a Lease dated as of July 1, 2002 by and between Hopkins Furniture Company, Incorporated, as the Landlord, and the Landlord, as tenant, as amended by the First Amendment to Lease dated as of October 18, 2004 and by the Second Amendment to Lease dated as of December 21, 2004 property located at 145 Gorman Street, Annapolis, Maryland 21041, containing approximately 0.24 acres, as described on Exhibit A attached to this Ordinance, together with the existing 3-story building situated on the Land; and

WHEREAS, the Landlord and the Tenant entered into that Agreement of Lease dated March 2006, pursuant to which the Landlord leased to the Tenant the entire second and third floors of the Building (all space within the exterior walls), together with the first floor lobby and stairway areas providing access to such second and third floors shown on the plan attached to this Ordinance as Exhibit B, and the underground equipment room and stairway area beneath the Lobby, collectively containing approximately twenty thousand three hundred seventy-two (20,372) square feet on the terms and conditions of the Original Lease; and

WHEREAS, the Landlord and the Tenant mutually desire to modify the terms of the Original Lease by amending and restating the Original Lease in accordance with the terms set forth in the Amended and Restated Agreement of Lease between KDBA, LLC and the City of Annapolis.

SECTION I: AND BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the proposed Amended and Restated Agreement of Lease between KDBA, LLC and the City of Annapolis for the use of 145 Gorman Street, Annapolis, Maryland, a copy of which is attached hereto and made a part hereof, is hereby approved, and the Mayor is authorized to execute the Amended and Restated Agreement of Lease on behalf of the City of Annapolis.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

EXPLANATION

CAPITAL LETTERS indicate matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments

AMENDED AND RESTATED AGREEMENT OF LEASE

BY AND BETWEEN

KDBA, LLC, AS LANDLORD,

AND

CITY OF ANNAPOLIS, AS TENANT

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AMENDED AND RESTATED AGREEMENT OF LEASE

THIS AMENDED AND RESTATED AGREEMENT OF LEASE (this “Lease”) is made as of the ____ day of _____, 2015 by and between **KDBA, LLC**, a Maryland limited liability company (the “Landlord”), as Landlord, and **THE CITY OF ANNAPOLIS**, a municipal corporation of the State of Maryland (the “Tenant”), as tenant.

RECITALS

WHEREAS, the Landlord is the tenant under that certain Lease dated as of July 1, 2002 by and between Hopkins Furniture Company, Incorporated, as the Landlord, and the Landlord, as tenant, as amended by the First Amendment to Lease dated as of October 18, 2004 and by the Second Amendment to Lease dated as of December 21, 2004 (collectively, the “Ground Lease”) of all that parcel of land commonly known as 123 Main Street, Annapolis, Maryland 21401, with a mailing address of 145 Gorman Street, Annapolis, Maryland 21041, containing approximately 0.24 acres, as more particularly described on Exhibit A attached to this Lease (the “Land”), together with the existing 3-story building situated on the Land (the “Building”) (the Land and the Building are collectively referred to the “Property”); and

WHEREAS, the Landlord and the Tenant entered into that certain Agreement of Lease dated March 2006, (the “Original Lease”), pursuant to which the Landlord leased to the Tenant the entire second and third floors of the Building (all space within the exterior walls), together with the first floor lobby and stairway areas providing access to such second and third floors shown on the plan attached to this Lease as Exhibit B (the “Lobby”), and the underground equipment room and stairway area beneath the Lobby, collectively containing approximately twenty thousand three hundred seventy-two (20,372) square feet (collectively, the “Premises”), on the terms and conditions of the Original Lease; and

WHEREAS, the Landlord and the Tenant mutually desire to modify the terms of the Original Lease by amending and restating the Original Lease in accordance with the terms set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend and restate the terms of the Original Lease in their entirety as follows:

1. Demise of Premises.

The Landlord hereby demises and lets to the Tenant and the Tenant hereby rents and leases from the Landlord, the Premises, subject to the terms and conditions of this Lease.

2. Term.

This Lease shall be for a term (the “Term”) commencing on July 1, 2015 (the “Effective Date”) and expiring on June 30, 2030, unless sooner terminated as otherwise provided by this Lease and subject to extension as provided in Section 30.

3. Condition of Premises.

The Landlord shall have no further obligation to install or perform any improvements to the Premises after the Effective Date. The Premises shall be delivered to the Tenant in “AS IS” condition. The Tenant acknowledges that it has inspected the Premises, and that the Tenant’s occupancy of the Premises shall constitute acceptance thereof as complying with all obligations of the Landlord with respect to the condition, order and repair thereof. The Tenant, at its sole cost and expense, shall perform any additional work necessary

to prepare the Premises for the Tenant's use and occupancy as provided by Section 10.

4. Permitted Use.

(a) The Tenant shall use and occupy the Premises in the performance of its "essential governmental functions" and for any use permitted by applicable laws, including but not limited to general office use, and for no other purposes. The Tenant shall not use the Premises for any use, which, but for an exemption for the Tenant being a governmental entity, is not otherwise permitted as of right.

(b) The Tenant shall not use the Premises in any manner which would violate any zoning or use restrictions thereon or any applicable law, including but not limited to any Environmental Regulations (defined in Section 4(d)) or which may constitute a nuisance or a potential fire hazard, or contravene the provisions of the Property Insurance (defined in Section 7(b)) or which may cause any increase in premiums on the Property Insurance. The Landlord makes no representation as to the fitness of the Premises or satisfaction of zoning requirements with regard to the Tenant's proposed use of the Premises as contemplated herein.

(c) The Tenant shall not commit or suffer to be committed any waste or nuisance upon the Premises. The Tenant, at the Tenant's sole cost and expense, shall comply with and observe (i) all ordinances, rules, regulations and requirements of all municipal, state and federal and other applicable governmental authorities hereafter in force pertaining to the Premises and the use thereof, including but not limited to any Environmental Regulations; and (ii) all requirements and rules and regulations of any applicable insurance rating agency.

(d) The Tenant shall not use, generate, place, store, release, discharge, transport or otherwise dispose of Hazardous Substances in, on or under the Premises except in strict accordance with environmental, federal, state or local laws and regulations concerning the environment ("Environmental Regulations"). If the Tenant breaches the foregoing, the Tenant shall give the Landlord Notice (as defined in Section 22) of such breach and at the Landlord's option, the Landlord (at the Tenant's expense) or the Tenant shall immediately undertake remedial action in accordance with Environmental Regulations. The Tenant shall indemnify, defend and hold the Landlord harmless from and against, and shall reimburse the Landlord for, all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including reasonable attorney's, consultant's and expert's fees) asserted against or incurred by the Landlord arising out of the Tenant's breach of any warranty or representation or failure to comply with or perform any covenant, agreement or obligation set forth in this Section 4(d). The Tenant, in handling any defense pursuant to this Section 4(d) may select its own attorneys, including the City Attorney. The term "Hazardous Substance", as used in this Lease, shall mean any product, equipment, underground storage tank, material, waste or substance (i) which requires special handling, investigation, removal, transportation, closure, notification or other remedial action under any Environmental Regulation, (ii) which is or becomes defined as a hazardous waste, hazardous material, hazardous substance, pollutant, toxic substance or contaminant under any Environmental Regulation, (iii) which is or becomes regulated or governed by any Environmental Regulation or by any governmental authority, agency, department, commission, board or instrumentality of any governmental entity, or (iv) which causes or threatens to cause an erosion, contamination, drainage or nuisance problem on the Premises or to adjacent property, public roads or rights of way or which poses or threatens to pose a hazard to the health or safety of persons on or about the Premises or adjacent property. The provisions of this Section 4(d) shall survive the expiration or earlier termination of this Lease.

(e) The Tenant acknowledges that the Premises and the Property are subject to the Ground Lease. During the Term, the Tenant shall promptly observe and comply with the Ground Lease with respect to the Tenant's use and occupancy of the Premises. The Tenant is cognizant of the terms and provisions of the Ground Lease and agrees to be bound by them.

5. Rent.

(a) Commencing on the Effective Date and continuing through June 30, 2016, the Tenant shall pay to the Landlord "Basic Rent" in the amount of Three Hundred Seventy Eight Thousand Three Hundred Eight and

04/100 Dollars (\$378,308.04), payable in equal monthly installments of Thirty One Thousand Five Hundred Twenty Five and 67/100 Dollars (\$31,525.67). Basic Rent shall increase three percent (3%) per annum commencing on July 1, 2016 and on every July 1 thereafter.

(b) Basic Rent shall be payable in monthly installments without demand, deduction, recoupment or set-off, in advance on the first day of each and every month.

(c) As used in this Lease, "Additional Rent" shall mean all amounts, costs and expenses other than Basic Rent which the Tenant assumes or agrees to pay to the Landlord as provided by this Lease. In the event of nonpayment of any amount of Additional Rent, the Landlord shall have all of the rights and remedies provided for in the case of nonpayment of Basic Rent. The Tenant shall pay Additional Rent at such time or times as provided in this Lease or, if not otherwise provided, on the first day of each and every month commencing on the Effective Date, and the Tenant's obligation to pay Additional Rent shall survive the expiration or termination of this Lease. Basic Rent and Additional Rent are referred to collectively in this Lease as "Rent."

(d) All payments or installments of Rent hereunder (including attorneys' fees) shall be paid to the Landlord at the address designated for Notices to the Landlord herein, or as otherwise designated by the Landlord. Time is of the essence with respect to the Tenant's obligations to pay Rent. Any payment by the Tenant or acceptance by the Landlord of a lesser amount than is due from the Tenant to the Landlord shall be treated as a payment on account. The acceptance by the Landlord of a check for a lesser amount with an endorsement or statement, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and the Landlord may accept such check without prejudice to any other right or remedy which the Landlord may have against the Tenant, unless otherwise agreed in writing by both parties.

(e) Except as otherwise expressly provided in this Lease, no abatement, refund, offset, counterclaim, recoupment, diminution or any reduction of Rent, charges or other compensation shall be claimed by or allowed to Tenant, or any person claiming under it, under any circumstances, whether for inconvenience, discomfort, interruption of business, interruption of utility services or otherwise, arising from the making of alterations, changes, additions, improvements or repairs to the Building or the Premises, by virtue or because of any present or future governmental laws, ordinances, or for any other cause or reason.

(f) As used in this Lease, "Tenant's Share" means sixty-nine and twelve one-hundredths percent (69.12%) multiplied by the amount of Common Expenses or such other amount for which Tenant is responsible based on the Tenant's Share. As used in this Lease, "Common Expenses" shall mean all costs of the operation, management, maintenance, repair and Capital Repair (as defined in Section 9 below) of the Property incurred by the Landlord or the Landlord's managing agent, including but not limited to the costs of the Property Insurance, the Real Estate Taxes (defined in Section 6(a)) and a commercially reasonable management fee. Prior to the Option Closing Date, the cost of any Capital Repairs shall be amortized over the useful economic life of the improvement constituting a Capital Repair and after the Option Closing Date, such cost shall be a Common Expense as and when paid or incurred. Commencing on the Effective Date and thereafter for the remainder of the Term, the Tenant shall pay to the Landlord, as Additional Rent, the Tenant's Share of Common Expenses within thirty (30) days after the Landlord gives the Tenant Notice of the amount and calculation of the Tenant's Share thereof. The Tenant shall pay to the Landlord, as Additional Rent, on the Effective Date, and thereafter, with and at the same time as the monthly installments of Basic Rent, Five Thousand Three Hundred Ten Dollars (\$5,310.00) per month as the initial estimated amount of the Tenant's Share of Common Expenses. Thereafter:

(i) From time to time during the Term, but not more frequently than once each [fiscal year \(i.e., July 1 through June 30\)](#), the Landlord may revise its estimate of the Tenant's Share of Common Expenses as set forth above and adjust the Tenant's monthly installments thereof to reflect such revised estimates. The Landlord will give the Tenant Notice of the revised estimates and the amount by which the Tenant's monthly

installments will be adjusted, and the Tenant shall pay the adjusted installments with each monthly installment of Basic Rent, beginning with the first payment of the Basic Rent to come due after the Tenant's receipt of such prior Notice;

(ii) The Landlord shall deliver to the Tenant, within ninety (90) days after the end of each fiscal year during the Term, a statement for such year (the "Common Expense Statement"), calculating the actual amount of the Tenant's Share of the Common Expenses. The final Common Expense Statement under the Original Lease shall be for the period January 1, 2014 through June 30, 2015. If the actual amount of the Tenant's Share of such Common Expenses is more than the amounts paid by the Tenant during such year as monthly installments of the estimated the Tenant's Share of Common Expenses, then the Tenant shall pay to the Landlord, within thirty (30) days after receipt of the Common Expense Statement, the amount of such shortfall. If the actual amount of the Tenant's Share of such Common Expenses is less than the amounts paid by the Tenant as installments of the estimated the Tenant's Share of such Common Expenses, then the Landlord will credit Tenant's account by the amount of the excess or, if at the end of the Term, refund to the Tenant the amount of the excess; and

(iii) Failure of the Landlord to provide any Common Expense Statement within the time prescribed will not relieve the Tenant of its obligations under this Section 5(f).

(g) All Rent payable and all statements deliverable by the Tenant to the Landlord under this Lease shall be paid and delivered to the office of the Landlord as herein set forth for Notices, or any other address which the Landlord may hereafter designate in a Notice to the Tenant.

6. Real Estate Taxes.

(a) As used in this Lease "Real Estate Taxes" means (i) all real estate taxes, including general and special assessments, if any, which are imposed upon the Landlord or assessed against the Property during any fiscal tax year, and (ii) any other present or future taxes or governmental charges that are imposed upon the Landlord or assessed against the Property during any fiscal tax year, which are in the nature of, in addition to or in substitution for real estate taxes, including, without limitation, any license fees, tax measured by or imposed upon rents, or other tax or charge upon the Landlord's business of leasing the Premises, but shall not include any federal, state or local income tax. Any reasonable expense incurred by the Landlord (including contingent or percentage attorneys' fees) in contesting any increase in Real Estate Taxes shall be included as an item of Real Estate Taxes for the purpose of computing Additional Rent due the Landlord. The Landlord, however, shall have no obligation to contest any increase in Real Estate Taxes.

(b) If some method or type of taxation shall replace the current method of assessment of Real Estate Taxes, or the type thereof, the Tenant agrees that the Tenant shall pay an equitable share of the same computed in the fashion consistent with the method of computation provided in this Section 6 to the end that the Tenant's cost on account thereof shall be, to the maximum extent possible, the same as the Tenant would bear under the foregoing provisions of this Section 6.

7. Insurance.

(a) At all times during the Term, at the Tenant's sole cost and expense, the Tenant shall obtain and keep in full force and effect a policy of comprehensive general public liability insurance on an "occurrence" basis, naming the Landlord, the Landlord's managing agent and the Landlord's mortgagee as insureds, as their interests may appear, with respect to the Premises and the business of the Tenant in, on, within, from or connected with the Premises, for which the limits of liability shall be not less than Three Million Dollars (\$3,000,000.00) with respect to injuries and/or death to any number of persons arising out of one accident; One Million Dollars (\$1,000,000.00) with respect to injury and/or death of any one person; and in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) with respect to the destruction of or damage to property. Such insurance policy shall be issued by an insurance company approved by the Landlord. Even though the Landlord and its mortgagee are named insureds on the policy provided by the Tenant, such policy

must specifically provide for payment of damage or loss to the Landlord when the damage to the Landlord, to its property or to its agents, contractors or employees is caused by the negligent act of the Tenant or its contractors, employees, agents, licensees or invitees. At the Landlord's request, made no more frequently than each fifth (5th) anniversary of the Effective Date, Tenant shall increase the amounts of coverages required by this Section 7(a) to amounts carried on comparable properties in the Annapolis, Maryland area and reasonably satisfactory to the Landlord.

(b) At all times during the Term, the Landlord shall keep the Building and all other improvements to the Property (except the contents of the Premises) insured against loss due to fire and other property risks included in standard all risk coverage insurance policies, and covering loss of income from such property risk, in an amount equal to one hundred percent (100%) of the replacement value thereof (the "Property Insurance").

(c) At all times during the Term, at the Tenant's sole cost and expense, the Tenant shall insure the contents of the Premises, including, without limitation, alterations, decorations, furnishings, fixtures and equipment used or installed in the Premises by or on behalf of Tenant, and all personal property of the Tenant in the Premises, against loss due to fire and other property risks included in standard all risk coverage insurance policies, in an amount equal to the replacement cost thereof and covering loss of income from such property risk. All insurance carried by the Tenant hereunder shall be primary and not contributing with any insurance carried by the Landlord.

(d) At all times during the Term, the Tenant shall also maintain, at the Tenant's sole cost and expense, worker's compensation insurance in statutory limits.

(e) The Tenant hereby waives all claims for recovery from the Landlord for any loss or damage insured under valid and collectible insurance policies to the extent of any recovery for loss insured thereunder. The policy required to be kept in force by the Tenant as provided by Section 7(a) shall contain provisions whereby the insurer waives any right of subrogation against the Landlord and its contractors, agents and employees. Neither the issuance of such policy or the minimum limits of coverage specified in Section 7(a) or elsewhere in this Lease shall limit or restrict, or be deemed to limit or restrict in any way, the Tenant's responsibility or liability arising out of its covenants under the provisions of this Lease. The insurance protection afforded by the Tenant's insurance policy must be written as primary coverage and not as contributing with or in excess of any coverage which the Landlord may carry.

(f) Before the Tenant occupies the Premises, the Tenant shall deliver to the Landlord one or more original certificates of Tenant's insurance policies required to be maintained by this Section 7, together with true and complete copies of such policies and of receipts or other evidences of the pre-payment of its premiums for not less than one (1) year in advance. Thereafter, during the entire Lease Term, and at least thirty (30) days before each expiration date of each such policy, the Tenant will similarly deliver an original certificate of the renewal policy to the Landlord together with true and complete copies of the renewal policies and of receipts or other evidence of the prepayment of the annual premiums. Each certificate of the Tenant's insurance policies must be reasonably acceptable to the Landlord in form, substance and detail and contain an agreement by the insurer that it will not cancel or amend the policy without giving at least thirty (30) days prior written notice to the Landlord.

(g) The insurance required to be maintained by the Tenant by this Section 7 may be placed under one or more "blanket policies;" provided, however, that the insurer named in each such blanket policy must certify to the Landlord's satisfaction that the coverage required to be provided by the Tenant is separately identified and is actually provided and available to protect the Premises within the terms of the blanket policy.

(h) So long as the Tenant is a municipal corporation of the State of Maryland, if the Tenant maintains a self-insurance program for substantially all of its properties and activities and if approved or permitted by all lenders with respect to the Property, then those coverages required to be maintained by the Tenant hereunder may be maintained under a self-insurance program sponsored by the Tenant and not under commercial

insurance policies.

8. Utilities.

The Tenant shall be solely liable to pay all costs and expenses of electricity, water, sanitary sewer, heating, natural gas, air conditioning, telephone, internet access and any other utility service used at the Premises, and for exterior lighting of the Building. Tenant shall pay all such costs and expenses either directly to the providers of such services if the Building is separately metered therefor or, if not separately metered, to the Landlord, based on the Landlord's reasonable proration of such costs and expenses, within thirty (30) days after the Landlord gives Tenant a statement therefor with supporting documentation. Under no circumstances shall the Landlord be liable to Tenant in damages or otherwise (i) if any utility shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility, or (ii) for any interruption in service of electricity, water, sewer, gas, heat, ventilation, telephone or air conditioning caused by fire, accidents, strikes, breakdowns, necessary maintenance, alterations, repairs, acts of God or any other causes; and, except as permitted by Section 19, the foregoing shall not constitute a termination of this Lease or an actual or constructive eviction and shall not entitle Tenant to terminate this Lease or to an abatement of Rent.

9. Repairs and Maintenance.

(a) Tenant, at its sole cost and expense, shall maintain and keep, in a first class condition, the entire interior of the Premises, including but not limited to all windows, doors and glass, the Lobby elevator, all machinery, equipment, lighting, sump pumps, controls, oil minder pump, emergency chair lift, mechanical, electrical, plumbing, heating, ventilating, air conditioning, space heaters, sprinkler, fire suppression and alarm systems and equipment, inventory and appurtenances thereof used by or for the benefit of Tenant, and shall keep the Premises in good order and repair, and in a safe and clean condition, free of dirt, trash, pests, and in all respects in such manner as to comply with all applicable laws and regulations. Tenant shall also maintain and keep, in a first class condition, the sidewalks and landscaped areas (including but not limited to watering, weeding, mulching and general maintenance) on the Property, and shall arrange for removal of ice and snow from the sidewalks when reasonably necessary. From and after the Option Closing Date, Tenant, at its sole cost and expense, shall repair, replace and renew, as reasonably required, all of the foregoing items described in this paragraph (a).

(b) At Tenant's sole cost and expense, Tenant shall enter into and maintain during the entire Term service contracts with reputable third-party contractors licensed to maintain and monitor all mechanical, electrical, plumbing, sprinkler, fire suppression, alarm and other systems and equipment at the Premises for which Tenant is responsible as provided by Section 9(a), including but not limited to building operating systems and equipment, as described in Section 9(a) and the elevator in the Lobby and all pumps and other equipment in the underground equipment room beneath the Lobby. All such service contracts and contractors must (i) comply with all applicable manufacturer's recommendations, (ii) be terminable without penalty upon thirty (30) days prior written notice, and (iii) be approved by the Landlord prior to Tenant entering into the service contracts, which approval shall not be unreasonably withheld. From and after the Option Closing Date, Tenant, at its sole cost and expense, shall repair, replace and renew, as reasonably required, all of the foregoing systems, property, plant and equipment.

(c) The Landlord shall maintain, repair, replace and renew the roof, foundation and exterior walls of the Building, as and when reasonably required, and make all other capital improvements to the Property for which the Tenant is not responsible to make pursuant to Section 9(a) and (b) above ("Capital Repairs"), provided that the Tenant promptly shall give the Landlord Notice of the necessity for such repairs, and further provided that the damage thereto shall not have been caused by the Tenant, its agents, contractors, invitees or employees, in which event the Tenant shall be responsible therefore and shall promptly repair such damage at its sole cost and expense. The costs and expenses of Capital Repairs shall be Common Expenses. If the cost of a Capital Repair is payable by any other tenant of the Property (other than such tenant's share), then such cost

shall not be a Common Expense to the extent so payable.

(d) Except as provided by Section 9(c), the Landlord shall have no obligation or liability for repair or maintenance of the Premises, or any part thereof, nor shall the Landlord be under any liability to repair, maintain or replace any electrical, plumbing, heating, air conditioning or other mechanical installation, nor shall the Landlord be obligated to make any improvements of any kind upon the Premises, or to make any repairs, replacements or improvements to any equipment, facilities or fixtures contained therein, all of which shall be the responsibility of the Tenant and shall be performed as provided by Section 10.

(e) It is the intention of the parties that after the Option Closing Date, the Tenant shall be absolutely and fully responsible for all costs, expenses and expenditures of all kinds, types and matters relating to the Premises and for the Tenant's Share of all costs, expenses and expenditures of all kinds, types and matters relating to the remainder of the Property, as if the Tenant were the fee owner thereof.

10. Alterations by the Tenant.

(a) The Tenant shall not make any alterations or improvements to the Premises during the Term, unless such alterations (i) are not structural in nature and do not affect the structural integrity of the Building, (ii) are not visible from the exterior of the Building, (iii) do not adversely affect the qualification of the Building as an historic structure or the historic tax credits available to the Landlord in connection therewith, and (iv) are performed after written approval by the Landlord of the Tenant's specific plans and specifications therefor, which approval shall not be unreasonably withheld. All alterations and improvements to the Premises shall be done at the sole cost and expense of Tenant in a good and workmanlike manner, using only new materials and in compliance with all applicable laws, codes, rules and regulations. Such alterations and improvements shall, upon the installation thereof, become and be the property of the Landlord and shall remain upon and be surrendered with the Premises at the termination or expiration of this Lease.

(b) The Tenant shall cause all debris, rubbish and surplus materials caused by the performance of its alterations and improvements to be removed from the Premises and disposed of at a lawful facility as necessary or when directed by the Landlord, but not less frequently than every two (2) days.

11. Mechanics' and Materialmen's Liens and Other Liens.

The Tenant shall not do or suffer to be done any act, matter or thing whereby the Premises (or Tenant's interest therein), or any part thereof, may be encumbered by any mechanics' or materialmen's lien or by any other lien or encumbrance. The Tenant shall cause to be canceled and discharged of record, by bond approved by the court or as otherwise permitted by such court in which the claim is filed, within ten (10) business days after the date of filing, any mechanics' or materialmen's liens filed against the Premises (or Tenant's interest therein), or any part thereof, purporting to be for work or material furnished or to be furnished to the Tenant. The Tenant shall have no authority to encumber the Landlord's interest in the Building or the Premises, and nothing in this Lease shall be deemed or construed to make the Tenant the agent of the Landlord for the purpose of performing work in or upon, or ordering materials for, the Building or the Premises.

12. Representations of Tenant.

The Tenant hereby represents and warrants to the Landlord that as of the Effective Date, the Tenant is a municipal corporation of the State of Maryland; this Lease constitutes the legal, valid and binding obligation of the Tenant enforceable in accordance with its terms; the Tenant has full power and authority to enter into and perform the terms and conditions of this Lease; the Tenant has obtained all necessary approvals and consents to lease the Premises from the Landlord as contemplated by this Lease; the persons executing this Lease on behalf of the Tenant is fully and duly empowered and authorized to so act and this Lease has been duly executed and delivered.

13. Subordination.

The Tenant accepts this Lease, and the tenancy created hereunder, subject and subordinate to the Ground

Lease and any security interests, mortgages, deeds of trust or other financing arrangements now or hereafter encumbering the Landlord's interest in the Building or any part or parts thereof and to any extensions, modifications or amendments thereof. The Tenant shall, at any time hereafter, on request, execute any instruments which may be required to subordinate, or render prior, the Tenant's interest hereunder to such lien and the failure of the Tenant to execute any such instruments shall constitute a default hereunder.

14. Release.

The Tenant hereby waives, releases and irrevocably relinquishes any and all claims, liability and causes of action, known or unknown, against the Landlord or the Landlord's contractors, employees, agents, licensees or invitees arising during the Term in connection with any damage or destruction to the property of the Tenant or of any other person or entity and/or for injury or death to the person of the Tenant or of any other person or entity directly or indirectly due to any cause whatsoever other than the willful misconduct or gross negligence of the Landlord or of the Landlord's contractors, employees, agents, licensees or invitees.

15. Inspection and Entry; Access to Lobby.

(a) the Landlord or its agents shall have, upon giving the Tenant at least twenty-four (24) hours advance Notice (which Notice, in addition to the means set forth in Section 22, may be given by telephone or orally in person) the right at all reasonable times to enter the Premises to examine same and to show them, and for such other purposes as shall be necessary in the reasonable exercise of the discretion of the Landlord. The Landlord shall not be required to give any Notice to the Tenant before entering the Premises in the event of an emergency. In addition, if the Tenant shall fail to make any repairs, restorations, replacements or otherwise comply with the provisions of this Lease within the time specified in Section 16, then the Landlord shall have the right, but shall not be required to enter the Premises during normal business hours (or otherwise in the event of an emergency) to make required repairs, restorations, replacements or fulfill the other requirements hereunder and in the event the Landlord does so act, such repairs, restorations, replacements or fulfillment of other requirements shall be made by the Landlord at the sole cost and expense of the Tenant, and any costs or expenses incurred by the Landlord shall be collectible as Additional Rent and shall be paid by the Tenant to the Landlord within ten (10) business days after the Landlord delivers to the Tenant a statement therefor with appropriate documentation including third party invoices and receipts. The Tenant shall not change any locks or passwords necessary to access the Building or the Premises without first providing the Landlord with such new keys or passwords as are necessary for the Landlord to obtain such access.

(b) The Tenant acknowledges that the Landlord's tenant on the first floor of the Building requires emergency access to the Lobby and rear exit stairway, and the Tenant shall not block or lock the existing fire exit from such tenant's leased premises to the Lobby.

16. Tenant's Failure to Perform.

If the Tenant shall fail, within fifteen (15) business days after the Landlord gives the Tenant Notice thereof, to keep the Premises in the state of condition and repair required by this Lease; to do any act; make any payment; or perform any term or covenant on the Tenant's part required under this Lease, the Landlord may (at its option, but without being required to do so) immediately, or at any time thereafter and without Notice, perform the same for the account of the Tenant (including, but not limited to, entering upon the Premises at any time to make repairs). Any costs incurred by the Landlord in so performing the Tenant's obligations shall be deemed Additional Rent. [Landlord shall provide to Tenant reasonable evidence of the costs Landlord incurred.](#) All rights given to the Landlord in this Section 16 shall be in addition to any other right or remedy of the Landlord herein contained.

17. Default.

(a) (i) If the Tenant shall fail to pay any installment of Rent within five (5) days after the date such installment is due, or (ii) if the Tenant defaults in any of the covenants or agreements herein contained and not otherwise specifically provided for by this Section 17(a), which default shall not be cured within fifteen (15)

days after the Landlord gives the Tenant Notice thereof, or (iii) if the Tenant's leasehold estate shall be taken in execution, or (iv) if the Tenant shall be declared bankrupt or insolvent according to law, or shall make an assignment for the benefit of creditors, or if any petition shall be filed by or against the Tenant under any of the provisions of the Federal Bankruptcy Act and shall not be vacated within ninety (90) days thereafter, or (v) if the Tenant vacates or abandons the Premises (Items (i) through (v) are each referred to as an "Event of Default"), then the Landlord may lawfully, immediately or at any time thereafter and without Notice or demand, and without liability for any damage that may be done to the property of the Tenant, enter into and upon the Premises and repossess the same and declare this Lease and the tenancy hereby created terminated, and expel the Tenant and those claiming under the Tenant, and the Landlord shall be entitled to the benefit of all provisions of the laws of Anne Arundel County and the Public General Laws of Maryland respecting the speedy recovery of lands and tenements held over by tenants or proceedings in forcible entry and detainer, and all without prejudice to any remedies which might otherwise be used by the Landlord for arrears of Rent or for any breach of the Tenant's covenants herein contained. The Tenant further agrees that notwithstanding such re-entry, the Tenant shall remain liable for any Rent or damages which may be due or sustained prior thereto, and the Tenant shall further be liable, at the option of the Landlord, for sums of money as liquidated damages for the breach of any covenant and for all Rent due during the remainder of the Term. As an alternative, the Landlord may collect in a lump sum the balance of Rent (including Additional Rent) which would be due during the remainder of the Term had the Tenant not defaulted hereunder, which lump sum shall be appropriately discounted to present value using then prevailing market rates of interest. If the Landlord relets the Premises to another tenant after an Event of Default, any amounts (net of the costs of such reletting) received from such subsequent tenant during the Term shall reduce Tenant's damages due to the Landlord hereunder. THE LANDLORD AND THE TENANT AGREE TO AND THEY HEREBY DO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES HERETO AGAINST THE OTHERS ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF THE LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES AND/OR ANY CLAIM OR INJURY OR DAMAGE, AND ANY STATUTORY REMEDY.

(b) No assent, expressed or implied, by the Landlord to any breach by the Tenant of any of the clauses, stipulations or covenants of this Lease shall be deemed or taken to be a waiver of, or assent to, any succeeding breach of the same clause, or stipulation or covenant, or any preceding or succeeding breach of any clause, stipulation or covenants. The Tenant hereby waives all rights of redemption to which the Tenant or any person under it may be entitled by any law now or hereafter in effect.

(c) Upon the occurrence of an Event of Default, the Landlord shall have at all times the right to distrain for Rent and other charges due and shall have a first and valid lien upon all property of the Tenant, whether or not exempt by law, for payment of the Rent and other charges herein reserved.

(d) All remedies granted hereunder or permitted by law shall be cumulative, and unless inconsistent, may be exercised separately or concurrently or successively.

(e) From and after the occurrence of any Event of Default, the Tenant shall pay to the Landlord as Additional Rent, and the Landlord shall be entitled to collect from the Tenant, all fees, costs and expenses (including but not limited to the fees and disbursements of the Landlord's attorneys) incurred by the Landlord in connection with such Event of Default.

(f) The Landlord and the Tenant agree that this is a lease of property to be used exclusively for a business, commercial or mercantile purpose as distinguished from residence purposes as provided in Real Property Article, Section 8-110 of the Annotated Code of Maryland and that this Lease and the Rent herein reserved are not subject to redemption.

18. Assignment and Subletting.

(a) Except as provided in paragraph (b) below, the Tenant shall not assign this Lease, or sublet the Premises or any portion thereof, without first obtaining in each such instance prior written consent of the Landlord, which consent may be granted or withheld in the Landlord's sole and absolute subjective discretion.

(b) So long as the Tenant is the [City](#) of Annapolis, the Tenant may sublease the Premises for a term, including renewal terms of not more than five (5) years and may assign its interest in this Lease, subject to the Landlord's right of first offer, as described in paragraph (e) below.

(c) In case of any subletting or assignment, whether with or without the Landlord's consent, the Tenant shall remain fully liable under this Lease. The Tenant shall reimburse the Landlord for all reasonable legal costs incurred by the Landlord in connection with the Landlord's review of documents concerning an assignment of this Lease or a sublease of the Premises, whether or not the Landlord consents to such assignment or sublease. If the amount of rent and other sums received by the Tenant under any assignment of this Lease or sublease of the Premises is more than the Rent due from the Tenant under this Lease, then the Tenant shall pay the full amount of such excess to the Landlord on a monthly basis and promptly upon the Tenant's receipt of such excess amounts. Consent in any one instance by the Landlord shall not be deemed a waiver of the requirement that the Landlord's consent be obtained as to all subsequent assignments and subleases.

(d) Any assignment or sublease in violation of this Lease shall be null and void and the Landlord shall not be obligated to recognize the assignee or sublessee claims unless the Landlord agrees otherwise in writing.

(e) The Tenant shall give Notice to the Landlord of its desire to assign this Lease, the proposed consideration, outside date for closing, and any financing being offered or arranged by the Tenant, if any (the "Offer Terms"). The Landlord shall then give a Notice to the Tenant indicating whether it is interested in acquiring the Tenant's interest in this Lease within ten (10) business days after receipt of the Tenant's notice of desire to assign. If the Landlord declines or fails to accept the Offer Terms within the initial ten (10) business day period, the Tenant may then proceed to seek a buyer and the Tenant shall not be required to offer its interest to the Landlord, so long as the assignment is consummated within eighteen (18) months from the Tenant's first Notice to the Landlord, provided that the consideration is not less than ninety-five percent (95%) of the consideration contained in the Offer Terms and the other terms are not materially more favorable to the buyer. If the Landlord accepts the Offer terms, the Landlord shall transfer, with its acceptance, ten percent (10%) of the consideration stated in the Offer Terms to an escrow account or title company selected by the Landlord and reasonably acceptable to the Tenant, within thirty (30) days, to be held as a deposit for such purchase (the "Deposit") and closing shall occur at the time and upon the terms and conditions set forth in the Offer Terms.

19. Fire or Other Casualty.

(a) In the event of partial or total damage or destruction insured against by the Landlord to the Premises by fire, other casualty, or any other cause whatsoever (except condemnation), (a) the Tenant promptly shall give Notice thereof to the Landlord; (b) this Lease shall continue in full force and effect, except as otherwise provided by this Section 19; and (c) the Landlord, to the extent that insurance proceeds respecting such damage or destruction are available to the Landlord therefor, shall thereupon cause such damage or destruction to property owned by the Landlord to be repaired with reasonable speed at the expense of the Landlord, due allowance being made for reasonable delay which may arise by reason of adjustment of loss under insurance policies on the part of the Landlord or the Tenant, and for reasonable delay on account of "labor troubles" or any other cause beyond the Landlord's control, and to the extent that the Premises, in whole or in part, is rendered untenable, the Rent shall proportionately abate. If the damage or destruction shall be so extensive to the Building as to render it uneconomical, in the Landlord's reasonable opinion, to restore the Premises for the use of the Tenant as specified herein or the Landlord shall decide not to repair or rebuild the Building, this Lease, at the option of either party, shall be terminated upon Notice thereof to the other party and the Rent shall, in such event, be paid to or adjusted as of the date of such damage, and this Lease shall terminate upon

the third day after such Notice is given. The Tenant shall thereupon vacate the Premises and surrender the same to the Landlord, but no such termination shall release the Tenant from any liability to the Landlord arising from such damage or from any of the obligations or duties imposed on the Tenant hereunder prior to such termination.

(b) In no event shall the Landlord be liable for interruption to the Tenant's business or for damage to or replacement or repair of the Tenant's personal property, including inventory, trade fixtures, floor coverings, furniture and other property removable by the Tenant under the provisions of this Lease, unless such interruption or damage is caused by the gross negligence or willful misconduct of the Landlord or the Landlord's contractors, employees, agents, licensees or invitees.

(c) If the Landlord shall terminate this Lease pursuant to paragraph (a) above after the Option Closing Date, then the Tenant shall be entitled to a portion of the net property insurance proceeds paid to the Landlord as a result of the loss or damage to the Property from fire or other casualty equal to the Tenant's Share, multiplied by a fraction, not greater than one, the numerator of which is the number of years remaining in the Term and the denominator of which is equal to 40 and the Landlord shall be entitled to the balance. For example, if the insurance proceeds are \$10,000,000 and the termination occurs with 30 years remaining in the Term, then the Tenant shall be entitled to \$5,184,000, or (\$10,000,000) times (69.12%) times (30/40).

(d) If the Premises are (i) damaged as a result of any cause which is not covered under the Landlord's insurance coverage, or (ii) substantially damaged, in the Landlord's reasonable opinion, during the last two (2) years of the Term, then in any such events and notwithstanding paragraph (c) above, the Landlord may terminate this Lease by giving the Tenant Notice thereof within ninety (90) days after the occurrence of such event. Rent and other charges shall be adjusted as of the date of such damage.

20. Eminent Domain.

If the entire Premises is condemned or taken (either temporarily or permanently) for public purposes, or if the Landlord shall convey the Premises to any public authority in settlement of a threat of such condemnation or taking, the Rent shall be adjusted to the date of such taking or conveyance, and this Lease shall thereupon terminate. If only a portion of the Premises shall be so taken or condemned and, as a result of such partial taking, the Tenant is reasonably able to use the remainder of the Premises for the purposes intended by this Lease, then this Lease shall not terminate but, effective as of the date of such taking or condemnation, the Rent shall be abated in an amount thereof proportionate to the area of the Premises so taken or condemned. If, following such partial taking, the Tenant shall not be reasonably able to use the remainder of the Premises for the purposes intended by this Lease, then this Lease shall terminate as if the entire Premises had been taken or condemned. In the event of a taking or condemnation as described in this Section 20, whether or not there is a termination of this Lease, the Tenant shall have no claim against the Landlord, other than an adjustment of Rent to the date of taking or condemnation, and the Tenant shall not be entitled to any portion of any amount that may be awarded as damages or paid as a result or in settlement of such proceedings or threat.

21. Signs.

(a) Except as permitted in Section 21(b), the Tenant covenants and agrees that it shall not inscribe, affix, or otherwise display signs, advertisements or notices in, on, upon or behind any windows or on any door, partition or other part of the interior or exterior of the Building without the prior written consent of the Landlord. If such consent be given by the Landlord, any such sign, advertisement, or notice shall be inscribed, painted or affixed by the Landlord, or a company approved by the Landlord, but the cost of the same shall be charged to and be paid by the Tenant, and the Tenant agrees to pay same within ten (10) business days after Landlord delivers to Tenant a statement therefor with appropriate documentation including third party invoices and receipts.

(b) So long as the Tenant is the City of Annapolis, the City may install signage appropriate for the [Building](#) in conformance with codes, rules and regulations applicable to the Property, in conformance with

historic preservation and the Property's historic designation, but in no event on the first floor on the Main Street side of the Property.

22. Notices.

All notices, demands, elections, deliveries and other communications between the parties required or desired to be given in connection with this Lease (each, a "Notice"), to be effective under this Lease, shall be in writing and shall be deemed to be given and received (i) when delivered personally; (ii) one business day after deposit with a national overnight courier service (e.g., Federal Express); or (iii) three (3) business days after deposit with the United States Postal Service as certified mail, return receipt requested; and in any event with all charges or postage prepaid and addressed as follows:

If to the Landlord,

KDBA, LLC
1503 Francke Avenue
Lutherville, Maryland 21093
Phone: 443-388-0713
Fax: 410-779-3764
Attention: John Thompson

with a copy to

Richard S. Lehmann, Esquire
Abramoff Neuberger LLP
2850 Quarry Lake Drive, Suite 300
Baltimore, Maryland 21209

And if to the Tenant,

Director Department of Public Works
145 Gorman Street
2nd Floor
Annapolis, Maryland 21401

with a copy to

Office of the City Attorney
160 Duke of Gloucester Street
Annapolis, Maryland 21401
Attention: City Attorney

Either party may from time to time designate another address for the receipt of future Notices by a Notice given as provided by this Section 22 to the other party at the address(es) set forth in, or as last provided by such other party in accordance with, this Section 22.

23. Termination; Holding Over.

If the Tenant holds possession of the Premises after the expiration or termination of this Lease without the Landlord's written consent, the Tenant shall become a tenant from month to month at the amount of Basic Rent due during the last month of the Lease Term and upon all other terms herein specified and shall continue to be such tenant from month to month until such tenancy shall be terminated by either party giving the other Notice thereof at least thirty (30) days prior to terminating such tenancy. Nothing contained in this Lease shall be construed as a consent by the Landlord to the occupancy or possession of the Premises by the Tenant after the expiration or termination of this Lease. Upon the expiration or termination of this Lease, the Landlord shall

be entitled to the benefit of all public general or public local laws relating to the speedy recovery of the possession of lands and tenements held over by tenants, that may now or hereafter be in force.

24. Estoppel Certificates.

The Tenant shall, from time to time, within ten (10) business days after a request therefor by the Landlord, execute, acknowledge and deliver to the Landlord a written instrument in recordable form and otherwise in such form as required by the Landlord (a) certifying that this Lease is in full force and effect and has not been modified, supplemented or amended in any way (or, if there have been modifications, supplements or amendments thereto, that it is in full force and effect as modified, supplemented or amended and stating such modifications, supplements and amendments); (b) stating the Rent payable and dates to which the Rent and other charges hereunder have been paid by the Tenant; (c) stating whether or not to the best knowledge of the Tenant, the Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease; (d) stating the Effective Date and the Lease expiration date, including any optional renewals; and (e) stating any other fact or certifying any other condition reasonably requested by the Landlord or by any mortgagee or prospective mortgagee or purchaser of the Premises or of any interest therein. In the event that the Tenant shall fail to return a fully executed copy of such certificate to the Landlord within the foregoing ten (10) day period, then the Tenant shall be deemed to have approved and confirmed all of the terms, certifications and representations contained in such certificate, and the Tenant irrevocably authorizes and appoints the Landlord as its attorney-in-fact to execute such certificate on behalf of the Tenant. Any such statement delivered pursuant hereto may be relied upon by any owner of the Premises, any mortgagee or prospective mortgagee or purchaser of the Premises or any interest therein or any prospective assignee of any mortgagee.

25. Liability of the Landlord.

(a) The term “the Landlord” as used in this Lease means only the owner, the mortgagee, or the trustee or the beneficiary under a deed of trust, as the case may be, for the time being, of the Property, so that in the event of any transfer of title to the Property, the Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of the Landlord hereunder thereafter accruing.

(b) The Tenant acknowledges that the rents reserved in this Lease do not include the cost of security guards or other security measures, and that the Landlord has no obligations to provide such services. The Tenant assumes all responsibility for the protection of the Tenant’s officers, contractors, agents, guests, invitees, employees or licensees from the acts of third parties.

26. Quiet Enjoyment.

If the Tenant timely pays all the Rent herein reserved and performs and observes all of the other terms, covenants and conditions of this Lease on the Tenant’s part to be performed and observed hereunder, the Tenant shall, during the Term, peaceably and quietly have, hold and enjoy the Premises without molestation or hindrance by the Landlord or any party claiming through or under the Landlord, subject to the provisions of this Lease.

27. Commissions.

(a) The Landlord represents to the Tenant that there are no real estate or brokerage commissions payable in connection with this Lease to any party claiming through the Landlord, or arising out of the actions of the Landlord.

(b) The Tenant represents to the Landlord that there are no real estate or brokerage commissions payable in connection with this Lease to any party claiming through the Tenant, or arising out of the actions of the Tenant.

(c) The representations set forth in this Section 27 shall survive the expiration or the earlier termination of this Lease.

28. Recordation.

Neither this Lease or any memorandum thereof shall be recorded among the public records of Anne Arundel County, Maryland without the prior written consent of the Landlord, which consent may be withheld in the Landlord's sole and absolute subjective discretion. If the Landlord consents to the recordation of this Lease or a memorandum thereof, the party requesting recordation shall pay all recording fees, transfer taxes and documentary stamp taxes payable on, or in connection with, this Lease and such recordation.

29. Intentionally Deleted.

Option to Extend.

(a) For and in consideration of the previously paid sum of Six Hundred Twenty-five Thousand Dollars (\$625,000) (the "Option Fee"), the Tenant shall have the single option (the "Option") to extend the Term of the lease to July 1, 2094 upon payment of the Extension Price and upon the terms and conditions set forth herein. The Option Fee is non-refundable and shall not be applied or credited against the Extension Price (as defined below).

(b) The Option may be exercised on or after July 1, 2019 and must be exercised prior to July 1, 2029, by written notice to the Landlord and to the Landlord under the Ground Lease (the "Option Notice"). If not exercised prior to July 1, 2029, then the Option shall lapse and be of no further force or effect.

(c) The Extension Price shall be equal to the following formula: (i) 20,372 multiplied by (ii) the Per Square Foot Fair Market Rent, divided by (iii) the Fair Market Capitalization Rate, but shall not be less than Six Million Dollars (\$6,000,000). Within sixty (60) days of receipt of the Option Notice, the Landlord shall provide the Tenant its determination of the Per Square Foot Fair Market Rent and the Fair Market Capitalization Rate, together with supporting documentation therefor. The Tenant shall have sixty (60) days either to disagree with the Landlord's determination and provide its own determination and supporting documentation, to decline to extend the Term, in which event the Option shall lapse, or to accept the Extension Price. If the Tenant fails to respond within such sixty (60) day period, then the Tenant shall be deemed to have declined and the Option shall lapse. If the Tenant accepts the Extension Price, then the Extension Price shall be paid within thirty (30) days (the "Option Closing Date") by wire transfer in accordance with wire instructions provided to Tenant by the Landlord.

(d) For the purposes of this Section 30, (i) the "Per Square Foot Fair Market Value" means the then prevailing per square foot market rates for a triple net lease to a creditworthy tenant for similar or comparable space for similarly located buildings and (ii) the "Fair Market Capitalization Rate" means that discount rate, expressed as a percentage, used to value the cash flow from an investment to determine the fair market value of real estate similar to the Property.

(e) If the Tenant does not close by the Option Closing Date, then the Option shall lapse and terminate, the Term shall not be extended, and the Landlord shall be relieved of any and all obligations under this Section 30.

(f) Upon payment of the Extension Price, Basic Rent shall be prorated to the Option Closing Date and the Tenant shall no longer be obligated to pay Basic Rent for the remainder of the Term; but the Tenant shall remain fully obligated to pay all items of Additional Rent, including the Tenant's Share of Common Expenses. Payment of the Extension Price shall not be refunded, rebated or subject to proration pursuant to any provision of this Lease.

Miscellaneous.

(a) This Lease, together with the Exhibits attached hereto, is the entire agreement between the parties with respect to the matters set forth herein and therein, and all such prior statements, discussions, negotiations and agreements, oral or written, are superseded by this Lease and the Exhibits attached hereto and merged herein and therein. The Landlord has made no representations or promises with respect to the Premises except as are expressly set forth in this Lease.

(b) The terms, conditions and agreements herein contained shall be kept and performed by the respective parties, and, subject to and without modifying the provisions of Section 18, shall be binding upon and inure to the benefit of the Landlord and the Tenant, their respective successors and assigns.

(c) All Section headings or titles in this Lease are for convenience of reference only, and shall not be deemed to affect the meaning or construction of any provision of this Lease. All references in this Lease to Sections are to Sections in this Lease, unless otherwise expressly indicated.

(d) If any provision (or any part of any provision) contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or remaining part of the affected provision) of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision (or part thereof) had never been contained herein but only to the extent it is invalid, illegal or unenforceable.

(e) Time is of the essence of this Lease.

(f) This Lease may be executed in two or more counterparts and all counterparts shall collectively constitute a single instrument.

(g) This Lease shall be governed by the laws of the State of Maryland, excluding any Maryland choice of law principles.

(h) Unless otherwise indicated, the term “days” shall mean calendar days.

(i) Noting contained in this Lease shall be construed to constitute one party as an agent, representative or employee of the other party, or to create any relationship between the parties other than landlord and tenant.

IN WITNESS WHEREOF, the parties have executed this Agreement of Lease under seal as of the date first written above.

WITNESS: KDBA, LLC, a Maryland limited liability company, Landlord

By: KDBA Managing Member, LLC, a Maryland limited liability, its Managing Member

By: Weston & Cameron, LLC, a Maryland Limited Liability Company, its Managing Member

By: _____
Todd Hylton, its Managing Member

WITNESS:

THE CITY OF ANNAPOLIS,
a municipal corporation of the State of Maryland, Tenant

By: _____

Regina C. Watkins-Eldridge, MMC,
City Clerk

Michael J. Pantelides, Mayor (Seal)

APPROVED FOR FINANCIAL : REVIEWED AND APPROVED
SUFFICIENCY BY:

Bruce T. Miller, Director
Finance Department

Thomas C. Andrews, City Manager

REVIEWED AND APPROVED BY:

David Jarrell, Director
Department of Public Works

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

OFFICE OF THE CITY ATTORNEY

EXHIBIT A

Description of Land

EXHIBIT B

Lobby