

MONTGOMERY COUNTY, MARYLAND
AND
CHI CENTERS, INC.
FIRST AMENDMENT TO FEBRUARY 19, 2003, LEASE

THIS FIRST LEASE AMENDMENT (this "Amendment"), is entered into this 16th day of FEBRUARY, 2006, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (hereinafter referred to as "Lessor"), and CHI Centers, Inc., (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, Lessor and Lessee, are parties to that certain lease dated February 19, 2003, which is attached hereto and made a part hereof as Exhibit A (the "Lease") under which Lease the Lessee occupies the premises known as Lone Oak Elementary School, Rockville, Maryland (the "Leased Premises");

WHEREAS, legislation has been adopted by the State of Maryland codified in Subtitle 6 of Title 24 of the Health-General Article (the "Subtitle") which provides *inter alia* for "Community-Facilities-Capital Grant(s)" to certain non-profit providers to construct, renovate or equip community health facilities, or development disability facilities and further provides to the State of Maryland (the "State") upon the provision of any such grant a statutory right-of-recovery creating a potential lien in favor of the State against the property on which such facilities are located and for which such grant funds are used to assure repayment to the State of the prorata cost of grant-funded improvements if the non-profit provider either (a) fails to complete the project or commence operations of the facility or (b) ceases within thirty years after completion of the facility, to operate the facility as a "facility" as defined in Subtitle 6 or within such time conveys the facility to any person or entity not approved by the Board of Public Works; and

WHEREAS, Lessee has applied for and obtained a Community-Facilities-Capital Grant on July 3, 2002, in the amount of Six Hundred Seventy Five Thousand dollars (\$675,000.00), on March 8, 2000, in the amount of Fifty Eight Thousand Eight Hundred Seventy Five dollars (\$58,875.00) collectively (the "Grant"); and

WHEREAS, the State, as a condition of such Grant, has required that Lessor consent to the filing of a potential lien in favor of the State against the Leased Premises to assure repayment of the prorata cost of the Grant funds as provided in the Subtitle and to further subject the Lessor jointly and severally with Lessee to liability to the State for the prorata cost of those Grant-funded improvements (a copy of the State's Notice of Right of Recovery to be filed among the land records is attached as Exhibit B); and

WHEREAS, as a condition of the Lessor consenting to recording of the State's Notice of Right of Recovery, the creation of a potential lien in favor of the State against the Leased

Premises and the creation of liability on the part of the Lessor jointly with Lessee to the State for the prorata cost of Grant-funded improvements, the Lessor has required that the Lessee execute this Amendment and that the Lessee provide certain bonds and that the Lessee fulfill all obligations contained in the provisions of this Amendment and the Lease.

Now, therefore, the parties intending to be legally bound hereby enter into this Amendment upon the following terms and conditions:

1. Lessee agrees to indemnify and hold harmless Lessor from any and all claims, losses, and liability of any nature whatsoever, arising from Lessor's consent to the recording of the State's Notice of Right of Recovery and/or relating in any way to any obligation on the part of Lessor incurred for the repayment of the pro rata cost of any Grant-funded improvements or relating in any way to any action by the State or anyone acting on behalf of the State seeking to recover from Lessor any amounts as a result of the Grant including any and all costs and attorney's fees incurred by Lessor as a consequence thereof.
2. Lessee shall provide to Lessor prior to or simultaneously with the execution of this Amendment, a surety bond or letter of credit in form and substance satisfactory in all respects to the Lessor from a surety or financial institution satisfactory in all respects to the Lessor, licensed to do business in the State upon the following terms:
 - (a) having a term of not less than thirty years and covering inclusively the period of time from the date of final completion of the project, facility or improvement as to which the Grant funds were used through the Lease expiration date; or such other term that is agreeable to the Lessor;
 - (b) in an annually increasing amount equal to the ratio to the then current fair market value of so much of the property as constituted the approved project, facility or improvement as the amount of the Grant bore to the total eligible cost of the approved project, facility or improvement, together with all costs and reasonable attorney's fees which may be incurred by the State or the Lessor, in any recovery proceedings and;
 - (c) payable upon any of the following occurrences; (i) failure of Lessee to complete the project, facility or improvement, (ii) failure of Lessee to commence operation of the project, facility or improvement, (iii) sale or transfer (including assignment or subleasing) of the Leased Premises, project, facility or improvement to any person, agency or

organization that would not qualify as an applicant for the Grant or that is not approved as a transferee by the Board of Public Works at any time within thirty years after the completion of the project, facility or improvement or if, within the same period, the project, facility or improvement ceases to be a "facility" as so defined in the Subtitle or any successor provision,

3. The following provisions of the Lease are hereby amended as indicated:

(a) Section 2 Term:

Section 2 will read as follows: "The term of this lease will expire 30 years after completion of the Project or facility with respect to which the grant funds have been paid, referred to herein and in no event more than 35 years from the commencement date of this lease. The commencement date of this Lease shall be the date of execution hereof, as set forth on page 1 of this Lease. Lessee and the County acknowledge that this Lease is contingent upon the approval of the Board of Public Works of the State of Maryland, and that the County will therefore submit a copy of this Lease to the Board of Public Works for approval. If said approval by the Board of Public Works is not granted, then this lease and any subleases entered into by the Lessee hereunder shall be null and void as of the date of action by the Board of Public Works. At least ninety (90) days prior to expiration of the Lease, Lessee shall obtain from the State and provide to Lessor a release in recordable form acceptable to Lessor releasing the State's Notice of Right of Recovery and any other notice or lien filed by the State relating to the Subtitle, the Grant, or the State's Right of Recovery and record the same among the Land Records of Montgomery County, Maryland."

(b) Section 3 Use of Premises:

The following words are added: "Lessee covenants and agrees that it will use the Leased Premises constructed with the Grant funds only for community health facilities, or development disability facilities or other uses permitted under the Subtitle and Grant and will not use the same for any purpose which would subject the Property or the Leased Premises to any lien or the Lessor to any liability under the Grant, the Subtitle or the State's Right of Recovery."

(c) Section 5 Termination for Convenience of Government:

The following words are added: "In the event Lessor should exercise its rights under this provision and terminate the Lease for convenience,

Lessee, prior to such termination, shall deliver to Lessor a release in recordable form acceptable to Lessor releasing the State's Notice of Right of Recovery and any other notice or lien filed by the State relating to the Subtitle, the Grant or the State's Right of Recovery and record the same among the Land Records of Montgomery County, Maryland."

(d) Section 9 Capital Improvements:

The following words are added: "Lessee is not entitled to any reimbursement under this section for any Grant-funded improvements. Lessee shall, nonetheless, be required to comply with subsection (B) of this section requiring approval by Lessor of all improvements as to any Grant-funded improvements."

(e) Section 12 Condition of Premises:

The following words are added: "Lessee shall keep the Leased Premises at all times in such condition and repair as will not cause or permit the Grant-funded improvements to be in violation of the provisions of the Subtitle so as to cause any lien or any claim to be made by the State under the Subtitle, the Grant or the State's Right of Recovery."

(f) Section 14 Lessee's Indemnification of County:

The following words are added: "This indemnity includes any claims asserted against the Leased Premises or the Lessor arising from or in any way related to the Grant, the Subtitle or the State's Right of Recovery."

(g) Section 15 Responsibilities of Lessee:

The following words are added as subsection (G): "Lessee shall comply with all requirements of the Grant and the Subtitle so as not to cause any claim to be made by the State against the Leased Premises or the Lessor under the Subtitle, the Grant or the State's Right of Recovery."

(h) Section 16 Destruction of Premises:

The following words are added to subsection (C): "Including the Grant-funded improvements or any other capital or non-capital improvements for which the Grant funds are used."

(i) Section 17 Default:

The following words are added to subsection (A): "5. A breach by Lessee

of any of the provisions of the Subtitle, the Grant or any act or omission by Lessee which would cause any lien or claim to be made against the Leased Premises or the Lessor by the State relating to the Subtitle, the Grant or the State's Right of Recovery or which would constitute a breach or violation of the provisions of any of the foregoing."

(j) Section 18 Eminent Domain:

The following words are added to subsection (A): "The provisions of this subsection (A) shall apply also to any Grant-funded improvements."

(k) Section 19 Assignment and Subletting:

The following language is added: "Notwithstanding any provision of this Section 19 or any other provision of this Lease to the contrary, Lessee shall not make any assignment of or sublease the Leased Premises or the Grant-funded improvements, or any portion thereof or otherwise sell or transfer any interest therein or any interest in any facility, project or improvement constructed with the Grant funds to any person, agency or organization that would not qualify as an applicant for the Grant or that is not approved as a transferee by the Board of Public Works or which would cause the Leased Premises, the project, facility or the Grant-funded improvements to cease to be a 'facility' as defined in the Subtitle at any time during the term of this Lease."

(l) Section 23 Notice of Defects:

The following words are added: "Lessee shall further give to Lessor prompt written notice of any act or omission which would constitute a violation of the Subtitle of the Grant or result in any claim being asserted by the State under the Subtitle, the Grant or the State's Right of Recovery."

(m) Section 25 Compliance with Laws:

The following words are added: "Lessee's obligation of compliance with applicable laws as provided in this section includes compliance with the Subtitle, the terms of the Grant and conformance with all requirements of either so that no claim is made or asserted against the Leased Premises or the Lessor by the State relating to the Subtitle, the Grant or the State's Right of Recovery."

(n) Section 36 Indemnity Bond:

The following words are added: "The provisions of this Amendment requiring the Lessee to comply with the Subtitle, the terms of the Grant and to undertake no act nor permit any omission which would cause any claim to be made against the Leased Premises or the Lessor by the State relating to the Subtitle, the Grant or the State's Right of Recovery are deemed to be secured by the indemnity bond required by this Section 36; and Lessee shall amend the indemnity bond (and provide a copy thereof to Lessor) reflecting this additional obligation of Lessee as secured by the indemnity bond."

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed the day and date below written.

WITNESS:

By: Candy Park

Date: 2-16-06

LESSOR:

MONTGOMERY COUNTY, MARYLAND

By: Bruce Romer
(Print name) BRUCE ROMER
Chief Administrative Officer

Date: 2-16-06

WITNESS:

By: Ann Chavel

Date: Dec 15, 2005

LESSEE:

CHI Centers, Inc.

By: [Signature]

Title: President

Date: Dec 15, 2005

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: [Signature] 1-6-06
Scott R. Foncannon, Associate
County Attorney

RECOMMENDED

By: [Signature]
Timothy L. Firestone
Director, Department of Finance

CITY ATTORNEY
5 2006 11:21

EXHIBIT A
(February 19, 2003, Lease)

LEASE AGREEMENT
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
CHI CENTERS INC.

DATED
February 19, 2003

TABLE OF CONTENTS

Article

1. Premises
2. Term
3. Use of the Premises
4. Rent; Rental Adjustments
5. Termination for Convenience of Government
6. Use of the All-Purpose Room by the Community, Department of Recreation and other County Agencies
7. Use of Play Areas and Fields
8. Parking
9. Capital Improvements
10. Operating Expenses
11. Fixtures and Equipment
12. Condition of Premises
13. Liability, Property Damage and Fire Insurance
14. Lessee's Indemnification of County
15. Responsibilities of Lessee
16. Destruction of Premises
17. Default
18. Eminent Domain
19. Assignment and Subleasing
20. Access
21. Surrender of Possession
22. Holdover
23. Notice of Defects
24. County's Title and Covenant of Quiet Enjoyment
25. Compliance with Laws
26. Benefit and Burden
27. Disputes
28. Waiver
29. Non-Discrimination
30. Contract Solicitation
31. Public Employment
32. Force Majeure
33. Resident Agent
34. Prohibition of Hazardous Substances
35. Mailing Notices
36. Indemnity Bond
37. Indemnification by the County
38. General Provisions

Exhibit A - Deed
Exhibit B - The Property Description
Exhibit C - Original Lease
Exhibit D - The Leased Premises
Exhibit E - Capital Improvements

Rw
Z/R

WHEREAS, the State portion of said funding requires the Lessee to have a thirty-year lease agreement for the Property; and

WHEREAS, the County has completed the reuse procedure and has obtained necessary approvals to lease the Property to the Lessee, as set forth in Executive Regulation 4-99AM, and the Lessee was selected as an appropriate tenant for the Property; and

WHEREAS, the County and Lessee wish to enter into a thirty-year lease agreement which incorporates all of the terms prescribed for such leases in Executive Regulation 4-99AM;

NOW THEREFORE, in consideration of the terms and conditions of this Lease, including the payment of rent by the Lessee to the County as provided below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PREMISES: The County does hereby lease and demise unto Lessee part of the Property described as the Lone Oak Elementary School, 1010 Grandin Avenue, Rockville, Maryland. The County leases to Lessee the building, walkways, play areas, parking lot, driveway and land contiguous to the building, as outlined in red on Exhibit D. attached and incorporated as if fully set forth (the "Leased Premises"). The Leased Premises do not include the wing of the building which houses a child care center under a separate lease with the County. The Leased Premises are leased and accepted by Lessee in "as is" condition.

2. TERM: The term hereby created shall be thirty (30) years, based on the Lessee's contribution of capital improvements as fully described in Exhibit E. The commencement date of this Lease shall be the date of execution hereof, as set forth on page 1 of this Lease. Lessee and the County acknowledge that this Lease is contingent upon the approval of the Board of Public Works of the State of Maryland, and that the County will therefore submit a copy of this Lease to the Board of Public Works for approval. If said approval by the Board of Public Works is not granted, then this Lease and

Handwritten signatures in the bottom right corner of the page, including a signature that appears to be 'RM' and another that appears to be 'SME'.

twenty (20) calendar days after a monthly payment becomes due and payable Lessee shall pay to the County, in addition to and as a part of the rental payment in question, a late penalty of fifteen percent (15%) of said monthly rental payment. Should Lessee's failure to pay continue for more than thirty (30) calendar days after a monthly payment becomes due and payable, the County shall have the right to terminate this Lease, recover possession of the Leased Premises and pursue any other legal remedies available to the County under the laws of the State of Maryland. Any late penalty imposed under the Paragraph will be payable to the County as Additional Rent, and must be paid at the time that the overdue installment of Rent is paid to the County by Lessee.

- D. To the annual rent payable by Lessee during the previous lease year shall be added that sum representing one hundred percent (100%) of the amount resulting after (1) multiplying said annual rent payable during the previous lease year by a fraction, the numerator of which shall be the index now known as the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price index for All Urban Consumers, National Average, All Items (1984 = 100), or its successor, for the month two months prior to the last month of the previous lease year and denominator of which shall be said index for the month two months prior to the first month of the previous lease year and (2) subtracting from such product the annual rent payable during the previous lease year. For instance, for a lease commencing in July, 2001, the first annual calculation would be as follows: (current annual rent x (April 2001 CPI U / May 2000 CPI U)) - current annual rent = CPI increase. In any event, and notwithstanding the results obtained through the above calculation, the Lessee's adjusted annual rent will not be less than 103%, nor more than 105% of the rent paid by Lessee the previous year.

Rm
DR

Room, Gymnasium or Auditorium within the premises shall remain available to the community during the term of this Lease. Lessee agrees to make any All-Purpose Room, Gymnasium and/or Auditorium available for community use through CUPF Monday through Saturday during the daytime from 9:00 A.M. to 6:00 P.M., but only when such use will not interfere with Lessee's previously scheduled daytime activities. For the purposes of this Lease, "Lessee's activities" are defined as those programs and activities directly related to the Lessee's approved occupants. Lessee must forward all requests to use any All-Purpose Room, Gymnasium and/or Auditorium directly to CUPF. CUPF will honor requests in accordance with the priorities established in the Guidelines for the Community Use of Educational Facilities and Services in Chapter 44 of the Montgomery County Code. Lessee acknowledges and agrees that only CUPF may agree to any rental of any All-Purpose Room, Gymnasium and/or Auditorium. Lessee agrees to provide CUPF with a schedule of its activities for any All-Purpose Room, Gymnasium and/or Auditorium on a semi-annual basis. The Fall/Winter schedule (October-March) must be submitted by September 15 and the Spring/Summer schedule (April-September) must be submitted by February 1. Times not scheduled for daytime activities by the Lessee will be deemed to be available for community use. Lessee further agrees to make any All-Purpose Room, Gymnasium and/or Auditorium available Monday through Saturday at night from 6:00 P.M. to 11:00 P.M. and all day Sunday from 9:00 A.M. to 11:00 P.M., but only when such use will not interfere with Lessee's previously scheduled activities during these times, as submitted by the Lessee in its semi-annual schedule. The above notwithstanding, the Lessee agrees to honor and allow any activities scheduled in any All-Purpose Room, Gymnasium and/or Auditorium through CUPF prior to the date of execution of this Lease. Any use by the Lessee deviating from its previously submitted schedule will be subject to the approval of CUPF. Lessee agrees to make any All-Purpose Room, Gymnasium and/or Auditorium available, upon request from CUPF, to the Montgomery County Supervisor of Elections for use as a polling facility during the day, if necessary, during primary, general and special elections, irrespective of Lessee's prior scheduled activities. The County shall hold Lessee harmless and defend Lessee from any claim of liability made or arising out of community or the County's use of the Leased Premises, except for damage or liability arising from the negligent or willful acts or omissions of Lessee, Lessee's agents, employees, guests or contractors.

- b. Are required to protect and preserve the building structure or systems; or
 - c. Are mandated by County, State, or Federal code, law and/or regulations.
 - d. By way of examples, and not intended to be a complete list, non-elective capital improvements include but are not limited to work such as roof replacement, boiler replacement, HVAC system replacement, replacement of failing exterior structural walls, electrical system replacement, conversion from oil fired boilers to gas heat, asbestos removal, underground storage tank removal, window replacement (excepting window pane replacements), and ADA mandated improvements.
3. Qualified Capital Improvements are Elective or Non-Elective Capital Improvements that have been reviewed and approved in writing by the County and that are specifically identified in the County's written approval as Qualified Capital Improvements.

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

- 1. Lessee must obtain the prior written consent of the County for all capital improvements. Lessee must submit to the County complete plans, drawings, and specifications at least 45 days prior to beginning work. Lessee's submittal must be of sufficient detail and content to permit the County to fully evaluate Lessee's proposed project. In the event the proposed capital improvements are Elective Capital Improvements, two copies of the submission must be sent by Lessee to the County. The County must coordinate review with MCPS of any proposed improvement that may affect the future educational use of the Leased Premises. The County will respond in writing to Lessee's submission within 45 days of the receipt of all required documentation.



operating, maintenance, or repair expenses, or any other costs except the actual costs directly related to the design and construction and/or installation of capital improvements, which costs must be fully documented by Lessee.

3. Capital improvements completed by Lessee without the prior written approval of the County will not receive rent credit.
4. The County has the right to audit all construction or other costs for which Lessee requests rent credits.
5. The County has the right to inspect all work and materials before, during, and after construction.
6. In the event the work performed is not in compliance with the plans and specifications previously approved by the County, Lessee will immediately undertake any necessary corrections at Lessee's sole risk and expense. The costs of such corrective measures are not eligible for reimbursement. If Lessee fails to take corrective actions within a reasonable time upon written notification in compliance with Article 17 of this Lease, Lessee's right to rent credits for that capital project will be terminated. If necessary in the sole reasonable judgement of the County, the County may perform the corrective action and charge Lessee the cost of that corrective action as additional rent hereunder.
7. Rent credits for Elective Capital Improvements will be made only to the degree that said improvements are determined, at the sole determination of the County, to be of value to the County and/or MCPS.
8. Future rent credits may be forfeited, at the County's option, if Lessee defaults and fails to cure as permitted in Article 17, on any term or condition of this Lease.
9. Only improvements approved and completed after the effective date of Executive Regulation 4-99AM (June 5, 2001) will be eligible for rent

A handwritten signature in black ink, appearing to be 'R. M. J.', is located in the bottom right corner of the page.

4. Capital improvements performed by Lessee without the prior written approval of the County will not receive reimbursement.
5. In the event the work performed is not in compliance with the plans and specifications previously approved by the County, Lessee will, upon written notification in compliance with Article 17 of this Lease, immediately undertake any necessary corrections at Lessee's sole risk and expense. Corrective measures are not eligible for reimbursement by the County. In the event Lessee fails to take the corrective action as requested in writing by the County, Lessee will forfeit its right to rent credits or reimbursement.
6. The County will not reimburse Lessee for any Qualified Capital Improvements in the event Lessee vacates the premises before the end of the lease term, whether voluntarily or pursuant to legal action for breach of this Lease.
7. Lessee shall not be entitled to reimbursement in the event of default by Lessee of any of the terms and conditions of this Lease Agreement, subject to notification under Article 17 of this Lease.
8. Lessee will not be entitled to reimbursement for any finance charges, fees, administrative costs, bonds, permit fees, insurance, operating, maintenance or repair expenses, or any other costs not directly attributable to the actual construction and/or installation of approved capital improvements.
9. Lessee will not be entitled to reimbursement for Elective Capital Improvements, unless the improvements are, at the sole discretion of the County, determined to be Qualified Elective Capital Improvements.
10. No reimbursement will be granted for any improvement to the extent that the improvement was paid for by a grant, loan, bond or other financial assistance from the Montgomery County Government or any other government or public agency.



Lease shall become property of the County. The County shall dispose of any such property in the manner it deems appropriate.

12. CONDITION OF PREMISES: Lessee accepts the Leased Premises in "as is" condition, and Lessee agrees to maintain the Leased Premises, including all improvements therein, in good condition and state of repair throughout the term of this Lease and any extension thereof. For purposes of maintenance and upkeep, the Leased Premises shall include the building, walkways, parking lot, driveway, play areas and all other grounds that are part of the Leased Premises. Lessee agrees to keep the Leased Premises clean and neat in appearance at all times, and to keep grass trimmed, trees treated and shrubbery pruned as necessary to maintain them in good condition and appearance. Lessee agrees to make repairs as necessary for the safe use of the Leased Premises, including changes necessary to comply with law, including, but not limited to changes, if required, to comply with the Americans With Disabilities Act [42 U.S.C. 12101], et. seq.

13. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE:

- A. Lessee agrees to obtain and maintain, during the full term of this Lease, and any extension thereof, a policy of general liability insurance with a minimum limit of liability of \$1,000,000 (one million dollars) for bodily injury and property damage including fire legal liability issued by an insurance company licensed in the State of Maryland and acceptable to the County.
- B. Lessee agrees to obtain and maintain, during the term of the Lease, and any extension thereof, a policy of workers compensation and employers liability coverage in the amount of \$100,000 (each person) for bodily injury by accident or by disease and \$500,000 for bodily injury by accident or by disease (policy limits).
- C. Lessee agrees to obtain and maintain, during the term of the Lease, an All Risk Property policy covering 100% of the content of the Leased Premises.



or related to Lessee's use or possession of the premises, including play fields and play areas, from any breach of this Lease by Lessee, or from any claim, action, damage, liability or expense occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, guests or employees, except such negligence as may be occasioned by the acts or omissions of the County, the County's employees, agents and contractors, including the County's and community's use as outlined in Articles 6 and 7 above. Lessee further specifically agrees to hold the County harmless and pay for the defense of the County from any claim of liability made in connection with any construction or installation of equipment within the Leased Premises, notwithstanding that any such construction or equipment may or may not be deemed to be a part of the Leased Premises hereinabove described.

15. RESPONSIBILITIES OF LESSEE: Lessee covenants and agrees as follows:

- A. Lessee shall not strip, overload, damage or deface the Leased Premises, hallways, stairways or other approaches thereto or the fixtures therein or used therewith, nor suffer or permit any waste in or upon said Leased Premises.

- B. Lessee shall not keep gasoline or other flammable material or any explosive within the Leased Premises which will increase the rate of fire insurance on the Leased Premises beyond the ordinary risk established for the type of operations described in Article 3 hereof. Any such increase in the insurance rate due to the above, or due to Lessee's special operations within the Leased Premises, shall be borne by Lessee. Lessee shall not willfully do any act or thing in or about the Leased Premises which may make void or voidable any insurance on the Leased Premises, and Lessee agrees to conform to all reasonable rules and regulations established from time to time by the County, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

- C. Lessee shall not use or allow to be used the Leased Premises or any part thereof for any illegal, unlawful or improper purpose or for any activity which will constitute a nuisance to adjacent properties or the adjacent neighborhood.

Rm
JMQ

B. In the event that the County is able to undertake the repair of the Leased Premises and determines it is in the County's best interest to do so, the County shall complete said repairs within ninety (90) days from the date of destruction or damage, or whatever time frame is necessary, in the County's judgment, with all parties acting diligently, and this Lease shall not be affected, except that during reconstruction rental payments shall be reduced by a percentage corresponding to the portion of the Leased Premises to which Lessee is denied normal occupancy and use.

C. In the event that the County does not repair the Leased Premises as hereinabove provided, Lessee shall not be entitled to any compensation or payment from the County for the value of any remaining term of the Lease, including reimbursement for any capital or non-capital improvements made by Lessee to the Leased Premises.

D. The County reserves the right to not repair the Premises, if it decides, in its sole discretion; repair of the Premises is not in the County's best interest.

17. DEFAULT:

A. Lessee shall be considered in default of this Lease upon the occurrence of any of the following:

1. Failure to perform under any term, covenant or condition of this Lease and the continuance thereof for thirty (30) days after written notice from the County specifying said failure, or such lesser or greater time as may be required, in the County's sole judgment, with Lessee acting diligently.
2. The commencement of any action or proceeding for the dissolution or liquidation of Lessee, or for the appointment of a receiver or trustee of

- B. Nothing contained hereinabove shall be construed to preclude Lessee from claiming, proving and receiving, in a separate claim filed by Lessee against the authority exercising the power of eminent domain, such sums to which the Lessee may be entitled as compensation, provided that such a separate claim does not interfere with or reduce the County's award.
- C. The County or Lessee may terminate this Lease upon exercise of eminent domain by a condemning authority that renders the Leased Premises unfit for the use and purpose set forth in Article 3 herein.

19. ASSIGNMENT AND SUBLEASING:

- A. Lessee will not assign or sublease any part of the Leased Premises without the County's express written consent. The County's written consent shall be obtained in the following manner:
 - 1. Lessee will submit to the County a copy of the proposed sublease, a description of the activities and uses proposed by sublessee, proof of the sublessee's ability to pay rent, adequately maintain its premises and otherwise comply with all terms and conditions of this Lease, and any other information pertinent to the proposed sublessee's use and occupancy as may be requested by the County.
 - 2. The County will provide copies of the above information to the Montgomery County Council, the Montgomery County Planning Board and MCPS and will solicit and consider their comments on the proposed sublease.
 - 3. The County will make a decision on the proposal and will respond in writing to the Lessee not later than thirty (30) days after receipt of all information required by Article 19A(1) hereinabove, or any additional information that may be otherwise requested by the County.

A handwritten signature in black ink, appearing to be 'Rm' over 'AAB', is located in the bottom right corner of the page.

restrictions that have been imposed by the Montgomery County Council on the use of the premises, and to all of the terms and conditions of this Lease.

6. In the event the County determines that Lessee is receiving rental payments from sublessee in excess of the costs permitted herein, Lessee shall pay all of the rents received over and above the allowable costs to the County, as additional rent.

- C. The provisions of paragraph 19(B) 1 to the contrary notwithstanding, Lessee and the County agree that the Leased Premises will be used by a consortium of users totaling nearly 100% of the Leased Premises. The sublessees in the consortium were approved by all reviewing parties, including County Council, the City of Rockville and the County Executive, during the County's Closed School reuse review process. The County Council, the City of Rockville, and the County Executive agreed that these sublessees provide valuable services to at-risk populations and it is in the best interests of the County to house them in the Leased Premises. Any future sublessees must be approved by the County as required in this Article 19, and the Regulation.

20. ACCESS: Lessee shall allow the County and the County's employees or agents to have access to said Leased Premises at all reasonable times and after reasonable notice, during normal working hours for the purpose of inspection, or, at any time in the event of fire or other property damage, or for the purpose of performing any work required to be performed by the County, or which the County considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Leased Premises. Lessee shall not alter or change the exterior locks installed on the premises, and in the event of an approved change, shall provide the County with keys to the facility, said keys to be used by the County to obtain access to the facility in emergency situations.

21. SURRENDER OF POSSESSION: Lessee covenants, at the expiration or other termination of this Lease, to remove all goods and effects from the Leased Premises not the property of

25. COMPLIANCE WITH LAWS: It is understood, agreed and covenanted by and between the Parties that Lessee, at Lessee's expense, will promptly comply with, observe and perform all of the requirements of all of the statutes, ordinances, rules, orders and regulations now in effect or hereafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County, or any local government with jurisdiction over the Leased Premises.

26. BENEFIT AND BURDEN: The provisions of this Lease shall be binding upon, and shall inure to the benefit of the Parties and each of their respective successors, assigns or representatives.

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

28. 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.

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

Handwritten signatures in the bottom right corner of the page, including a signature that appears to be 'Rw' and another that appears to be 'DAB'.

injuries or personal and real property damage as a result of any hazardous substance being brought on the premises by the Lessee, its agents, contractors, employees or guests.

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

LESSEE:

CHI Centers Inc.
10501 New Hampshire Avenue
Silver Spring, MD 20903-1197

THE COUNTY:

MONTGOMERY COUNTY, MARYLAND
Leasing Management
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, MD 20878

36. INDEMNITY BOND: Upon the request of the County, concurrent with the effective date of the Lease or at any time during the term of this Lease, Lessee agrees to obtain and maintain an executed miscellaneous indemnity bond in the amount of the annual rent for the current lease year to remain in full force and effect throughout the remainder of the lease term, as security for the faithful performance of all the terms and conditions of this Lease. The County shall have the right, but not the obligation, to request such a bond from the Lessee. The County, in its sole discretion, may accept an appropriate substitute surety. Lessee shall, within fifteen (15) days from the date of the request by the County, deliver to the County the said surety, evidencing the coverage hereinabove stated. Failure to deliver the bond or surety as required is considered by the County to be a material breach of this Lease.

37. INDEMNIFICATION BY COUNTY: Notwithstanding anything in this Lease to the contrary, any indemnification given by the County is subject to the liability and damage caps stated in the Local Government Tort Claims Act. Md. Cts. & Jud. Proc. Code Ann. §§5-301, et seq., as amended from time to time. This indemnification is not intended to be a waiver of governmental immunity by the County, and is not intended to create any rights or causes of action in third Parties. The County shall not be liable for damages or injury occasioned by the acts or omissions of Lessee or its agents, or failure to comply with its obligations under this Lease.

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

WITNESS:

LESSEE:
CHI, INC.

By: *[Signature]*

By: *Dean C. Powell*

Date: 1-27-03

WITNESS:

THE COUNTY:
MONTGOMERY COUNTY, MARYLAND

By: *Patricia C. Cook*

By: *[Signature]*
DOUGLAS M. DUNCAN

Title: _____
COUNTY EXECUTIVE

Date: 2/19/03

APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY

RECOMMENDED

By: *Gileen D. Baseman*

By: *[Signature]*
J. RONALD SMITH, CHIEF
FACILITIES SERVICES SECTION

Date: 2/6/2003

Date: 2/5/03

[Handwritten initials]

EXHIBIT B
(State's Notice of Right of Recovery)

RIGHT OF RECOVERY

THIS NOTICE OF RIGHT OF RECOVERY ("Notice"), is made this 16th day of January, 2006, by Montgomery County, Maryland (the "Declarant"), for the benefit of the Board of Public Works of the State of Maryland (the "BPW").

WHEREAS, the Declarant is the owner of a fee simple interest in a parcel of land located in Montgomery County, Maryland, more fully described on Exhibit A attached hereto and made a part hereof (the "Land"), which Land was conveyed to the Declarant by a deed dated August 15, 1990, from the Board of Education of Montgomery County, Maryland, which deed is recorded among the Land Records of Montgomery County in Liber 9453, folio 615; and

WHEREAS, on July 3, 2002, the BPW approved a grant of funds (the "Grant") to the Declarant to assist the Declarant in acquiring, designing, constructing, renovating and equipping a facility (hereinafter sometimes referred to as the "Project") to be located on a portion of the Land (hereinafter, the Land and improvements thereon being referred to as the "Property"); and

WHEREAS, it is anticipated that the BPW may approve additional grants to the Declarant for the Project; and

WHEREAS, approval by the BPW of such Grants is conditioned upon (i) the State of Maryland's right to recover, under certain circumstances, certain sums in accordance with the laws of the State of Maryland, and (ii) the recordation among the Land Records of Montgomery County of this Notice of Right of Recovery.

NOW, THEREFORE, the Declarant hereby declares as follows:

1. In the event of failure to complete a Project or failure to commence operation of a facility, the State may recover from the recipient of the funds disbursed for the Project or facility or the owner of the Property an amount equal to the amount of State funds disbursed for the Project, together with all costs and reasonable attorneys' fees incurred by the State in the recovery proceedings.

2. If, within 30 years after completion of a Project or facility with respect to which funds have been paid under Subtitle 6 of Title 24 of the Health-General Article of the Annotated Code of Maryland (the "Subtitle"), the Property is sold or transferred to any person, agency or organization that would not qualify as an applicant under said Subtitle, or that is not approved as a transferee by the Board of Public Works, or if, within the same period, the improvements cease to be a "facility" as defined in said Subtitle, then the State shall be entitled to recover from either the owner, transferor or transferee, an amount bearing the same ratio to the then current fair market value of so much of the Property as constituted an approved project as the amount of the State participation bore to the total eligible cost of the approved project, together with all costs and reasonable attorneys' fees incurred by the State in the recovery proceedings.

3. The foregoing shall be binding upon the Declarant, its successors and assigns, and shall run with, bind, burden and benefit the Land.

4. The recording of this notice among the Land Records of Montgomery County shall constitute notice to any potential transferee, potential creditor, or other interested party of the possibility that the State may obtain a lien under said Subtitle.

5. The above recitals are hereby incorporated herein and made a part hereof.

AS WITNESS the hand and seal of CHI Centers, Inc., by its duly authorized officers and witnessed by its Secretary.

ATTEST:

CHI Centers, Inc.

Kay Robinson
Kay Robinson, Secretary

By: Alan C Lovell (SEAL)
Alan Lovell, Chief Executive Officer

STATE OF MARYLAND, COUNTY OF Montgomery, TO WIT:

I HEREBY CERTIFY, that on this 16th day of January, ~~2005~~ ²⁰⁰⁶, before me, the undersigned, a Notary Public of the State of Maryland, personally appeared Alan Lovell, Chief Executive Officer of CHI Centers, Inc., a Maryland corporation, and on behalf of said entity did acknowledge that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained as the act of said body corporate.

WITNESS my hand and Notarial Seal.

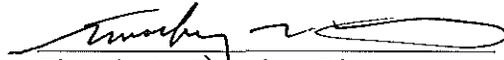
Elaine Lee Yaffe
Notary Public

My Commission Expires:

Elaine Lee Yaffe
Notary Public State of Maryland
My Commission Expires July 1, 2007

AS WITNESS the hand and seal of Montgomery County, Maryland, by its duly authorized County Executive:

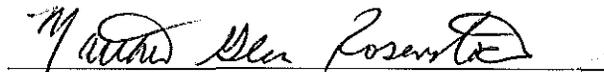
ATTEST:


Timothy L. Firestine, Director
Department of Finance

STATE OF MARYLAND, COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY, that on this 14th day of February, 2006, before me, the undersigned, a Notary Public of the State of Maryland, personally appeared Timothy L. Firestine, Director of Finance for Montgomery County, Maryland, and on behalf of said entity did acknowledge that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained as the act of said body corporate.

WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 11/1/2009

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned Maryland attorney or by a party to this instrument.


Scott R. Foncannon, Esquire