

## FIFTH AMENDMENT TO LEASE

THIS FIFTH AMENDMENT TO LEASE (“Fifth Amendment”) is entered into this 22 day of May, 2023 (the “Fifth Amendment Effective Date”) by and between **BSREP II MD OFFICE MONROE LLC**, a Delaware limited liability company (“Landlord”), and **MONTGOMERY COUNTY, MARYLAND** (“County”).

### RECITALS:

WHEREAS, Landlord and County entered into that certain Office Building Lease dated June 6, 2001, as amended by that certain Amendment to Lease Agreement dated March 31, 2006, as further amended by that certain Second Amendment to Lease (“Second Amendment”) dated November 22, 2011, as further amended by that certain Third Amendment to Lease (“Third Amendment”) dated July 1, 2016, and as further amended by that certain Fourth Amendment to Lease (“Fourth Amendment”) dated March 9, 2020 (collectively, the “Lease”) whereby County leased from Landlord certain premises consisting of approximately 4,879 rentable square feet of space and known as Suite 600 (“Existing Premises”) of the building located at 51 Monroe Street, Rockville, Maryland 20850 (“Building”); and

WHEREAS, County desires to expand the Premises to include approximately 4,526 rentable square feet known as Suite 601 in the Building and Landlord is willing to agree that County may so expand; and

WHEREAS, Landlord and County desire to amend the Lease upon the terms, conditions, covenants and agreements set forth in this Fifth Amendment.

### WITNESSETH:

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) in hand paid by each party to the other, the mutual promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties agree as follows.

1. The recitals contained above are true to the best of the parties’ knowledge and are incorporated by reference herein. Any term used herein that is defined in the Lease shall have the same meaning as specified in the Lease unless otherwise specifically provided herein.

2. As of the Expansion Space Lease Commencement Date (as defined below), Paragraph 1 of the Lease is amended and restated in its entirety as follows:

“**PREMISES:** In consideration of the rent hereinafter reserved and of the covenants hereinafter contained, Landlord hereby leases and demises to County, and County hereby leases from Landlord, Suite 600, which is depicted on **Exhibit A** attached to the Fourth Amendment to this Lease, and incorporated herein and is deemed to contain approximately 4,879 square feet of rentable area, and Suite 601, which is depicted on **Exhibit A-1** attached to the Fifth Amendment to this Lease, and incorporated herein and is deemed to contain approximately 4,526 square feet of rentable area, each measured in accordance with the Building Owners and Managers Association International Standard Method for Measuring Floor Area in Office Buildings ANSI/BOMA Z65.1-2017, and located on the sixth floor of the building located at 51 Monroe Street, Rockville, Maryland 20850 (the “Building”), which space is hereinafter referred to as the “Leased Premises”. The land, building and improvements are defined in this Lease as the “Property.””

3. As of the Expansion Space Lease Commencement Date, **Exhibit A-1** attached to this Fifth Amendment shall be incorporated into the Lease.

4. Effective as of the Fifth Amendment Effective Date, the Lease is amended as follows:

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“The Term of the Lease with respect to the Expansion Space only shall be coterminous with the Term for the Existing Premises and shall, therefore, expire on the Lease Expiration Date (i.e., February 28, 2031). The “Expansion Space Lease Commencement Date” shall mean August 1, 2023. The period from the Expansion Space Lease Commencement Date through the Lease Expiration Date (as herein defined) shall be the “Expansion Space Lease Term”. All references in this Lease (as amended by this Fifth Amendment) to "Term" shall, with respect to the Expansion Space, include the Expansion Space Lease Term.”

5. Effective as of the Expansion Space Lease Commencement Date, the Lease is amended by the addition of the following:

“In addition, County agrees to pay during the Expansion Space Lease Term, solely with respect to the Expansion Space, commencing on the Expansion Space Lease Commencement Date, a Base Rent of One Hundred Forty-Three Thousand Seven Hundred Ninety-One and 02/100 Dollars (\$143,791.02) (hereinafter called the “Base Rent”), payable without deduction, setoff, abatement, demand or counterclaim, in equal monthly installments of Eleven Thousand Nine Hundred Eighty-Two and 59/100 Dollars (\$11,982.59). Such Base Rent (and the monthly installments thereof) shall be increased by two and 50/100 percent (2.50%) annually on May 1, 2024 and on each May 1 thereafter during the Term (which increase will be based upon the full Base Rent without taking into effect any rental abatement that may have been in effect during the preceding year). County shall pay installments of Base Rent in advance on the first day of each and every calendar month during the Term.

Notwithstanding the foregoing, in consideration for County’s compliance with the terms and conditions set forth in the Lease as amended by this Fifth Amendment, and so long as County has not committed a default beyond the applicable period to cure the same under the Lease as amended, Landlord shall, solely with respect to the Expansion Space: (a) abate Base Rent for the Expansion Space for the first twenty-four (24) months following the Expansion Space Lease Commencement Date (the “First Expansion Abatement Period”) which total Base Rent abated for such 24-month period equals Two Hundred Ninety-Two Thousand Nine Hundred Ninety-Six and 68/100 Dollars (\$292,996.68) (the “First Expansion Rental Incentive”); and (b) abate fifty percent (50%) of the Base Rent for the Expansion Space for the eight (8) month period immediately following the First Expansion Abatement Period (i.e., months 25 – 32 of the Expansion Space Lease Term) (the “Second Expansion Abatement Period”) which total Base Rent abated for such 8-month period equals Fifty Thousand Three Hundred Fifty-Six and 82/100 Dollars (\$50,356.82) (the “Second Expansion Rental Incentive”). In the event of a default by County beyond any applicable notice and cure periods, Landlord shall have the right to collect the First Expansion Rental Incentive and the Second Expansion Rental Incentive, along with all other rights of Landlord upon such default by the County.”

For the avoidance of doubt, County agrees that it shall continue to pay Base Rent and Additional Rent with respect to the Existing Premises as provided in the Lease.

6. Effective as of the Expansion Space Lease Commencement Date, the first full paragraph of Paragraph 6 of the Third Amendment (which amended Paragraph 6 of the Second Amendment) is hereby amended by the addition of the following which shall be applicable only to the Expansion Space:

“Real Estate Taxes. Commencing upon the Expansion Space Lease Commencement Date, County shall pay to Landlord as additional rent for the Expansion Space Premises Two and 02/100 percent (2.02%) (being the stipulated proportion which the rentable area of the Expansion Space bears to the total rentable area of the Building) of the increase in real estate taxes (including special assessments, if any, and any other taxes now or hereafter imposed which are in the nature of or in substitution for real estate taxes) levied on the Building and the land (the “Land”) on which the Building is situated over the “Base Real Estate Taxes.” In the event the rentable area of the Building is increased or decreased, the County’s proportionate share will be recalculated and adjusted. County’s proportionate share of real estate taxes shall be the percentage set forth above, except as follows: If any space in the Building is leased to a tenant who creates an exemption from real estate taxes so as to reduce the Building’s total cost of the same in proportion to that

tenant's rentable area, then the rentable area of such tenant's space shall be excluded from the rentable area of the Building for the purpose of determining County's percentage share of real estate taxes. For purposes hereof, the Base Real Estate Taxes with respect to the Expansion Space are stipulated to be the amount of real estate taxes actually incurred by Landlord with respect to the Building and the Land during calendar year 2023."

7. Effective as of the Expansion Space Lease Commencement Date, the first full paragraph of Paragraph 7 of the Third Amendment (which amended Paragraph 7 of the Second Amendment) is hereby amended by the addition of the following which shall be applicable only to the Expansion Space:

"Operating Expenses. Commencing on the Expansion Space Lease Commencement Date, County shall pay to Landlord as additional rent for the Expansion Space Two and 02/100 percent (2.02%) (being the stipulated proportion which the rentable area of the Expansion Space bears to the total rentable office area of the Building) of the increase in Operating Expenses during the Term over Initial Operating Expenses."

8. Effective as of the Expansion Space Lease Commencement Date, the Paragraph 7(d) of the Third Amendment is hereby amended by the addition of the following which shall be applicable only to the Expansion Space:

"For purposes hereof, the Initial Operating Expenses with respect to the Expansion Space are stipulated to be the amount of Operating Expenses actually incurred by Landlord during calendar year 2023. Notwithstanding anything herein to the contrary, Initial Operating Expenses with respect to the Expansion Space shall not include extraordinary or unusual Operating Expenses during the year in which Initial Operating Expenses are calculated. Such extraordinary or unusual Operating Expenses shall be determined by Landlord in its sole discretion and may include, without limitation, extraordinary snow removal costs."

9. Effective as of the Expansion Space Lease Commencement Date, the first full paragraph of Paragraph 8 of the Third Amendment (which amended Paragraph 8 of the Second Amendment) is hereby amended by the addition of the following which shall be applicable only to the Expansion Space:

"Commencing on the Expansion Space Lease Commencement Date, County shall pay to Landlord as additional rent for the Expansion Space Two and 02/100 percent (2.02%) (being the stipulated proportion which the rentable area of the Expansion Space bears to the total rentable office area of the Building) of the increase in Utility Expenses during the Term over the Initial Utility Expenses."

10. Effective as of the Expansion Space Lease Commencement Date, Paragraph 8(c) of the Third Amendment is hereby amended by the addition of the following which shall be applicable only to the Expansion Space:

"For purposes hereof, the Initial Utility Expenses with respect to the Expansion Space are stipulated to be the amount of Utility Expenses actually incurred by Landlord during calendar year 2023."

11. Effective on the Expansion Space Lease Commencement Date, subparagraph (a) of Paragraph 6 of the Third Amendment is hereby amended by the addition of the following which shall apply to the Expansion Space only:

"With respect to the Expansion Space only, in the event that the actual real estate taxes for any calendar year during the Term exceed the Base Real Estate Taxes set out above, commencing on January 1, 2024 and continuing thereafter, County shall pay its proportionate share of the increase in the real estate taxes for such year over the Base Real Estate Taxes. Any increase payable by County under this provision shall be deemed additional rent."

12. Effective on the Expansion Space Lease Commencement Date, subparagraph (e) of Paragraph 7

of the Third Amendment is hereby amended by the addition of the following which shall apply to the Expansion Space only:

“With respect to the Expansion Space only, in the event that the actual Operating Expenses for any calendar year during the Term exceed the Initial Operating Expenses set out above, commencing on January 1, 2024 and continuing thereafter, County shall pay its proportionate share of the increase in Operating Expenses for such year over the Initial Operating Expenses. Any increase payable by County under this provision shall be deemed additional rent.”

13. Effective on the Expansion Space Lease Commencement Date, subparagraph (d) of Paragraph 8 of the Third Amendment is hereby amended by the addition of the following (and which shall be added after the first sentence) which shall apply to the Expansion Space only:

“With respect to the Expansion Space only, in the event that the actual Utility Expenses for any calendar year during the Term exceed the Initial Utility Expenses set out above, commencing on January 1, 2024 and continuing thereafter, County shall pay its proportionate share of the increase in Utility Expenses for such year over the Initial Utility Expenses. Any increase payable by County under this provision shall be deemed additional rent.”

14. Effective on the Expansion Space Lease Commencement Date, Article 32 of the Lease is deleted in its entirety and replaced with the following:

“Landlord hereby grants County a non-exclusive license for the use of fifteen (15) unreserved parking spaces in the parking facilities serving the Building for use of the County and the County’s patrons in common with other Building tenants. County shall pay Landlord or its agent at Landlord’s direction, in advance, a monthly parking fee without abatement, deduction, offset, demand or counterclaim for the foregoing parking spaces at the prevailing rate per space per month (which fee is \$105.00 per unreserved permit per month as of the date hereof, subject to increase as provided herein) which shall be deemed Additional Rent. The foregoing fee is subject to increase. Such parking rate increases shall be consistent with comparable buildings with structured parking in the Rockville, Maryland area. County agrees to comply and shall cause its officers, employees, agents and contractors to comply with all rules and regulations promulgated by Landlord with respect to the parking of vehicles.”

15. County has inspected the Existing Premises (as defined in this Fifth Amendment) and Expansion Space and accepts the same “AS IS” without representation or warranty by Landlord of any kind and with the understanding that Landlord shall have no responsibility with respect thereto. In the event Tenant desires to perform improvements within the Premises, all of such improvements must be made pursuant to plans approved by Landlord in writing in advance and otherwise in accordance with Article 13 and all other applicable provisions of the Lease.

16. Should the Lease or any Amendments or Addenda provide County renewal options or rights, or expansion options or rights, or termination options or rights, in favor of the County, such options or rights shall be of no further force and effect, subject to the County’s right under Article 25 of the Lease to terminate the Lease for non-appropriation, and further subject to the County’s rights under Article 19(B) of the Lease in the case of a Landlord default. County further acknowledges and agrees that all work to be performed by Landlord under the Lease prior to the date hereof has been performed and any allowances payable by Landlord have been paid to or waived by County.

17. Landlord recognizes Transwestern, as Landlord’s agent, as the sole broker procuring this Fifth Amendment and shall pay said broker a commission therefor pursuant to a separate agreement between said broker and Landlord. Landlord and County each represent and warrant to one another that except as set forth herein neither of them has employed any broker, agent or finder in carrying on the negotiations relating to this Fifth Amendment. County shall indemnify and hold Landlord harmless, from and against any claim or claims for

brokerage or other commissions arising from or out of any breach of the foregoing representation and warranty by County.

18. OFAC Certification. County certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation. County agrees to defend, indemnify, and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

19. Landlord's notice and payment addresses set forth in the Lease are hereby deleted and the following are substituted in lieu thereof:

Landlord's Notice Addresses:

BSREP II MD OFFICE MONROE LLC  
c/o Brookfield Property Group  
655 New York Avenue, NW, Suite 800  
Washington, DC 20001  
Attention: Greg Meyer

With copies to:

BSREP II MD OFFICE MONROE LLC  
c/o Brookfield Real Estate Opportunity Fund  
Three World Financial Center  
250 Vesey Street, 15<sup>th</sup> Floor  
New York, NY 10281  
Attention: Asset Manager

Landlord's Address for Payment of Rent:

**If delivered via US Mail:**

BSREP II MONTROSE METRO LLC  
PO Box 716139  
Philadelphia, PA 19171-6139

**If delivered via overnight courier:**

Lockbox Services - # 716139  
BSREP II Montrose Metro LLC  
MAC Y1372-045  
401 Market Street  
Philadelphia, PA 19106

Or such other place as Landlord may designate from time to time.

20. County hereby covenants, warrants and represents: (1) that each individual executing or attesting and delivering this Fifth Amendment on behalf of County is duly authorized to do so in accordance with the organizational documents of County; (2) that this Fifth Amendment is binding upon County; (3) that County is a

body corporate and politic and political subdivision of the State of Maryland; and (4) that the execution and delivery of this Fifth Amendment by County will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement or other contract or instrument to which County is a party or by which County may be bound.

21. Tax Status of Beneficial Owner. County recognizes and acknowledges that Landlord and/or certain beneficial owners of Landlord qualify as real estate investment trusts pursuant to Sections 856, et seq. of the Internal Revenue Code and that avoiding (a) the loss of such status, (b) the receipt of any income derived under any provision of the Lease, as amended, that does not constitute “rents from real property” (in the case of real estate investment trusts), and (c) the imposition of income, penalty or similar taxes (each an “Adverse Event”) is of material concern to Landlord and such beneficial owners. In the event that the Lease, as amended, or any document contemplated hereby could, in the opinion of counsel to Landlord, result in or cause an Adverse Event, County agrees to cooperate with Landlord in negotiating an amendment or modification thereof and shall at the request of Landlord execute and deliver such documents reasonably required to effect such amendment or modification.

22. This Fifth Amendment (including any and all exhibits, addenda and/or riders attached to this Fifth Amendment, each of which is hereby made a part of this Fifth Amendment with full force and effect as is set forth herein) contains the entire agreement of the parties in regard to the Leased Premises and this Fifth Amendment. Except as amended hereby, all of the terms and provisions of the Lease shall be and remain in full force and effect.

23. County acknowledges that certain Landlord agents and/or leasing representatives are licensed Salespeople or Associate Brokers under the laws of the State of Maryland

24. This Fifth Amendment will not be binding upon any party until this document has been executed by all parties thereto.

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**SIGNATURE BLOCKS CONTAINED ON THE FOLLOWING PAGE**

IN WITNESS WHEREOF, Landlord and County have executed and delivered this Fifth Amendment under seal on the date first above written.

Witness/Attest:

COUNTY:  
MONTGOMERY COUNTY

By: Fariba Kassiri

Name: Fariba Kassiri  
Title: Deputy Chief Administrative Officer

Date: 5/22/2023

APPROVED AS TO FORM AND LEGALITY OFFICE OF THE COUNTY ATTORNEY

RECOMMENDED

By: Neal Anker  
Name: Neal Anker  
Title: Associate County Attorney

By: Cynthia Brenneman  
Name: Cynthia Brenneman  
Title: Director Office of Real Estate

Date: 5/19/2023

Date: 05/19/2023

LANDLORD:  
**BSREP II MD OFFICE MONROE LLC**

By: Cy Kouhestani  
Cy Kouhestani, Authorized Signatory

Date: May 17, 2023

WITNESS/ATTEST:

Brett Stein

**EXHIBIT A-1**

**LEASED PREMISES (Suite 601)**

