

LEASE  
by and between  
SHELBY COUNTY GOVERNMENT  
and  
HICKORY RIDGE MALL C.D. CORPORATION  
for  
LEASE OF IMPROVED  
COMMERCIAL PROPERTY  
HICKORY RIDGE MALL, SPACE 516  
CONTAINING 8,149 SQUARE FEET OF FLOOR AREA

1. PARTIES

THIS LEASE is made on this day \_\_\_\_\_, \_\_\_\_\_, 2016, by and between HICKORY RIDGE MALL C.D. CORPORATION, party of the first part, "Lessor", and SHELBY COUNTY GOVERNMENT, ON BEHALF OF THE SHELBY COUNTY COMMUNITY SERVICE AGENCY (CSA), the party of the second part, "Lessee".

2. CONSIDERATION

WITNESSETH: That each of the above parties acknowledges the receipt of a valuable consideration from the other and that they and each of them act herein in further consideration of the engagements of the other as stated herein.

3. PREMISES

Lessor has and does hereby grant, demise and lease unto the Lessee the following described real estate (hereinafter Premises) situated in the City of Memphis, Shelby County, State of Tennessee:

3772 Winchester Road, Space Number 516, Memphis, Tennessee 38115  
This is approximately 8,149 square feet of space

4. TERM

TO HAVE AND TO HOLD the above described Premises unto the Lessee, beginning on July 1, 2016 and ending June 30, 2021.

5. PURPOSE

The Premises shall be used for the purpose of general administrative offices and related services of Shelby County Government, on behalf of the Community Service Agency (CSA), and its or its lawful successor, or subsequent office use as deemed necessary by Shelby County Government or its lawful successor. Clients, invitees, and guests of Shelby County Government will be on premises and access this site.

6. RENT AND SECURITY DEPOSIT

- A. The Lessee hereby covenants and agrees to pay the Lessor as rent and charges for the above Premises **Fifty Four Thousand, Three Hundred Seven & 92/100 (\$54,301.92)** per year due in monthly installments of **Four Thousand, Five Hundred Twenty Five & 66/100 (\$4,525.66)** due at the beginning of each month and considered late after the 15<sup>th</sup> day of each month. This fee is inclusive of the monthly rent in the amount of **Four Thousand, Four Hundred Forty Four & 66/100 (\$4,440.66)** for rent; **Eighty and 00/100 (\$80.00)** per month for water/sewer charge. All charges shall be payable to the Lessor and included in the payment for rent.

<u>Rental Period</u>	<u>Annual (psf)</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
07/01/2016-06/30/2017	\$6.66	\$4,525.66	\$54,307.92
07/01/2017-06/30/2018	\$6.66	\$4,525.66	\$54,307.92

07/01/2018-06/30/2019	\$6.66	\$4,525.66	\$54,307.92
07/01/2019-06/30/2020	\$6.66	\$4,525.66	\$54,307.92
07/01/2020-06/30/2021	\$6.66	\$4,525.66	\$54,307.92

- B. The Lessor's acceptance of the late payment and the late payment charge shall not constitute an agreement by the Lessor to accept further late payments and shall not constitute a waiver of the Lessor's rights under the provisions of this Lease. All late payments and all partial payments of rent and other sums due under the terms of the Lease are accepted by the Lessor as an obligation to mitigate damages only and with full reservations of the Lessor's rights to proceed against the Lessee for a default in the terms hereof.
- C. All parties hereto agree to waive any interest as penalties, interest on collections, or any other form of interest whatsoever and/or however calculated.
- D. Should Lessee at any time during the term hereof vacate, abandon or desert the Premises or cease operating Lessee's business in the entire, or any appreciable part, of the Premises (except during any time when the Premises may be unleaseable by reason of fire or other casualty and except in that portion of the Premises designated as storage), then Lessee shall pay Lessor for each month or fraction thereof (fractional months being prorated) during said term during which said business is not so continuously conducted in the Premises, a sum per month in cash equal the monthly rate. Lessee agrees to continue the operation of its business to the extent reasonably practicable from the standpoint of good business during any period of reconstruction or repairs.
- E. There shall be no additional charges assessed to Lessee during the course of this lease.
- F. Lessor shall provide setoff of any repairs made by Lessee that are not under the purview or responsibility of the Lessor up to an amount equal to 2 month's rent per year. Such expenditures shall be preapproved in writing by Lessor and Lessee. Such approval shall not be unreasonably withheld.

**7. OPTION TO RENEW OR EXTEND LEASE TERM**

Provided Lessee is not in default of any of the covenants of the lease and provided Lessee notifies the Lessor in writing on or before 90 days prior to the end of the lease of its intent to exercise its option to extend the Lease, then the Lessee has the option to extend the Lease for 5 additional one year periods at a monthly rental rate of **Four Thousand, Five Hundred, Twenty five & 66/100 (\$4,525.66) Dollars and yearly amount of Fifty Four Thousand, Three Hundred Seven & 92/100 (\$54,307.92) Dollars.**

**8. PAYMENT**

All rent and other sums due under the terms of this Lease shall be paid in lawful money of the United States of America or by check drawn on any Bank or Savings and Loan Association supervised by any agency of the United States of America, without notice, set-off, or demand, payable to the order of **Hickory Ridge Mall Rent Account #9879390, c/o Tri-State Bank of Memphis, P.O. Box 2007, 180 South Main at Beale, Memphis, Tennessee 38101-2007, Attn: Loan Servicing Department**, or such other place as the Lessor may from time to time designate in writing.

**9. REAL ESTATE TAXES AND PROPERTY INSURANCE**

- A. The Lessor agrees to pay all real estate taxes assessed upon the land and improvement. The Lessor agrees to pay for insurance on any improvements for fire and extended coverage.
- B. Lessor shall at all times during the terms of this Lease maintain a policy or policies of insurance with the premiums paid in advance, issued by and binding upon some solvent insurance company, insuring the building against all risk of direct physical loss in an amount equal to ninety percent (90%) of the full replacement cost of the building

structure and its improvements as of the date of loss; provided, that **Lessor** shall not be obligated in anyway or manner to insure any personal property (including, but not limited to, any furniture machinery, goods or supplies) of **Lessee** or which **Lessee** upon or within the leased premises or any additional improvements which **Lessee** may construct on the leased premises.

#### **10. QUIET POSSESSION**

The **Lessor** hereby covenants that if the **Lessee** shall keep and perform all the covenants of this Lease to be performed on the part of the **Lessee**, the **Lessor** will guarantee to the **Lessee** the quiet, peaceful, and uninterrupted possession of the Premises during the entire term hereof. In the event **Lessor** sells or other wise transfers the property, **Lessor** agrees to do so subject to the terms of this Lease including but not limited to all remaining options to renew.

#### **11. PERMITTED USE**

Office and any other lawful uses, all of which are related to, in connection with, or in support of **Lessee's** and/or the **Lessee's** sublessors or assignees' business (if applicable) and/or Government support of all the citizens of Shelby County. **Lessee** takes full and exclusive responsibility for all activities under the exclusive control of the **Lessee** and/or **Lessee's** sublessors or assignees (if applicable) conducted in and on the property which is the Subject matter of this Lease. This clause does not extend to criminal acts, acts of vandalism, acts of God, or any other acts not anticipated or controlled by the **Lessee**.

#### **12. WASTE, NUISANCES, OUTSIDE, AREAS, HAZARDOUS WASTE, AND PEST CONTROL**

**Lessee** shall continue the provision of handling and disposing of any hazardous wastes, as that term is generally defined, through clinically appropriate hazardous waste disposal means. Except as provided for herein, **Lessee** shall not create or allow any hazardous waste nor create or allow any nuisances to exist on the Premises, and to abate any nuisances that may arise promptly and free of expense to the **Lessor**; not place or store on the exterior of the Premises any empty crates, boxes, sweepings, refuse, garbage, or other articles, except in the areas designated by the **Lessor**; that it will comply with all of the ordinances and laws of the City of Memphis and Shelby County as to outside storage and trash disposal; keep the immediate area, including without limitation, such designated areas adjoining the Premises in a clean and ordinary fashion at all times; keep the drives and sidewalks in and about the Premises clean and free of obstructions, snow, and ice; and not permit any condition to exist on the Premises that would cause pests, insects, or rodents to breed.

#### **13. FIRE AND EXTENDED COVERAGE INSURANCE**

That **Lessee** will not suffer anything to be or remain upon or about the Premises which will invalidate any policy of insurance which the **Lessor** may now or hereafter have upon the Premises, not suffer anything to be or remain upon or about the Premises nor carry on nor permit upon the Premises any trade or occupation or suffer to be done anything which will render an increased or extra premium payable for the insurance of the Premises against fire, extended coverage or public liability, unless the **Lessor** consents in writing. If the **Lessor** so consents, the **Lessee** is to pay such increased premium within 10 days after the **Lessee** have been given written notice of the amount. Copies of the insurance policy and all language applicable to this provision are attached hereto as Exhibit A and incorporated herein by reference. Any changes thereto must be delivered to all parties to this Lease and incorporated into this Lease as a written Amendment hereto to become effective and enforceable.

#### **14. ALTERATIONS TO IMPROVEMENTS AND FIXTURES**

- A. That **Lessee** will not make any changes, alterations, or additions, or improvements to the Premises without first obtaining the written consent of the **Lessor**. The **Lessee** will not do anything that will weaken or damage the improvements that are now or may be

erected upon the Premises; that all changes, alterations, additions or improvements to the Premises shall be in conformance with the laws of the State of Tennessee, the County of Shelby, and the ordinances and laws of the City of Memphis; that all work will be performed in a workmanlike manner; and that **Lessee** will hold the **Lessor** harmless from any mechanics and material men's liens resulting from work contracted for by **Lessee**.

- B. That all fixtures installed by **Lessee** for its business conducted on the Premises shall remain the property of the **Lessee**, and such fixtures shall be removed at the expiration of this Lease; that any damage caused by such removal shall be repaired by the **Lessee** at its expense; and that the Premises will be left in good condition.

#### **15. ADVERTISING**

**Lessor** will provide **Lessee** a standard building directory and suite signage package.

#### **16. HOLD HARMLESS AND SUBROGATION, LIABILITY AND VANDALISM INSURANCE**

- A. **Lessee** as a governmental entity is prohibited from indemnifying other entities. Additionally, **Lessee** is governed and covered by the Tennessee Governmental Torts Liability Act.
- B. At the making of this Lease, Shelby County warrants that it is a self-insured for third party liability including General Liability up to limits of the Tennessee Code of Annotated 29-20-101 et seq., Governmental Tort Liability Act.

#### **17. UTILITIES, CONDITION OF THE PREMISES, AND REPAIRS**

That all gas, heat, water, electricity, or other utilities used on the Premises are to be paid by the **Lessee**; that the **Lessor** will promptly pay all sewer or garbage fees or assessments which may be assessed against the Premises; that the **Lessee** has inspected and examined the premises and that the **Lessee** will give a statement of acceptance of the premises upon the initial walk through; that no oral and/or written representations as to the Premises have been made by the **Lessor**; that the **Lessee** agrees to maintain the Premises in good condition and repair and that in no event shall any mechanics and/or material men's liens be permitted to be fixed upon the leasehold interest of the **Lessee**; and that within 30 days of written notice from the **Lessor**, the **Lessee**, at its expense, agrees to install any safety equipment and/or comply with all requests that may be made by its and the **Lessor's** insurance carrier as a result of the use and occupancy of the **Lessee**. Any requirements under this provision must be delivered to **Lessee** in writing to become effective. Any requirements imposed by the insurance carrier must be provided to **Lessee** in the form received by the **Lessor** from the carrier and updated per Exhibit A by written Amendment hereto.

#### **18. RIGHT OF ENTRY, REPAIRS, AND MAINTENANCE OF THE PREMISES**

- A. That the **Lessor** reserves the right during the term of this Lease to enter the Premises at reasonable hours to show the Premises to other persons who may be interested in renting or buying the property, to inspect the Premises, or to make such repairs as the **Lessor** may deem necessary for the protection and preservation of the Premises and the improvements; that the **Lessor** shall not be held liable for any damage because the **Lessee** is not able to operate the business during the time the **Lessor** is making repairs; that the **Lessor** shall not be held liable because of leaks, or for the stoppage of water, sewer, gas, or drain pipes by reason of freezing, or any other cause or obstructions, nor for any other defects about the Premises, the **Lessee** have examined the same and being satisfied therewith; that should such leaks, obstructions, freezing, stoppages, or other defects occur about the Premises during the term of the lease, or while the **Lessee** is occupying the Premises, the **Lessee** shall remedy the same promptly at its expense; that within three months prior to the expiration of this Lease, or any renewals or extensions thereof, the **Lessor** shall have the right to affix to any part of the Premises a notice for rent or sale and to keep the notice fixed without

hindrance. In the event, **Lessor** is put on notice of a repair and due to the **Lessor's** failure to make such repair in a timely manner and as a result of **Lessor's** failure to make said repair, **Lessee** suffers damage to the contents of the subject property, **Lessor** is deemed to have waived any and all liability exemptions and will become fully liable for **Lessee's** damages. Damages shall be measured at replacement value.

- B. That the **Lessee**, at its expense, shall maintain the leased Premises, grounds and all improvements in good condition throughout the full term of this Lease and any extension thereof. It is the responsibility of the **Lessor** to maintain and pay for any and all repairs which are not interior cosmetic repairs. **Lessor's** responsibility for "major repairs" shall include but are not limited to heating, air conditioning, roof, water supply, sanitary sewer, electrical, or foundational repairs. In no event shall the **Lessor** be held liable for damage to **Lessee's** equipment, goods, wares and merchandise in consequence of leaks or water damage. **Lessee**, as a material part of the consideration to be rendered to **Lessor**, hereby waives all claims against **Lessor** for damages to equipment, goods, wares and merchandise in, upon, or about the Premises and for injuries to **Lessee**, his agents, or third persons in or about the Premises from any cause arising at any time and from the failure of either party to make repairs except as noted herein. In the event **Lessor** is put on notice of need for repair and fails to make same in a timely fashion, and due to **Lessor's** failure to make repairs in a timely fashion, **Lessee** suffers damage, **Lessee** reserves the right to seek damages for same from **Lessor**.
- C. That in the event of non-payment of rent or any installment thereof, as provided herein, the **Lessor** shall have the right to and may enter the Premises as the agent of the **Lessee**, either by force or otherwise, without being liable for any prosecution or damages thereof and may re-let the Premises as the agent of the **Lessee**, and receive the rent thereof, upon such terms and conditions as the **Lessor** shall deem satisfactory, and all rights of the **Lessee** to repossess the Premises under this Lease shall be forfeited; that such entry by the **Lessor** shall not operate to release the **Lessee** from any deficiency rent to be paid or covenant to be performed hereunder during the full term of this Lease; that for the purpose of re-letting, the **Lessor** shall be authorized to make such repairs in or to the Premises as may be necessary to place the same in good order and condition; that the **Lessee** shall be liable to the **Lessor** for the cost of such repairs; that if the sums realized or to be realized from the re-letting are insufficient to satisfy the monthly or term rent provided herein, the **Lessor** at its option, may require the **Lessee** to pay such deficiency monthly.

#### 19. DEFAULT OF RENT AND RIGHT TO TERMINATE NOT EXCLUSIVE

- A. That all covenants and agreements herein made and the obligations assumed are to be construed also as conditions and these presents are upon the express conditions that if the **Lessee** shall fail to perform or observe any of the covenants, conditions, agreements or obligations herein made or assumed by the **Lessee**, then, in any of the events, at the option of the **Lessor**, this Lease may be terminated and thereby become null and void; and the **Lessor** may immediately, or at any time after the breach of any of the covenants, enter the Premises or any part thereof in the name of the whole, and repossess and have the same as of the **Lessor's** former estate, and remove therefrom all goods and chattels not thereto belonging, and expel the **Lessee** and all other persons who may be in possession of the Premises.
- B. That the right in the **Lessor** to terminate this Lease as herein set forth is in addition to and not in exhaustion of such other rights that the **Lessor** has or causes of action that may accrue to the **Lessor** because of the **Lessee's** failure to fulfill, perform, or observe the obligations, agreements, conditions, or covenants of this Lease; and the exercise of pursuit by the **Lessor** of any of the rights or causes of action accruing hereunder shall not be an exhaustion of such other rights or causes of action that the **Lessor** might otherwise have.

- C. Lessee agrees that in the unlikely event that the Lessor makes the decision – in good faith - to close the center, with six (6) months notice to the Lessee the Lease may be terminated.

**20. ASSIGNMENT, SUBLETTING, AND USE OR OCCUPANCY BY ANOTHER**

That that Lessee shall not assign this Lease, sublet, or allow anyone to use or occupy the Premises without the prior written consent of the Lessor. In the event of assignment or subletting, the Lessee shall at all times remain fully responsible and liable for the payment of the rent and for compliance with all of the other covenants and obligations of this Lease. Upon the occurrence of a breach of this Lease, if all or any part of the Premises are then assigned or subleased, the Lessor, in addition to any other remedies provided by this Lease or provided by law, may, at its option and without notice or demand, collect directly from the assignee or sub lessee all rents due to the Lessor by reason of the assignment or sublease. Any collection directly by the Lessor from the assignee or sub lessee shall not be construed as a notation or release of the Lessee from the further performance of its obligations hereunder.

**21. DESTRUCTION OF THE IMPROVEMENTS, OBLIGATION TO REBUILD**

That if the improvements upon the Premises are totally destroyed by fire or other causes, or so damaged that rebuilding or repairs cannot be completed within 60 days from the date of the fire, or other damage, the Lessee shall have the option to terminate this lease without penalty and Lessee shall be allowed an abatement of rent from the date of such damage or destruction. Further Lessee shall be released from all obligations; provided, however, that the damages were not caused by the Lessee, Lessee shall have no obligation to rebuild.

**22. WAIVER OF BREACH**

That no waiver of a breach of any of the covenants of this Lease by the Lessor shall be construed to be a waiver any succeeding breach of the same or of any other covenant.

**23. OBTAINING POSSESSION**

Lessor agrees to use due diligence to obtain possession for the Lessee at the earliest possible date and to allow the Lessee an abatement of rent until such time as the Lessee obtains possession of the Premises.

**24. NOTICES**

- A. That where, under the terms of this Lease, notice is required to be given to the Lessor, two addresses must be notified by certified mail return receipt requested addressed to the following;

Hickory Ridge Mall Rent Account #9879390  
c/o Tri-State Bank of Memphis  
P.O. Box 2007  
180 South Main at Beale  
Memphis, Tennessee 38101-2007  
Attn: Loan Servicing Department

With copy to:

Office of General Manager\  
Hickory Ridge Mall  
6075 Winchester Road  
Memphis, TN 38115  
901-795-8844

- B. That where, under the terms of this Lease, notice is required to be given to the Lessee, notice may be given by certified mail return receipt requested address to the Lessee at:

To the Premises and to:

Shelby County Government  
Land Bank Services  
584 Adams Avenue  
Memphis, TN 38103  
Attn: Administrator

Shelby County Government  
Contracts Administration  
160 North Main  
Memphis, TN 38103  
Attn: Administrator

Shelby County Government  
Community Service Agency (CSA)  
160 N. Main  
Memphis, TN 38103  
Attn: Director

- C. That notices required under the terms of this Lease shall be deemed to be received when delivered.
- D. Any change in the information herein shall be delivered to the all parties hereto and made as a written Amendment to this Lease to become effective.

**25. EMINENT DOMAIN AND CONDEMNATION**

That if during the term of this Lease enough of the Premises shall be taken under the power of eminent domain so as to make the Premises unusable for the purposes for which the Premises were leased, the **Lessee** may, at its option, terminate this Lease upon giving **Lessor** 30 days written notice, and shall be relieved of any further obligations hereunder. In such condemnation proceedings, the parties hereto agree that Lessee may claim compensation for the taking of any removable fixtures which by the terms of this Lease the **Lessee** would have been permitted to remove at the termination thereof, that Lessee shall not be entitled to any additional award, that all damages shall be allocated to full fee simple ownership of the entire Premises, and shall be payable to the **Lessor**. In the instance where future rents have already been paid to **Lessor**, same shall be credited and returned to **Lessee**.

**26. RIGHT TO MORTGAGE**

- A. **Lessee** agrees that it will at any time upon the request of the **Lessor**, subordinate this Lease to the lien of any first mortgage or first mortgages which **Lessor** may place upon the Leased Premises; provided that in such mortgage the mortgagee shall agree, for itself and for each and every subsequent holder or owner of the mortgage and of the mortgage note, the **Lessee's** peaceable and quiet possession of the Leased Premises under this Lease will not be disturbed on account of said mortgage or by reason of anything done or caused to be done thereunder so long as **Lessee** pays the rental required under the Lease and keeps the covenants, agreements and stipulations of the Lease on its part to be kept; and provided further that such mortgagee shall agree also that all proceeds of fire or other causality insurance shall be expended in accordance with the terms of this Lease. If, prior to the date upon which an abstract or short form of this Lease is properly recorded of public record, the Leased Premises or any portion thereof is or becomes subject to a mortgage which is prior to and superior to this Lease, it is and shall be further condition precedent of this Lease that **Lessor** shall deliver to **Lessee** an agreement containing the foregoing terms and conditions executed by such mortgagee. **Lessee's** occupancy of the Leased Premises, opening for business, or payment of rental or any other amounts to **Lessor** prior to receipt of such executed agreement shall not be deemed or construed as a waiver of the right to such agreement.

- B. **Lessee** agrees that it will give any holder of a mortgage or deed of trust covering the Leased Premises a copy of any notice of default that it gives to **Lessor** pursuant to the terms of this Lease. Said copy shall be sent to such holder at the same time that the original is sent to **Lessor**. **Lessee** further agrees that such holder shall have the right, but not the obligation, to cure any default of **Lessor** herein. Provided however, that **Lessee** shall only be obligated as aforesaid with respect to holders of mortgages or deeds of trust covering the Leased premises which have given **Lessee** notice in writing of the existence of their mortgage or deed of trust covering the Leased Premises and the address to which the aforesaid copy (ies) of notice(s) should be sent.

**27. DELIVERY AT THE END OF THE LEASE, HOLDING OVER THE LESSEE**

- A. That upon the expiration of this Lease, or any renewal or extension thereof, and without demand, the **Lessee** agrees to deliver the Premises to the **Lessor** cleared of all persons, goods, motor vehicles, equipment, furniture, fixtures, and other things not properly belonging, and in good order and condition as the same were received normal wear and tear excepted.
- B. That if the **Lessee** remains in possession of the Premises after the expiration of this Lease, or any extension thereof, and continues to pay rent, the **Lessee** shall be a **Lessee** from month to month, at 150% of the rental paid during the last month of this Lease or any extension thereof. The **Lessee** agrees to surrender the premises upon 30 day written notice from the **Lessor**.

**28. RENEWAL AND NOTICE OF ANTICIPATED DEFAULT ON NOTE**

- A. That this Lease may not be renewed or the term extended except by an agreement in writing signed by both the **Lessor** and the **Lessee**.
- B. In the event **Lessor** is in jeopardy of defaulting on the note and/or this property becomes the subject of foreclosure proceedings, **Lessor** shall give **Lessee** notice of same within five (5) business days of receipt of notice of foreclosure and/or notice of default.

**29. SETOFF**

That the **Lessee** has no right to setoff of the monthly rent or any other sums due under the terms of this Lease except for lockouts and other **Lessor** created nonuse or as otherwise noted in the various provisions herein.

**30. LICENSES, PERMITS, AND ZONING**

That the **Lessor** does not warrant that the **Lessee** shall be able to obtain any permits under any Regulation or Zoning Ordinance for such use as **Lessee** intends to make of the Premises as defined in Article 5. The **Lessee** further agrees that in the event it cannot obtain a permit under any Regulation or Zoning Ordinance to use the property for the use the **Lessee** intends, the **Lessee** shall use the Premises for those uses which are permitted.

**31. ENTIRE AGREEMENT; EQUAL DIGNITY**

- A. That it is expressly understood and agreed by and between the parties hereto that this Lease sets forth all of the promises, agreements, conditions, covenants, obligations, and understandings between the **Lessor** and the **Lessee** relative to the Premises; that there are no promises, agreements, conditions, covenants, obligations, and understandings, oral or written, between them other than are set forth herein; and that it is understood and agreed that no subsequent alteration, amendment, change, or addition to this Lease shall be binding upon either party unless reduced to writing and signed by the party sought to be bound, and by direct referenced therein made a part hereof.

- B. That this Lease was prepared on behalf of the **Lessee** with input and assistance from the **Lessor**. All parties hereto had the opportunity to consult with an attorney prior to the signing of the Lease. It is the intent of all parties hereto that this Lease be construed with equal dignity to both parties and shall not be construed more harshly against the drafter of any provision in question.

**32. COVENANTS TO RUN TO HEIRS, SUCCESSORS, AND ASSIGNS**

- A. That all covenants, conditions, agreements, and undertakings in this Lease shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of the respective parties hereto, no matter how purchased or captioned, the same as if they were in every case named and expressed. That all parties represent that they are sui juris and have legal capacity to enter into this Lease. The words "**Lessor**" and "**Lessee**", as used herein shall be construed in the singular or plural, masculine or feminine, and pronouns shall be construed according to their proper gender and number, as the context hereof requires. With reference to any assignment by **Lessor** of **Lessor's** interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a mortgage or deed of trust on the Premises, **Lessor** agrees:
- (1) that such assignment shall be made subject to the terms of this Lease; and
  - (2) that, upon notice of assignment, **Lessee** reserves the right to vacate the premises and terminate the Lease without penalty.
- B. It is understood and agreed that all covenants of **Lessor** contained in this Lease shall be binding upon **Lessor's** successors.

**33. COMMISSION**

**Lessee** shall not pay or be obligated to pay for any commissions associated with this lease whatsoever.

**34. RECORDING LEASE**

The **Lessor** agrees not to record a mortgage on premises prior to \_\_\_\_\_, 20\_\_ to allow the **Lessee** time to record this Lease.

**35. FUNDING AND APPROVAL BY LESSEE**

The funding of this Lease and any extensions thereto, and any lease obligation of **Lessee** is subject to the annual appropriation of any operating budget for the Shelby County Government on Behalf of the Community Service Agency (CSA) (or their successor in operation if the Center is renamed), by the County Commissioners for Shelby County Government. This Lease shall be cancelable without penalty effective upon cancellation for any reason of appropriation to fund same. The Lease is subject to the approval by the proper County Officials as evidenced by their signatures below.

**36. SEVERABILITY**

That if any provision of this Lease shall be declared invalid, unenforceable, or unconstitutional, the other provisions of this Lease shall continue in full force and effect.

**36. NOTICE OF OPEN RECORDS**

Notwithstanding anything to the contrary contained herein or within any other document supplied to **Lessee** by the **Lessor**, **Lessor** understands and acknowledges that **Lessee** is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to **Lessee** shall be the property of **Lessee** and is subject to being divulged as a public record in accordance with the laws of the State of Tennessee.

**37. GOVERNING LAW**

This Lease will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Lease, all parties hereto agree that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Lease will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Lease submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

### **38. FINAL INSPECTION AND CLAIM FOR DAMAGES**

**Lessor** agrees to complete a final inspection with **Lessee** prior to **Lessee** turning over possession of the leased premises. At the final inspection, any damage to the premises must be reduced to writing and signed by both the **Lessor** and an authorized representative of the **Lessee** acting in his/her official capacity. Within thirty (30) calendar days of final inspection, **Lessor** must deliver, per the means provided in the Notice Section of this Lease to **Lessee**, a final bill for any claimed damages and associated expenses. If same is not delivered to **Lessee** within the proscribed time and means as set forth in this Lease, same is deemed waived and uncollectible. Additionally, if **Lessor** refuses to complete a final inspection with **Lessee** or reduce damages/expenses to writing and have same signed by both parties at Final Inspection, **Lessor** has voluntarily waived his/her right to claim damages or expenses associated herewith. Possession shall be exchanged at final inspection. All expenses claimed under this provision shall be customary and reasonable. County reserves the right to request assurances and/or comparable quotes to certify same.

### **39. WRITTEN CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED**

In any instance where written consent is required by any party to this Lease, the same shall not be unreasonably held or delayed.

### **40. SHORT FORM LEASE**

The parties shall, upon request of **Lessor** or **Lessee**, execute and exchange copies of a Short Form Lease outlining the pertinent terms herein contained, which Short Form Lease may be recorded in lieu of recording this Lease but the terms of this Lease shall control in all respects in regard to matters omitted from such Short Form Lease or in respect to conflicts with such form to this Lease. In the event such Short Form Lease is required, it shall be conspicuously noted on the face thereof that it is a Short Form Lease and make reference to this original and complete Lease as the binding and controlling document.

### **41. CONDITION OF PREMISES ON TERMINATION**

At the expiration of the tenancy created hereunder, whether by lapse of time or otherwise, **Lessee** shall surrender the Premises in good condition and repair, reasonable wear and tear and loss by fire or other casualty accepted. Provided that **Lessee** shall be entitled to remove its equipment, trade fixtures and moveable fixtures and any other items or fixtures which may be removed **Lessee** will fully repair any damage occasioned by the removal of any trade fixtures, equipment, furniture, alterations, additions, and improvements prior to surrendering possession. **Lessee** expressly reserves the right to take any and all of its appliances, video equipment, audio equipment, computer equipment, and electronic equipment of any nature at the termination of this Lease.

### **42. PARTIAL OF TOTAL DESTRUCTION OF LEASED PREMISES**

In case Premises or the building in which the Premises are situated shall be partially or totally destroyed by fire or other casualty insurable under standard fire and extended coverage insurance so as to cause the Premises become partially or totally uninhabitable, the same shall be repaired as speedily as possible at the expense of **Lessor**, to the extent that any costs are not covered by insurance, unless **Lessor** shall elect not to rebuild, as hereinafter provided, and a just and proportionate part of the rent shall be abated from the

date of such damage or destruction until so repaired. If rebuilding or repairs cannot be completed within 60 days from the date of the fire, or other damage, the Lessee shall have the option to terminate this lease without penalty and Lessee shall be allowed an abatement of rent from the date of such damage or destruction. Further Lessee shall be released from all obligations; provided, however, that the damages were not caused by the Lessee. Lessee shall have no obligation to rebuild.

#### **43. SUBSTANTIAL DAMAGE TO COMMON OPEN SPACE/INGRESS AND EGRESS TO LEASED PREMISES**

In case the Premises, the building in which the Premises, or the area surrounding the Building permitting ingress and egress to the building in which the premises are situated shall be destroyed or so damaged by fire or other casualty as to render more than fifty percent (50%) of either uninhabitable or inaccessible, then Lessor may if it so elects rebuild or restore the Premises or building to good condition and fit for occupancy within a reasonable time after such destruction or damage or may at its election by notice in writing within sixty days after such destruction or damage terminate this Lease. If Lessor elects to rebuild or restore said building, it shall within said sixty (60) day period give Lessee thereof notice of its intention so to do and proceed with the rebuilding and restoration as promptly as may be reasonable unless within said sixty (60) days following said destruction or damage Lessee elects to terminate this Lease by giving written notice to Lessor. Lessor shall have no obligation to commence rebuilding or restoration, if Lessor elects to do so, prior to the expiration of said sixty (60) day period unless Lessee, and all other Lessees in the building in which the Premises are located, prior to the expiration of said sixty (60) day period, have each provided Lessor with written notice that they waive their rights, if any, to terminate this Lease and the other leases of any other Lessees of the building in which the Premises are located as a result of said damage or destruction. In case Lessor elects to repair, rebuild or restore as in this Paragraph provided, then its obligation shall be limited to the basic building and exterior work but shall not include any obligation to repair or restore any of Lessee's Work or other improvements, furniture or fixtures, or alterations made to the Premises by or on behalf of Lessee.

#### **44. REHABILITATION**

If such damage or destruction occurs and this Lease is not so terminated by the Lessor and/or Lessee, this Lease shall remain in full force and effect. Lessor shall have no interest in the proceeds of any insurance carried by Lessee on Lessee's interest in this Lease and Lessee shall have no interest in the proceeds of any insurance carried by Lessor; unless herein to the contrary specifically otherwise provided.

#### **45. RENT ABATEMENT**

Lessee agrees during any period of reconstruction, restoration or repair of the Premises and/or of said building to continue the operation of its business in the Premises to the extent reasonably practicable from the standpoint of good business. Fixed Minimum Rent shall be abated proportionately during any period in which, by reason of any such damage or destruction, there is a substantial interference with the operation of the business in the Premises and such abatement shall continue for the period commencing with such destruction or damage and ending with the completion by the Lessor of such work of repair and/or reconstruction as Lessor is obligated to do.

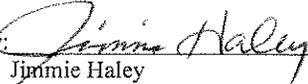
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IN TESTIMONY WHEREOF, the above named Lessor and the above named Lessee have executed this and two other duplicate instruments of identical tenor and date on the day and year first appearing above.

**SHELBY COUNTY GOVERNMENT**

**HICKORY RIDGE MALL C.D. CORP.**

By: \_\_\_\_\_  
Mark H. Luttrell, Jr., Mayor

By:  \_\_\_\_\_  
Jimmie Haley  
Director of Economic Development

**ATTEST**

By: \_\_\_\_\_  
Martha Lott, Director  
Community Service Agency (CSA)

**Approved as to Form:**

\_\_\_\_\_  
Assistant County Attorney/  
Contract Administrator

**Other County Approvals:**

\_\_\_\_\_  
Manager of Real Estate Services

\_\_\_\_\_  
Administrator, Land Bank

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned, a Notary Public, within and for said State and County, duly commissioned and qualified, personally appeared **MARK H. LUTTRELL, JR., MAYOR OF SHELBY COUNTY GOVERNMENT**, with whom I am personally acquainted and who, upon his oath knows himself to be the **MAYOR** of Shelby County Government, the within named bargainer, a Municipal Corporation of the State of Tennessee, and that he as such **MAYOR** of said County, being duly authorized so to do, execute the foregoing instrument in the name of said corporation by himself as such **MAYOR** of said County.

WITNESS my hand and seal at the office in Memphis, Shelby County, Tennessee, this the \_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_

Notary Public

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, **LINDA R. TURNER**, the undersigned, a Notary Public, within and for said State and County, duly commissioned and qualified, personally appeared **JIMMIE HALEY**, with whom I am personally acquainted and who, upon oath knows himself to be the **DIRECTOR OF ECONOMIC DEVELOPMENT** of the **HICKORY RIDGE MALL C.D. CORP., 6075 WINCHESTER ROAD, MEMPHIS, TN 38115**, the within named bargainer, and as such **DIRECTOR OF ECONOMIC DEVELOPMENT** of said firm, being duly authorized so to do, execute the foregoing instrument in the name of said **DIRECTOR OF ECONOMIC DEVELOPMENT** for the purpose therein contained.

WITNESS my hand and Notarial Seal, at Memphis, Shelby County, Tennessee, in the County aforesaid, this 12<sup>th</sup> day of May, 2016.

My Commission Expires:  
**MY COMMISSION EXPIRES SEPT. 4, 2019**

\_\_\_\_\_

*Linda R. Turner*  
Notary Public

