



**Odyssey Charter School**

*Nurturing a Lifelong Love of Learning*

201 Bayard Avenue  
Wilmington, DE 19805

**DELAWARE DEPARTMENT OF EDUCATION  
APPLICATION TO MODIFY AN APPROVED CHARTER  
(Supplement to Dec 13, 2013 Odyssey Charter School  
Charter Modification Request Letter)**

**Sent to the Attention of:**

DE Department of Education  
Charter School Office  
401 Federal Street, Suite 2  
Dover, DE 19901  
Phone: (302) 735-4020  
Fax: (302) 739-4483

## I. Charter Modification Request Statement

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Odyssey Charter School formally requests a Charter modification to make a change in our facilities arrangements for the upcoming academic year, 2014/2015. As a first step of a longer term strategic plan to consolidate Odyssey at a Grades K through 12 campus, Barley Mill Plaza (BMP) represents one of several viable options that Odyssey has underway. As such, we have entered into a lease agreement for Building 20 of the Barley Mill Plaza. It is our intent to perform slight renovations to the space in BMP Building 20 and obtain a certificate of occupancy no later than June, 2014. If approved by the Delaware Department of Education (DE DOE) and the Charter School Office, Odyssey will:

- maintain upper grade operations and add the annual higher grade programming for Middle School at the Bayard Avenue facility (in the previous St Thomas Elementary)
- vacate our operations from the leased spaces of our lower grades facilities off of Lancaster Avenue (the Pantano and Tabelaing buildings)
- and transition elementary Grades K through 4 into the leased BMP Building 20

The Barley Mill Plaza Building 20 is in very close proximity to our current Lower Elementary operations, next to the bus drop-off / pick-up area, which will be helpful to parents and school faculty in managing the transition to the new location. This change also represents significant cost savings in annual leased space for Odyssey facilitates to accommodate our previously Department of Education authorized student count growth. In addition, if Odyssey is successful in acquiring a large portion of Barley Mill Plaza in the future, these requested facility changes will already be in place. In support of this charter modification request, a host of relevant documents are provided in the Appendix section of this application.

Odyssey is in process of completing the authorization and permitting processes with New Castle County (NCC) Land Use and expects to receive approvals no later than March 31, 2014. If for any reason Odyssey is made aware that needed authorization and permits will not be forthcoming from NCC Land Use in the discussed timeframe. Odyssey will notify DOE immediately and revise our Charter modification request accordingly.

DOE Charter Office consideration of this charter modification request and continued support of Odyssey Charter School is greatly appreciated. If there are any further questions or need of additional information, please feel free to contact George Chambers, George Righos, Dimitri Dandolos, or Nick Manolakos at your earliest convenience.

Thank you!

*George Chambers*  
*Board President (pro bono)*  
*Odyssey Charter School*  
[www.odysseycharterschooldel.com](http://www.odysseycharterschooldel.com)  
302-655-5760

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### III. Charter Modification Application Questions and Responses

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#### Section A: Core Questions

1. What modification does the school's Board of Directors wish to make to the term(s) of the charter? Identify the page number(s) on which the term(s) is/are stated in the currently approved charter. If the term(s) of the charter the school wishes to modify is/are conditions placed on the charter by the Secretary of Education and members of the State Board of Education, state the condition(s) and the date(s) on which the condition(s) was/were placed on the school's charter.

#### Response

It is our understanding that the charter modification request for a change in location falls under the following charter regulations:

*TITLE 14 – Education / Free Public Schools*

*CHAPTER 5. CHARTER SCHOOLS*

*§ 512 Approval criteria.*

*Subject to the process prescribed in § 511 of this title, charter school applications shall be in the form established by the approving authority and shall be approved if, after the exercise of due diligence and good faith, the approving authority finds that the proposed charter demonstrates that:*

*(8) The plan for the school is economically viable, based on a review of the school's proposed budget of projected revenues and expenditures for the first 3 years, the plan for starting the school, and the major contracts planned for equipment and services, leases, improvements, purchases of real property and insurance;*

Odyssey is unaware of any current or outstanding conditions associated with our active Charter approved through Delaware School Board of Education (SBE) and Delaware Department of Education (DOE) in August, 2011. The proposed change in location from our currently leased Lower Elementary buildings off Lancaster Ave to the proposed leased and renovated Building 20 in the Barley Mill Plaza represents a very positive transition for our school. The new location, a neighboring building to the Odyssey Lower Elementary buildings and also directly off Lancaster Ave, is intended to house our increasing student population, as provided by the DE DOE approved Charter Modification for Odyssey from February 2012. This facility can comfortably and cost-effectively accommodate over 600 students for our Grades K through 4<sup>th</sup> operations during the 2014/15 and potentially 2015/16 academic years.

2. What is the effective date of the proposed modification? (Please note: if this is a request for an enrollment expansion of greater than 15%, the applicant must provide an impact analysis pursuant to 14 Del. Code Chapter 5 §511(b)3 as an Attachment See Section B Question 3 in this application.)

#### Response

The initial lease term of BMP Building 20 is for one year and three months commencing on April 1, 2014 and ending on June 30, 2015 (see Exhibit 1 – section 1.5). Odyssey has the right to extend the length of the Lease for an additional year with 120 days prior notice from the expiration of date of the lease. This

proposed change in location does not impact the existing enrollment numbers as approved by the DE DOE in February 2012 (see Appendix 2 – Secretary of DOE Letter) and is only meant to accommodate those student counts as an interim facility for Odyssey.

3. The authorizer will review your most recent Performance Review Reports as part of your application. Discuss the school's academic performance, its compliance with the terms of its charter, and its financial viability as measured by the Performance Framework.

#### Response

The DE DOE Performance Framework is meant to assure that each and every authorized charter school is serving students with a high-quality public education. The Performance Framework sets the academic, fiscal, and organizational standards by which public charter schools will be evaluated and Odyssey has met or exceeded these overall standards in each year that the performance reviews have been in effect since 2010.

For transparency purposes, over the three scholastic years of reporting, Odyssey received two individual items not meeting Standard expectations. The first one was from the 2010/11 Organizational Performance Framework Report, where in section 3 the assessment deals with school compliance with governance and reporting requirements. It was found that Odyssey website postings were not easily retrieved by the public. Improvements were made to the Odyssey's website navigation links and the problem was quickly resolved. The second assessment not meeting Standard expectations was in the Financial Performance Framework Report for 2012/13 in section 1, dealing with near term indicators and metrics. There was a concern identified with the Working Capital Ratio as one of the mortgage notes would come to term in the upcoming year. As in most commercial loans and especially those that have a fixed rate of interest, there is mortgage balloon payment at the end of an agreed upon term where the note will either be paid off or it may be transitioned to a different financing arrangement. This was the case for the Odyssey Bayard Avenue (Upper Elementary/Middle School) facility mortgage and appropriate financing has been subsequently secured since the 2012/13 performance reporting period which mitigates future Working Capital Ratio concerns.

Finally, it is important to note that Odyssey has consistently met or exceeded all Academic Performance Framework evaluation measures in the past and during the 3 years of reporting by DE DOE. This area of assessment is meant to determine whether a charter school is implementing its academic program effectively and its students are learning. Odyssey's innovative and rigorous program of Greek language instruction and academic content reinforcement through second language instruction and in particular, its focused mathematics, has become is a hallmark for Delaware public schools to potentially emulate at some time in the future.

4. Describe the rationale for the request(s). Discuss any relevant research-base or evidence that supports this type of request. (*Attachments may be provided.*)

#### Response

Odyssey is currently a Grades K through 6 Elementary and Middle School program with operations

conducted between two facility sites. Odyssey's lower campus is located in two buildings off Lancaster Ave, referred to as the Pantano and Tabeling Buildings, and houses Grades K through 2. Our second facility site is located off Bayard Ave and has our upper Grades 3 through 6 occupying it. The lower grades campus is approximately 24,000 square feet under lease with a one year remaining renewal option. The upper grades campus is approximately 28,000 square feet in one building, owned by the school, and has an estimated additional 5,000 square feet of classrooms in an added modular unit on the property. Per the guidance provided by the DOE in its approval to expand Odyssey operations for Grades K through 12, Odyssey has periodically submitted interim plans for housing its modified student enrollment projections (see Appendix 3) until a longer term and consolidated campus might be acquired. Using national standards for instructional and recreational space needs of Grades K through 12, Odyssey anticipates that a consolidated campus will occupy as much as 250,000 square feet under roof on a site in excess of 30 acres of land. As Odyssey continues its assessment of options for consolidation through 2017, our student body succession and associated student count growth into higher grades continues. The transition of Elementary Grades K through 4 to the proposed BMP Building 20 will provide Odyssey a gain of approximately 35,000 square feet of usable space. We anticipate that this proposed interim expansion is sufficient to support the 2014/15 scholastic year and 2015/16 as well, if a longer term consolidation alternative is delayed.

5. Describe how the proposed modification will impact the operation of the school. Include how student achievement, staffing, facilities, and the financial viability of the school may be impacted in the current school year and for the remainder of the school's charter term.

Response

The configuration and proximity of the proposed interim BMP Building 20 expansion by Odyssey has beneficial attributes from an instructional as well financial perspective. BMP Building 20 was previously used as a training and conference facility by the DuPont Corporation and will offer a full complement of sizable classrooms, pull out areas, and administrative spaces. In comparison with our current separated operations in the leased Lower Elementary Pantano and Tabeling buildings, the BMP Building 20 site environment and planned internal renovations will serve to improve operational work flows throughout the school day. Please see Appendices 4, 5, and 6 for details on the property site and building specifications.

Regarding the financial benefits of the proposed lease of BMP Building 20, the average cost per square foot will reduce Odyssey's annual lease payments by approximately 30%, from \$18 per square foot to under \$13 per square foot, for the transitioned operations of the leased lower grade Pantano and Tabeling buildings. The planned costs of renovation for BMP Building 20 will be significantly offset by these anticipated lease savings over the first year or two.

6. Indicate the projected impact, if any, of the proposed modification on the school's present financial position, and its financial position going forward. If the modification promises to create financial challenges, indicate how those will be remedied.

Response

A longer term budget has been drafted in support of the Grades K through 12 expansion options for Odyssey. As part of those financial projections, the interim lease and renovation costs of BMP Building 20 for years 2014/15 and 2015/16 have been addressed. In the Appendix 7 of this application, you can see that Odyssey maintains favorable contingency reserves over a 10 year period.

#### **Relevant Additional Section Questions: Section G**

1. Discuss your objective in seeking the proposed modification.

##### Response

The objective of this Charter Modification request is to secure interim facilities to accommodate the growth of Odyssey's student population as approved through the DE Department of Education in 2010 and as amended in 2012. With the matriculation of upper grade students into higher grades each year until the full complement of Grades K through 12 are achieved, the demands of additional space requirements for instructional and integrated physical education/sport activities will continue. While pursuing alternate viable long term options for a consolidated campus, Odyssey has identified an interim facility to transition current lower grade operations and allow for the expansion into Middle School Grade 7 at our upper grades facility off Bayard Avenue. The proposal consists of leasing Barley Mill Plaza Building 20, orchestration of a very manageable interior building renovation, and transitioning Grades K through 4 into this newly acquired facility. Approvals from DE DOE are required for such location changes of a charter school.

2. Please describe any challenges that the current school facility presents. If the modification is approved, will it generate any new challenges, and if so, how will you address them?

##### Response

The transition planning challenges going from the lower elementary grades of the Pantano and Tabelaing buildings to the proposed BMP Building 20 have been reasonable, but significant. The goal in choosing this interim facility was for Odyssey to gain needed additional space while minimizing the costs and potential disruptions to transportation planning for our faculty and student families. BMP Building 20 is located in very close proximity to current operations off Lancaster Avenue and represents the optimal configuration for classes and ancillary instructional activities. However, any proposed change in building use within New Castle County (NCC) of Delaware, especially in previously contested land use developments such as with Barley Mill Plaza, has its proponents as well as detractors for change.

The NCC Land Use process for permitting a change in use for the proposed BMP Building 20 requires authorizations from multiple offices within NCC and the state of Delaware. In particular, the DE Department of Transportation (DE DOT) as well as the office of the Fire Marshall is involved. With the guidance of legal counsel and engineering professionals, Odyssey has diligently worked with and subsequently obtained agreements from all stakeholder parties involved. Documentation to that effect can be found in the Letter of No Contention from the DE DOT, the Fire Marshall approval of the Fire

Protection Plan, and the correspondence from New Castle County Executive providing guidance and authorizations for Odyssey's site plan application (see Appendices 8, 9, and 10).

3. Please describe the proposed location of the school. Include information about siting, space available, costs to the school (and how they differ from the current facilities arrangement), safety, any co-located programs sharing the same facility, the quality of the instructional and non-instructional space and any other significant factors impacting the attractiveness and viability of the proposed facility.

Response

The proposed lease of needed additional space by Odyssey is for Barley Mill Plaza, Building 20, located at the intersection of Route 141 and Route 48, with direct public access through an improved and lighted intersection off of the Lancaster Ave. The school bus drop-off and pick-up area currently used by Odyssey for its lower grade Elementary programs will be in the same location as proposed for BMP Building 20. The building consists of approximately 62,000 square feet of space for instructional and ancillary school services. Due to a very affordable negotiated lease rate of under \$13 per square foot, approximately 30% less than current market pricing for comparable commercial office space, Odyssey is able to cost-effectively take full possession of the building and not have to share the facility with other organizational entities.

Odyssey has performed reasonable due diligence in assessing the BMP Building 20 infrastructure such as heating, air conditioning, plumbing, electrical, fire detection and sprinkler systems, life safety equipment, telecommunications, etc. and have found them to be in good working order. Since the building was previously configured to support training and conference activities for the DuPont Corporation, the renovations costs are extremely affordable (see renovation cost estimate in Appendix 11). With the lease rate savings realized by transitioning from currently leased properties to BMP Building 20, the estimated renovation costs can be fully offset over a one to two year timeframe.

4. Describe the projected impact of the location modification on the school's program, mission, culture and offerings (both academic and non-academic).

Response

The proposed change in location for a portion of Odyssey's innovative educational program represents another important step in the commitment by Odyssey to establish a preeminent Grades K through 12 academic choice for the children and families of Delaware. As an interim facility, BMP Building 20 provides needed instructional and support services space in a cost-effective fashion and its proximity to current operations minimizes disruptions from normal activities of our students, their families, our faculty, and administration.

Also contained within this proposed facility, are food service furnishings and equipment. Over time, Odyssey would like to investigate the opportunity to not only augment our school's capability to provide daily meal options for our students, but to also explore applied health nutrition sciences as a part of our curricular offerings. Due to the generosity of the DuPont Corporation, all of the BMP Building 20



furnishings and equipment, that is desks, chairs, partitions, and food service facilities, will be donated to Odyssey (see correspondence notification in Appendix 12).

5. Articulate a facility usage plan for the school going forward. Will the proposed location solve space needs for a limited amount of time or permanently? Will further modifications be required?

Response

In concert with the objective for Odyssey to acquire a consolidated campus for Grades K through 12, the potential purchase of a portion of the land and building holdings at Barley Mill Plaza is very much under consideration. Along with other longer term facility alternatives, the interim lease of BMP Building 20 has both operational and economic advantages if a full solution, Grades K through 12, can be realized at Barley Mill Plaza. Regardless of how the longer term facility needs are resolved, however, Odyssey will continue to be diligent in providing the DE DOE and Charter School Office needed modification requests and status updates as appropriate. It is important to note that one of the longer term facility development options contemplated by Odyssey, the Mundy Farm property, is under disposition consideration. Due to physical constraints of the land identified and the potential time limitations for gaining development approvals, having Odyssey explore alternatives including the potential future sale of the Mundy Farm property is prudent. An exploratory RFP as part of a disposition alternatives process has been initiated (see Appendix 13).

#### **IV. Charter Modification Application Appendices**

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(Intentionally Left Blank – Individual Appendices will Follow)

## STANDARD LEASE

### 1. Basic Lease Provisions ("Basic Lease Provisions")

1.1 **Parties:** This Standard Lease ("Lease"), dated for reference purposes only, December 13, 2013, is between BARLEY MILL LLC, a Delaware limited liability company ("Landlord") and ODYSSEY CHARTER SCHOOL, INC., a Delaware corporation ("Tenant").

1.2 **Premises:** Approximately 62,109 rentable square feet located in the Building (as defined in paragraph 1.3 below), all as more specifically shown on Exhibit "A" hereto (the "Premises").

1.3 **Building:** The building (the "Building") more commonly known as "Building 20" within the Barley Mill Plaza located at the intersection of Route 141 (Center Road) and Route 48 (Lancaster Pike) in Wilmington, Delaware 19805.

1.4 **Use:** A charter school for grades kindergarten through eight (8) and/or any general office use as may be permitted by applicable law, subject to paragraph 6. Notwithstanding the foregoing, Tenant acknowledges receipt of the exclusive covenants and restrictions granted listed on Exhibit "I" attached hereto, "Exclusives and Restrictions", and agrees not to use the Premises in any manner in violation of any such exclusive covenants and/or restrictions; and this Lease is made under and subject to such exclusive covenants, restrictions and the other matters set forth on such Exhibit.

1.5 **Term:** One (1) year and three (3) months commencing on April 1, 2014 (the "Commencement Date") and ending on June 30, 2015, subject to extension as set forth below and subject to paragraph 3 herein.

Subject to the terms and conditions of this paragraph 1.5 and paragraph 39 herein, Tenant shall have the right to extend (the "Renewal Option") the term of the Lease for one (1) period of one (1) year, which Renewal Option shall be under and subject to the terms and conditions set forth in this Lease, except that (i) the Base Rent (as defined herein) during the Renewal Option shall be as set forth in paragraph 1.6 below, and (ii) Tenant shall not be entitled to any allowances or other concessions with respect to the Renewal Option. If Tenant fails to give Landlord written notice of Tenant's election to exercise the Renewal Option (the "Option Notice") at least one hundred twenty (120) days prior to the expiration of the term of the Lease, the Renewal Option shall automatically terminate and be of no further force or effect, it being understood that time is of the essence with respect to the exercise of the Renewal Option.

Notwithstanding anything to the contrary contained herein, if Tenant timely delivers the Option Notice, then Landlord shall have the right and option (the "Rejection Option"), exercisable by Landlord giving Tenant written notice within fifteen (15) days after Landlord's receipt of the Option Notice, of rejecting Tenant's Option Notice and terminating this Lease. If Landlord elects to exercise the Rejection Option, this Lease shall terminate effective as of June 30, 2015. If Landlord elects to exercise the Rejection Option, then, provided that (i) there exists no event of default on the part of Tenant under this Lease, and (ii) Tenant has not been in default hereunder more than three (3) times during the term of the Lease, Landlord shall reimburse Tenant an amount not to exceed \$500,000 for Tenant's Improvement Costs (as defined below), which obligation shall survive the termination hereof, and except for those obligations that expressly survive the termination of this Lease, neither Landlord nor Tenant shall have any further liability hereunder after the effective date of such termination except for obligations which may have accrued prior to such effective termination date. As used herein, the "Tenant's Improvement Costs" shall mean the hard costs incurred by Tenant to construct the Initial Tenant Improvements (as defined herein). Within thirty (30) days after Tenant opens for business in the Premises, Tenant shall deliver to Landlord a detailed statement setting forth the actual hard costs incurred by Tenant to construct the Initial Tenant Improvements.

1.6 **Base Rent:** Payable on the first (1st) day of each month per paragraph 4.1 in the following amounts:



<u>Term</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>	<u>Annual Base Rent/PSF</u>
April 1, 2014 – June 30, 2015	\$781,331.22	\$65,110.94	\$12.58
Option Period			
July 1, 2015 – June 30, 2016	\$812,385.72	\$67,698.81	\$13.08

1.6(a) **Electric:** In addition to the Base Rent, Tenant shall pay for all electricity provided to the Premises, which payments shall be made within ten (10) days of receipt by Tenant of an invoice from Landlord or the Electric Service Provider (as defined herein) at the rates and as more fully provided in Paragraph 11.2.

1.7 **Intentionally Deleted**

1.8 **Intentionally Deleted.**

1.9 **Intentionally Deleted.**

1.10 **Intentionally Deleted.**

1.11 **Tenant's Share of Operating Expenses and Real Property Taxes:** 100.00%, as defined in paragraph 4.2.

1.12 **Intentionally Deleted.**

1.13 **Listing Broker:** Stoltz Realty of Delaware, Inc.

1.14 **Cooperating Broker:** Patterson Woods Commercial. A "cooperating broker" is defined as any broker other than the Listing Broker entitled to a share of any commission arising under this Lease.

1.15 **Landlord Alterations, Improvements or Additions:** Landlord will not be making alterations improvements or additions to the Premises in conjunction with this Lease. Tenant hereby agrees to accept possession of the Premises in the condition set forth in paragraph 6.3 herein.

## 2. **Premises, Parking and Common Areas.**

2.1 **Premises:** The Premises are located within the Building identified in paragraph 1.3 of the Basic Lease Provisions. "Building" shall include adjacent parking area used in connection therewith; provided, however, in no event shall Tenant or its agents, employees, contractors, licensees or invitees be permitted to park in areas outside of "Tenant's Parking Area" as depicted on Exhibit "A" attached hereto. The Premises, the Building, the Common Areas, as defined in paragraph 2.3, the land upon which the same are located, along with all other buildings and improvements thereon or thereunder, as may be determined and designated by Landlord, are herein collectively referred to as the "Project". Landlord hereby leases the Premises to Tenant and Tenant leases the Premises from Landlord for the term, at the rental, and upon all of the conditions set forth herein, including rights to the Common Areas as herein specified; provided, however, in no event shall Tenant or its agents, employees, contractors, licensees or invitees be permitted to park in areas outside of "Tenant's Parking Area" as depicted on Exhibit "A" attached hereto. Tenant's "drop-off / pick-up" area shall be located within that portion of the Common Areas more specifically shown on Exhibit "A" attached hereto (to the extent applicable, all provisions of this Lease shall apply to Tenant's use of such "drop-off / pick-up" area).

2.2 **Vehicle Parking.** Subject to the rules and regulations attached hereto, and as established by Landlord from time to time, Tenant and its agents, employees, contractors, licensees and invitees may only park within "Tenant's Parking Area" as depicted on Exhibit "A" attached hereto.

2.2.1 If Tenant commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect with respect to vehicle parking, then Landlord shall have the right, without notice, in

addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.

**2.3 Common Areas - Definition.** The term "Common Areas" means all areas and facilities outside the Premises and within the exterior boundary line of the Project that are provided and designated by the Landlord from time to time for the general non-exclusive use of Landlord, Tenant and other lessees of the Project and their invitees. As used in this Lease, the term "invitees" means the employees, visitors, suppliers, shippers and customers of Landlord, Tenant and other lessees of the Project. The Common Areas include, but are not limited to, common entrances, lobbies, the atrium, corridors, stairways and stairwells, public rest rooms, elevators, escalators, parking areas and parking spaces to the extent not otherwise prohibited by this Lease, loading and unloading areas, trash areas, roadways, sidewalks, parkways, ramps, driveways, landscaped areas, windows, air shafts, walkways, parking spaces and decorative walls; provided, however, in no event shall Tenant or its agents, employees, contractors, licensees or invitees be permitted to park in areas outside of "Tenant's Parking Area" as depicted on Exhibit "A" attached hereto.

**2.4 Common Areas - Rules and Regulations.** Tenant agrees to abide by and conform to the rules and regulations attached hereto as Exhibit B with respect to the Project, and to cause its invitees to so abide and conform. Landlord or such other person (s) as Landlord may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to modify, amend and enforce said rules and regulations. Landlord shall not be responsible to Tenant for the noncompliance with said rules and regulations by other lessees of the Project or their invitees.

**2.5 Common Areas - Changes.** Landlord shall have the right, in Landlord's sole discretion, from time to time:

- (a) To make changes to the Building's exterior and the Common Areas, including, without limitation, changes in the location, size, shape, number, and appearance thereof, including but not limited to the driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas and walkways; provided, however, Landlord shall at all times provide the parking facilities required by applicable law;
- (b) To close any of the Common Areas so long as reasonable access to the Premises remains available;
- (c) To designate other land and improvements outside the present or future boundaries of the Project to be a part of the Common Areas, provided that such other land and improvements have a reasonable and functional relationship to the Project;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and the other portions of the Project as Landlord may, in its sole discretion, deem to be appropriate. Notwithstanding anything to the contrary contained herein, Landlord represents that any plans recorded in connection with the redevelopment of the Project will not cause the Building to be altered during the term of this Lease.

Notwithstanding anything to the contrary contained herein, Tenant hereby acknowledges and agrees that Tenant, its agents, employees, contractors, licensees, visitors and invitees (collectively, the "Tenant Parties") shall only be permitted to use the access drive off of Lancaster Turnpike (Route 48), as cross-hatched in blue on Exhibit "J" hereto (the "Access Drive"), for the purpose of ingress and egress to and from the Premises, and in no event shall the Tenant Parties utilize the access drive off of Center Road (Route 141), or any other access drives for the Project, for the purpose of ingress and egress to and from the Premises.



3. **Term.**

3.1 **Term; Commencement Date.** Subject to this paragraph 3, the term and Commencement Date of this Lease shall be as specified in paragraph 1.5 of the Basic Lease Provisions.

3.2 **Delay in Possession.** Except as otherwise set forth herein, Landlord shall not be subject to any liability for damages or any other claim resulting from failure to deliver the Premises, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder, and Tenant hereby waives all such liability. Notwithstanding the foregoing, if Landlord does not deliver the Premises to Tenant in the condition set forth herein by July 1, 2014 (other than on account of a delay as described in paragraph 19), then Tenant shall thereafter have the right to terminate this Lease by delivering written notice thereof to Landlord at any time prior to the date that Landlord deliver the Premises to Tenant in the condition set forth herein.

3.3 **Intentionally Deleted.**

3.4 **Commencement Date Agreement.** Upon the prior written request of either party, Landlord and Tenant shall enter into a mutually acceptable Commencement Date Agreement confirming the Commencement Date.

4. **Rent.**

4.1 **Base Rent.** Except as may be otherwise expressly provided in this Lease, Tenant shall pay Landlord the Base Rent set forth in paragraph 1.6 of the Basic Lease Provisions, without offset or deduction. Rent for any period during the term which is for less than one month shall be prorated based upon the actual number of days of the calendar month involved. Rent shall be payable on the first day of each month in lawful money of the United States to Landlord at the address stated herein or to such other persons or at such other places as Landlord may designate in writing.

4.2 **Operating Expenses.** Tenant shall pay to Landlord during the term of this Lease Tenant's Share, as defined in paragraph 4.2(a), of all Operating Expenses, as defined in paragraph 4.2(b). Payments of Tenant's Share of Operating Expenses are due and payable monthly on the same date as the Base Rent. Tenant's Share may be adjusted by Landlord on a quarterly basis should the actual Operating Expenses exceed the then current estimates. Within one hundred twenty (120) days after the expiration of each calendar year, Landlord shall provide Tenant with a reasonably detailed statement showing the actual Operating Expenses for the prior year. If payments made by Tenant pursuant to this paragraph are less than or exceed the amounts shown in any statement, then Tenant's account will be adjusted to reflect the amounts due. All deficiencies are payable upon receipt of invoice and all credits will be applied by Landlord to the next installment of Operating Expense reimbursement. Concurrently, with the remittance of the prior year statement, or as soon thereafter as is reasonably possible, Landlord shall advise Tenant of the then current year's estimate of Operating Expenses as well as the monthly payment due thereon. Any deficiencies in the monthly billings that may have accrued from either the Commencement Date of the Lease or the first day of any subsequent calendar year, shall be due and payable upon receipt by Tenant of an invoice from Landlord. Landlord's failure to provide such statement by the date provided herein shall in no way excuse Tenant from its obligation to pay its share of costs or constitute a waiver of Landlord's right to bill and collect such costs from Tenant in accordance with the terms of this Lease.

(a) "Tenant's Share" is set forth in paragraph 1.11 and is calculated by dividing the rentable square footage of the Premises by the total rentable square footage of the Building. It is understood and agreed that the square footage figures are approximations that Landlord and Tenant agree are reasonable and shall not be subject to revision except in connection with an actual change in the size of the Premises or a change in the space available for lease in the Building.

(b) "Operating Expense(s)" is defined to include all costs incurred by Landlord in the exercise of its reasonable discretion, for:



- (i) The operation, repair, maintenance, and replacement, in a neat, clean, safe, good order and condition, of the Project, including but not limited to, the following:
    - (aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, lighting facilities, building exteriors and roofs, fences and gates;
    - (bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, telecommunications equipment, elevators and escalators, lessee directories, fire detection systems, sprinkler systems and other equipment used in common by, or for the benefit of, occupants of the Project;
  - (ii) Trash disposal, janitorial and security services;
  - (iii) Any other service to be provided by Landlord that is elsewhere in this Lease stated to be an "Operating Expense";
  - (iv) Premiums for the liability and property insurance policies (including, but not limited to, earthquake, flood and boiler and machinery insurance, if carried) maintained by Landlord;
  - (v) Water, sewer, gas, electricity, and other public services supplied to the Project;
  - (vi) Wages, salaries and applicable fringe benefits and materials, supplies and tools, used in maintaining and cleaning the Project;
  - (vii) Maintaining and auditing accounting records and a management fee attributable to the operation of the Project of up to five percent (5%) of the Project's gross revenue.
  - (viii) Replacing and/or adding improvements mandated by any governmental agency and any repairs or removals necessitated thereby amortized over their useful life as determined in the reasonable judgment of Landlord's accountant (including interest on the unamortized balance as reasonably determined by Landlord's accountant);
  - (ix) Replacing equipment or improvements that have a useful life for depreciation purposes of five (5) years or less, as determined in the reasonable judgment of Landlord's accountant, amortized over such life (including interest on the unamortized balance as reasonably determined by Landlord's accountant);
  - (x) Replacing and/or adding any equipment, device or capital improvement to reduce operation or maintenance expenses with respect to the Project, amortized over its useful life as determined in the reasonable judgment of Landlord's accountant (including interest on the unamortized balance as reasonably determined by Landlord's accountant).
- (c) Operating Expenses shall not include replacement of equipment or improvements having a useful life in excess of five (5) years as determined in the reasonable judgment of Landlord's accountant unless they are the type described in paragraph 4.2(b) (viii) or (x), in which case their cost shall be included as above provided.
- (d) Intentionally Deleted.
- (e) Notwithstanding any provision of this paragraph to the contrary, if the occupancy of the Building or the Project during any calendar year of the term of this Lease is less than ninety-five percent (95%), then Operating Expenses for such year shall be "grossed up" to that amount of Operating Expenses that, using reasonable projections, would normally be expected to be incurred



during such year if the Building and/or the Project were ninety-five percent (95%) occupied. Landlord shall provide in the annual statement given to Tenant in respect of increases/decreases in Operating Expenses an explanation as to how the Operating Expenses were grossed up. Only those components of Operating Expenses that are affected by variations in occupancy levels shall be grossed up.

(f) If any Operating Expenses incurred for the Building consist of shared costs and expenses with one or more other buildings or properties (including other buildings in the Project), whether pursuant to a reciprocal easement agreement, cost sharing agreement, common area agreement, or otherwise, the shared costs and expenses shall be equitably allocated by Landlord between the Building and such other buildings or properties.

(g) If any tenant of any part of the Project, in lieu of paying a share of Operating Expenses, shall undertake to maintain any designated part of the Common Areas of the Project or incurs any expenses that would otherwise be included in Operating Expenses, or provides their own insurance, the cost of which would otherwise be included in Operating Expenses, then the leasable area of such tenant's leased premises shall not be included in the denominator of Tenant's Share for the purposes of any equitable allocation as set forth in sub-paragraph (f) above.

4.3 **Real Property Taxes.** Tenant shall pay to Landlord during the term of this Lease Tenant's Share of all Real Property Taxes (as defined in paragraph 10.3) allocable to the Building; provided, however, to the extent that Real Property Taxes are assessed against the Building and other areas of the Project, such Real Property Taxes shall be equitably allocated by Landlord between the Building and the other areas of the Project. Payments of Tenant's Share of Real Property Taxes are due and payable monthly on the same date as the Base Rent. Tenant's Share may be adjusted by Landlord on a quarterly basis should the actual Real Property Taxes exceed the then current estimates. Within one hundred twenty (120) days after the expiration of each calendar year, Landlord shall provide Tenant with a reasonably detailed statement showing the actual Real Property Taxes for the prior year. If payments made by Tenant pursuant to this paragraph are less than or exceed the amounts shown in any statement, then Tenant's account will be adjusted to reflect the amounts due. All deficiencies are payable upon receipt of invoice and all credits will be applied by Landlord to the next installment of Real Property Taxes reimbursement. Concurrently, with the remittance of the prior year statement, or as soon thereafter as is reasonably possible, Landlord shall advise Tenant of the then current year's estimate of Real Property Taxes as well as the monthly payment due thereon. Any deficiencies in the monthly billings that may have accrued from either the Commencement Date of the Lease or the first day of any subsequent calendar year, shall be due and payable upon receipt by Tenant of an invoice from Landlord. If any tenant's or occupant's premises in the Project is separately assessed for Real Property Taxes, Landlord may reduce the denominator of the fraction in determining Tenant's Share of Real Property Taxes by the leasable area of such separately assessed premises for the purposes of any equitable allocation as set forth above.

4.4 **Definition of Rent.** The capitalized term "Rent", as used in this Lease, shall mean the Base Rent plus Tenant's Share of Operating Expenses and Real Property Taxes. All payments of Rent under this Lease shall be made by Tenant without offset or deduction.

5. **Security Deposit.** Tenant shall deposit with Landlord upon execution hereof the security deposit set forth in paragraph 1.10 of the Basic Lease Provisions as security for Tenant's faithful performance of Tenant's obligations hereunder. If Tenant fails to pay Rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply or retain all or any portion of said deposit for the payment of any Rent or other charge in default for the payment of any other sum to which Landlord may become obligated by reason of Tenant's default, or to compensate Landlord for any loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of said deposit, Tenant shall within ten (10) days after written demand deposit cash with Landlord in an amount sufficient to restore said deposit to the full amount then required of Tenant. If the Base Rent shall at anytime, increase during the term of this Lease, Tenant shall, at the time of such increase, deposit with Landlord additional money as a security deposit so that the total amount of the security deposit held by Landlord shall at all times bear the same proportion to the then current Base Rent as the initial security deposit bears to the initial Base Rent set forth in paragraph 1.6 of the Basic Lease Provisions. Landlord



shall not be required to keep said security deposit separate from its general accounts. If Tenant performs all of Tenant's obligations hereunder, said deposit, or so much thereof as has not been applied by Landlord, shall be returned, without payment of interest or other increment for its use, to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest hereunder) as soon as reasonably practical after the term expires and Tenant vacates the Premises. No trust relationship is created herein between Landlord and Tenant with respect to said Security Deposit.

6. Use.

6.1 **Use.** The Premises shall be used and occupied only for the purpose set forth in paragraph 1.4 of the Basic Lease Provisions and for no other purpose.

6.2 **Compliance with Legal and Insurance Requirements.** Tenant shall, at Tenant's expense, promptly comply with all applicable statutes, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements of any insurance underwriters or rating bureaus, now in effect or which may hereafter come into effect, whether or not they reflect a change in policy from that now existing, during the term or any part of the term hereof, relating in any manner to the Premises and the occupation and use by Tenant of the Premises. Tenant shall conduct its business in a lawful manner and shall not use or permit the use of the Premises or the Common Areas in any manner that will tend to create waste or a nuisance or shall tend to disturb other occupants of the Project.

6.3 **Condition of Premises.** Tenant hereby accepts the Premises and the Project in their "as is" condition as of the date of delivery of possession of the Premises to Tenant, subject to all applicable municipal, county and state laws, ordinances and regulations governing and regulating the use of the Premises, and any easements, covenants or restrictions of record, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Tenant acknowledges that it has satisfied itself by its own independent investigation that the Premises are suitable for its intended use, and that, except as otherwise set forth herein, neither Landlord nor any agent of Landlord has made any representation or warranty as to the present or future suitability of the Premises, Common Areas, or Project for the conduct of Tenant's business.

7. Maintenance, Repairs, Alterations and Additions.

7.1 **Maintenance and Repair - Landlord's Obligations.** Landlord shall maintain the Access Drive and that portion of the Common Areas located within the "Tenant's Parking Area" as depicted on Exhibit "A" attached hereto. In addition, Landlord shall, except as otherwise set forth in paragraph 7.2 below, maintain the plumbing, elevator, electrical and other mechanical systems of the Building in good working order. Except as provided in paragraph 9.5, there shall be no abatement of Rent or liability of Landlord on account of any injury or interference with Tenant's business with respect to any improvements, alterations or repairs made by Landlord to the Project or any part thereof. Tenant expressly waives the benefits of any statute now or hereafter in effect that would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair. Notwithstanding anything to the contrary contained herein, in no event shall Landlord have any other obligations to maintain the Common Areas of the Project except as otherwise set forth in this paragraph 7.1.

7.2 **Maintenance and Repair - Tenant's Obligations.** During the term of this Lease, Tenant shall take good care of the Premises and fixtures therein and maintain them in good order, condition and repair equal to the original work, ordinary and reasonable wear excepted. In addition, Tenant shall repair, replace and maintain the HVAC system(s) serving the Premises, at Tenant's expense. Tenant, at its expense, shall maintain a preventative maintenance contract on the HVAC system(s) serving the Premises which shall be subject to Landlord's reasonable approval. Tenant shall provide Landlord with a copy of the preventative maintenance contract no later than thirty (30) days after the Commencement Date. The preventative maintenance contract shall provide for the inspection and maintenance of the HVAC system(s) on not less than a semi-annual basis with change of filters at least every thirty (30) days. In the event Tenant shall fail, in Landlord's reasonable opinion, to provide the necessary preventative maintenance required herein, Landlord may accomplish such maintenance or contract with a third party to accomplish such maintenance, and all costs incurred thereby shall be paid by Tenant upon demand by Landlord plus a fifteen percent

(15%) administrative fee. Upon surrender of the Premises to Landlord, Tenant shall deliver the Premises to Landlord, broom clean, in as good order, condition and repair as they were upon delivery of possession to Tenant, ordinary and reasonable wear excepted. Without limiting the foregoing, Landlord may require that any such maintenance and repairs be performed by Landlord at Tenant's expense.

### **7.3 Alterations and Additions.**

(a) Tenant shall not, without Landlord's prior written consent, make any alterations, improvements or additions in, on or about the Premises or the Project. At the expiration of the term, Landlord may require the removal of any or all of said alterations, improvements or additions and the restoration of the Premises and the Project to their prior condition, at Tenant's expense, provided that Landlord has notified Tenant that Landlord requires its removal at the time Tenant requests Landlord's consent or at the time Tenant makes such improvements or additions. For any alterations or improvements requiring Landlord's consent, Landlord shall respond with its approval or disapproval within ten (10) business days following Tenant's request for consent and any disapproval shall contain the reasons for such disapproval. Should Landlord permit Tenant to make any alterations, improvements or additions, Tenant shall use only contractors expressly approved by Landlord. In addition, Landlord may require Tenant to provide Landlord, at Tenant's sole cost and expense, with a lien and completion bond in an amount equal to one and one half times the estimated cost of such improvements, to insure Landlord against any liability for mechanic's and materialmen's liens and to insure completion of the work. Such contractors shall carry liability insurance of a type and in such reasonable amounts as Landlord shall reasonably require, naming Landlord and Tenant as additional insureds. Before commencing the work, such contractors shall furnish Landlord with certificates of insurance evidencing such coverage and with evidence of recording of a fully executed waiver of mechanics' liens. Tenant shall also maintain a policy of Builder's Risk for such work. Should Tenant make any alterations, improvements or additions without the prior approval of Landlord, or use a contractor not expressly approved by Landlord, Landlord, at any time during the term of this Lease, may require that Tenant remove any part or all of such work and restore the Premises to its prior condition.

(b) Tenant shall present any alteration, improvement or addition in or about the Premises or the Project that Tenant desires to make to Landlord in written form, with proposed detailed plans. If Landlord consents to such alteration, improvement or addition, the consent shall be deemed conditioned upon Tenant acquiring a permit to do so from the applicable government agencies, furnishing a copy thereof to Landlord prior to the commencement of the work, and compliance by Tenant with all conditions of said permit in a prompt and expeditious manner.

(c) Tenant shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use in the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises, the Building or the Project, or any interest therein.

(d) Tenant shall give Landlord not less than ten (10) days' notice prior to the commencement of any work in the Premises by Tenant. Landlord shall have the right to post notices of non-responsibility in or on the Premises or the Building. If Tenant, in good faith, contests the validity of any lien, claim or demand regarding the work, then Tenant shall, at its sole expense, defend itself and Landlord and Landlord's agents against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Landlord or Landlord's agents or the Premises or the Building or the Project, upon the condition that if Landlord shall require, Tenant shall furnish to Landlord, within fifteen (15) days from Landlord's notice, a surety bond satisfactory to Landlord in an amount equal to such contested lien claim or demand indemnifying Landlord and Landlord's agents against liability for the same and holding the Premises, the Building and the Project free from the effect of such lien or claim. In addition, Landlord may require Tenant to pay Landlord's reasonable attorneys' fees and costs in participating in such action if Landlord decides it is in Landlord's best interest to participate.

(e) All alterations, improvements and additions made by Tenant shall be done in a good, workmanlike, manner with good quality materials and shall become upon installation the property of Landlord and remain upon and be surrendered with the Premises at the expiration of the Lease term, unless Landlord requires their removal pursuant to paragraph 7.3(a). Any trade fixtures installed and paid for by Tenant may, in the event Tenant is not in default under this Lease, be removed by Tenant during the term of this Lease and shall upon demand by Landlord be removed upon expiration of the term. Tenant shall in all events promptly repair any damage caused by removal of trade fixtures.

(f) Tenant shall provide Landlord with as-built plans and specifications for any alterations, improvements or additions.

(g) Notwithstanding anything to the contrary contained in this paragraph 7 but subject to compliance with applicable laws, Landlord hereby approves of Tenant's initial improvements to be constructed within the Premises as set forth and described on Exhibit "H" attached hereto (the "Initial Tenant Improvements"), and Landlord acknowledges and agrees that Tenant shall be permitted to install such improvements so long as the same complies with all applicable laws, codes, ordinances and regulations. Tenant shall not be obligated to remove the Initial Tenant Improvements from the Premises at the expiration or earlier termination of the Lease.

**7.4 Utility Additions.** Landlord reserves the right to install new or additional utility facilities throughout the Project for the benefit of Landlord or Tenant, or any other lessee of the Project, including, but not by way of limitation, such utilities as plumbing, electrical systems, communication systems, and fire protection and detection systems, so long as such installations do not unreasonably interfere with Tenant's use of the Premises.

**7.5 Americans with Disabilities Act.** Tenant acknowledges that Landlord will not be making any alterations, improvements or additions to the Premises under this Lease. In establishing the Rent under this Lease the Landlord has relied on the agreement between Tenant and Landlord that Landlord will not be required to make any alterations, improvements or additions to the Premises. Landlord has made no representation to Tenant that the Premises comply with or will comply with the Americans with Disabilities Act (the "Act"). Tenant agrees to and shall be responsible for all cost and expense incurred in connection with any alterations, improvements and changes necessary to ensure compliance with the Act. It is the intent of this paragraph that any alterations, improvements or additions required by the Act with regard to the Premises, whether resulting from amendments to the Act or otherwise shall be the sole responsibility of Tenant. Tenant covenants and agrees to and does hereby indemnify, defend and hold Landlord harmless from and against all liability (including, without limitation, attorneys' fees and court costs) that Landlord may actually sustain by reason of Tenant's breach of its obligations under this paragraph. In the event that Tenant fails to comply with its obligations under this paragraph for a period of ten (10) days after written notice from Landlord to Tenant specifying the action required to be taken, Landlord shall have the right, but not the obligation, to enter into the Premises and perform such action on behalf of Tenant. In such event, Landlord shall not be liable for and Tenant hereby waives any and all claims against Landlord arising out of any damage or injury to the Premises or any property situated therein and Landlord shall have no liability to Tenant for any interruption of Tenant's operations conducted in or about the Premises. Any and all costs and expenses incurred by Landlord in performing such action on behalf of Tenant shall be reimbursed by Tenant to Landlord upon demand and the failure to do so shall, at the option of Landlord, constitute an event of default under this Lease.

## **8. Insurance; Indemnity.**

**8.1 Liability Insurance-Tenant.** Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a policy of Commercial General Liability Insurance with Broad Form General Liability Endorsement, or equivalent, in an amount of not less than \$1,000,000 per occurrence of bodily injury and property damage combined or in a greater amount as reasonably determined by Landlord and shall insure Tenant with Landlord and Landlord's asset manager and property manager as additional insureds against liability arising out of the use, occupancy or maintenance of the Premises. Compliance with the above requirement shall not, however, limit the liability of Tenant hereunder.



**8.2 Liability Insurance - Landlord.** Landlord shall obtain and keep in force during the term of this Lease a policy of Commercial General Liability Insurance, plus coverage against such other risks as Landlord deems advisable from time to time, in such amounts as Landlord deems advisable from time to time, insuring Landlord, but not Tenant, against liability arising out of the ownership, use, occupancy or maintenance of the Project.

**8.3 Property Insurance - Tenant.** Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease for the benefit of Tenant, fire and extended coverage insurance, with vandalism and malicious mischief, sprinkler leakage and earthquake sprinkler leakage endorsements, in an amount sufficient to cover the full replacement cost, as the same may exist from time to time, of all of Tenant's personal property, fixtures, equipment and tenant improvements.

**8.4 Property Insurance - Landlord.** Landlord shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the improvements which comprise the Premises and the Buildings, in an amount of one hundred percent (100%) of full replacement cost (exclusive of the cost of excavations, foundations and footings), but not Tenant's personal property, fixtures, equipment or tenant improvements, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, plate glass, and such other perils as Landlord deems advisable from time to time or may be required by a lender having a lien on the Project. Such insurance may include earthquake, flood and boiler and machinery insurance. In addition, Landlord may obtain and keep in force, during the term of this Lease, rental value insurance, with loss payable to Landlord, which insurance may also cover Operating Expenses and Real Estate Taxes. Tenant will not be named in any such policies carried by Landlord and shall have no right to any proceeds therefrom. The policies required by paragraphs 8.2 and 8.4 shall contain such deductibles as Landlord or the aforesaid lender may determine. In the event that the Premises shall suffer an Insured Loss as defined in paragraph 9.1(e), the deductible amounts under the applicable insurance policies shall be deemed an Operating Expense. Tenant shall not do or permit to be done anything which shall invalidate the insurance policies carried by Landlord. Tenant shall pay the entirety of any increase in the property insurance premium for the Project over what it was immediately prior to the commencement of the term of this Lease if the increase is specified by Landlord's insurance carrier as being caused by the nature of Tenant's occupancy or any act or omission of Tenant.

**8.5 Insurance Policies.** Tenant shall deliver to Landlord copies of the insurance policies required under paragraphs 8.1 and 8.3 or, if permitted by Landlord, certificates evidencing the existence and amounts of such insurance within seven (7) days after the Commencement Date of this Lease. The policies or certificates must include a copy of the endorsement naming the additional insureds required under Section 8.1. Tenant shall, at least thirty (30) days prior to the expiration of each policy, furnish Landlord with a copy of the policy or a certificate evidencing the renewal thereof. If Tenant provides a certificate Landlord may at any time thereafter require Tenant to provide Landlord with a copy of the policy. The policies shall be issued by insurers having a rating of A+10 or better in Best's Key Rating Guide, who are admitted carriers in the state where the Project is located. No such policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Landlord.

**8.6 Waiver of Subrogation.** Tenant and Landlord each hereby release and relieve the other (and Landlord's asset manager and property manager) and waive their entire right of recovery against the other (and Landlord's asset manager and property manager), for direct or consequential loss or damage arising out of or incident to the perils covered by property insurance carried by such party, whether due to the negligence of Landlord or Tenant or their agents, employees, contractors or invitees. If necessary, all property insurance policies required under this Lease shall be endorsed to so provide.

**8.7 Indemnity.** Tenant shall indemnify and hold harmless Landlord and its officers, directors, shareholders, employees, contractors, servants and/or agents from and against any and all claims for damage to the person or property of anyone or any entity arising from Tenant's use of the Project, or from the conduct of Tenant's business or from any activity, work or things done, permitted or suffered by Tenant in or about the Premises or elsewhere and shall further indemnify and hold harmless Landlord from and against any and all claims, costs and expenses arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or

omission of Tenant, or any of Tenant's agents, contractors, employees, or invitees, and from and against all costs, attorneys' fees, expenses and liabilities incurred by Landlord as the result of any such use, conduct, activity, work, things done, permitted or suffered, breach, default or negligence, and in dealing reasonably therewith, including but not limited to the defense or pursuit of any claim or any action or proceeding involved therein; and in case any action or proceedings be brought against Landlord by reason of any such matter, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord shall cooperate with Tenant in such defense. Such indemnification obligation shall exclude those damages caused by any willful act or omission or negligence of Landlord or its agents, employees or contractors. Landlord need not have first paid any such claim in order to be so indemnified.

Landlord shall indemnify and hold harmless Tenant and its officers, directors, shareholders, employees, contractors, servants and/or agents from and against all claims, expenses, or liabilities of whatever nature (i) arising directly or indirectly from any default or breach by Landlord or Landlord's contractors, licensees, agents, servants, or employees under any of the terms or covenants of this Lease; or (ii) arising directly or indirectly from any accident, injury, or damage, however caused, to any person or property, on the Common Areas; or (iii) arising directly or indirectly from any accident, injury, or damage to any person or property occurring outside the Premises but within the Building or on the Office Building Project, to the extent such accident, injury, or damage results, or is claimed to have resulted, from any negligent act or omission, or negligence on the part of Landlord, or Landlord's contractors, licensees, agents, servants, employees, or customers, or anyone claiming by or through Landlord; and in case any action or proceedings be brought against Tenant by reason of any such matter, Landlord upon notice from Tenant shall defend the same at Landlord's expense by counsel reasonably satisfactory to Tenant and Tenant shall cooperate with Landlord in such defense. Such indemnification obligation shall exclude those damages caused by any willful act or omission or negligence of Tenant or its agents, employees and contractors. Tenant need not have first paid any such claim in order to be so indemnified.

The provisions of this paragraph 8.7 shall survive the expiration or termination of this Lease.

## **9. Damage or Destruction.**

### **9.1 Definitions.**

- (a) "Premises Damage" shall mean damage or destruction of the Premises to any extent.
- (b) "Premises Building Partial Damage" shall mean damage or destruction of the Building of which the Premises are a part to the extent that the cost to repair is less than fifty percent (50%) of the then Replacement Cost of the Building.
- (c) "Premises Building Total Destruction" shall mean damage or destruction of the Building of which the Premises are a part to the extent that the cost to repair is fifty percent (50%) or more of the then Replacement Cost of the Building.
- (d) "Project Total Destruction" shall mean damage or destruction of the buildings in the Project to the extent that the cost of repair is fifty percent (50%) or more of the then Replacement Cost of all of the buildings in the Project.
- (e) "Insured Loss" shall mean damage or destruction caused by an event required to be covered by the insurance described in paragraph 8. The fact that an Insured Loss has a deductible amount shall not make the loss an uninsured loss.
- (f) "Replacement Cost" shall mean the amount of money necessary to be spent to repair or rebuild the damaged area to the condition that existed immediately prior to the damage occurring, excluding all improvements made by tenants of the Project.

### **9.2 Premises Damage; Premises Building Partial Damage.**

(a) **Insured Loss:** Subject to the provisions of paragraphs 9.4 and 9.5, if at any time during the term of this Lease there is an Insured Loss and that falls into the classification of either Premises Damage or Premises Building Partial Damage and that does not fall into the classification of Premises Building Total Destruction or Project Total Destruction, then Landlord shall, as soon as reasonably possible and to the extent the required materials and labor are readily available through usual commercial channels, at Landlord's expense, repair such damage (but not Tenant's fixtures, equipment or tenant improvements originally paid for by Tenant) to its condition existing at the time of the damage, and this Lease shall continue in full force and effect.

(b) **Uninsured Loss:** Subject to the provisions of paragraphs 9.4 and 9.5, if at any time during the term of this Lease there is damage that is not an Insured Loss and that falls into the classification of Premises Damage or Premises Building Partial Damage, and that does not fall into the classification of Premises Building Total Destruction or Project Total Destruction, unless caused by a negligent or willful act of Tenant (in which event Tenant shall make the repairs at Tenant's expense), which damage prevents Tenant from making substantial use of the Premises, Landlord may at Landlord's option either (i) repair such damage as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after the date of the occurrence of such damage of Landlord's intention to cancel and terminate this Lease as of the date of the occurrence of such damage, in which event this Lease shall terminate as of the date of the occurrence of such damage.

**9.3 Premises Building Total Destruction; Project Total Destruction.** Subject to the provisions of paragraphs 9.4 and 9.5, if at any time during the term of this Lease there is damage, whether or not it is an Insured Loss, that falls into the classification of either (i) Premises Building Total Destruction, or (ii) Project Total Destruction, then Landlord may at Landlord's option either (i) repair such damage or destruction as soon as reasonably possible at Landlord's expense (to the extent the required materials and labor are readily available through usual commercial channels) to its condition existing at the time of the damage, but not Tenant's fixtures, equipment or tenant improvements, and this Lease shall continue in full force and effect, or (ii) give written notice to Tenant within thirty (30) days after the date of occurrence of such damage of Landlord's intention to cancel and terminate this Lease, in which case this Lease shall terminate as of the date of the occurrence of such damage.

#### **9.4 Damage Near End of Term.**

(a) Subject to paragraph 9.4(b), if at any time during the last twelve (12) months of the term of this Lease there is Premises Damage, Landlord may at Landlord's option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Tenant of Landlord's election to do so within 30 days after the date of occurrence of such damage.

(b) In the event that Tenant has an option to extend or renew this Lease that has not expired, Tenant shall exercise such option, if it is to be exercised at all, no later than twenty (20) days after the occurrence during the last twelve (12) months of the term of an Insured Loss that falls into the classification Premises Damage. If Tenant duly exercises such option during said twenty (20) day period, the provisions of paragraph 9.4(a) shall not apply. If Tenant fails to exercise such option during said twenty (20) day period, then Landlord may at Landlord's option terminate and cancel this Lease as of the expiration of said twenty (20) day period, notwithstanding any term or provision in the grant of option to the contrary.

#### **9.5 Abatement of Rent; Tenant's Remedies.**

(a) In the event Landlord repairs or restores the Building or Premises pursuant to the provisions of this paragraph 9, and any part of the Premises are not usable (including loss of use due to loss of access or essential services), the Rent payable hereunder (including Tenant's Share of Operating Expenses and Real Property Taxes) for the period during which such damage, repair or restoration continues shall be abated, provided (1) the damage was not the result of the negligence or willful misconduct of Tenant, and (2) such abatement shall only be to the extent the operation and



profitability of Tenant's business as operated from the Premises is adversely affected. Except for said abatement of Rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

(b) If Landlord shall be obligated to repair or restore the Premises or the Building under the provisions of this paragraph 9 and shall not commence such repair or restoration within ninety (90) days after such occurrence, or if Landlord shall not complete the restoration and repair within six (6) months after such occurrence, Tenant may at Tenant's option cancel and terminate this Lease by giving Landlord written notice of Tenant's election to do so at any time prior to the commencement or completion, respectively, of such repair or restoration. In such event this Lease shall terminate as of the date of such notice.

(c) Tenant agrees to cooperate with Landlord in connection with any such restoration and repair, including but not limited to the approval or execution of plans and specifications if required.

#### **9.6 Intentionally Deleted.**

**9.7 Waiver.** Landlord and Tenant waive the provisions of any statute relating to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

#### **10. Real Property Taxes.**

**10.1 Payment of Taxes.** Landlord shall pay the Real Property Taxes (as defined in paragraph 10.3) applicable to the Project, subject to payment by Tenant for Tenant's Share of such taxes in accordance with the provisions of paragraph 4.3, except as otherwise provided in paragraph 10.2.

**10.2 Additional Improvements.** Tenant shall not be responsible for paying any increase in any portion of the Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Landlord for the exclusive enjoyment of any other lessee. Tenant shall, however, pay to Landlord in accordance with paragraph 4.3 the entirety of any increase in Real Property Taxes to the extent assessed solely by reason of additional improvements placed upon the Premises by Tenant or at Tenant's request.

**10.3 Definition of "Real Property Taxes."** As used herein, the term "Real Property Taxes" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Project or any portion thereof by any authority having the direct or indirect power to tax, including any municipality, city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord in the Project or in any portion thereof, as against Landlord's right to rent or other income therefrom, and as against Landlord's business of leasing the Project. Real Property Taxes shall also include any tax, fee, levy, assessment or charge (i) in substitution of, partially or totally, or as a supplement to any tax, fee, levy, assessment or charge included within the definition of Real Property Taxes or (ii) that is imposed as a result of a change of ownership, as defined by applicable local statutes for property tax purposes, of the Project or which is added to a tax or charge included within the definition or real property tax by reason of such change of ownership, or (iii) that is imposed by reason of this transaction, any modifications or changes hereto, or any transfers hereof.

**10.4 Joint Assessment.** If the improvements or property, the taxes for which are to be paid separately by Tenant under paragraph 10.2 or 10.5 are not separately assessed, Tenant's portion of that tax shall be equitably determined by Landlord from the respective valuations assigned in the assessor's work sheets or such other information (which may include the cost of construction) as may be reasonably available. Landlord's reasonable determination thereof, in good faith, shall be conclusive. If the Building is not separately assessed from the Project, then an assessment for the Building shall be reasonably determined by Landlord, and Landlord's reasonable determination thereof, in good faith, shall be conclusive.

#### **10.5 Personal Property Taxes.**

(a) Tenant shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of Tenant contained in the Premises or elsewhere.

(b) If any of Tenant's said personal property shall be assessed with Landlord's real property, Tenant shall pay to Landlord the taxes attributable to Tenant within ten (10) days after receipt of a written statement setting forth the taxes applicable to Tenant's property.

**11. Utilities; Janitorial Service.**

**11.1 Services Provided by Landlord.** Landlord shall provide, or cause to be provided, electricity and heating, ventilation, and air conditioning service to the Premises in connection with Tenant's permitted use of the Premises twenty-four (24) hours per day, seven (7) days per week, fifty-two (52) weeks per year. Tenant shall, at its sole cost and expense, arrange for janitorial services to be performed within the Premises in a first-class manner.

**11.2 Payment for Services to Tenant.** Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services specially or exclusively supplied or metered exclusively to the Premises or to Tenant, together with any taxes thereon. Tenant shall apply directly to each applicable utility provider to obtain service for the Premises. Tenant shall pay all utility bills within thirty (30) days after receipt by Tenant, either from Landlord or the billing authority.

**11.3 Hours of Service.** Said services and utilities shall be provided at all times as set forth in Section 11.1 herein.

**11.4 Excess Usage by Tenant.** Tenant shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security services, over standard office usage for the Project. Landlord may, in its sole discretion, install at Tenant's expense supplemental equipment and/or separate metering applicable to Tenant's excess usage or loading.

**11.5 Interruptions.** There shall be no abatement of Rent and Landlord shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Landlord's reasonable control or due to cooperation with governmental request or directions.

**11.6 Alternative Electric Service Provider.** Landlord has advised Tenant that presently Delmarva Power ("Electric Service Provider") is the utility company selected by Landlord to provide electric service for the Building. Notwithstanding the foregoing, if permitted by law, Landlord shall have the right at any time and from time to time during the term of this Lease to either contract for service from a different company or companies providing electric service (each such company shall hereafter be referred to as "Alternate Service Provider") or continue to contract for service from the Electric Service Provider. Tenant shall cooperate with Landlord, the Electric Service Provider, and any Alternate Service Provider at all times and, as reasonably necessary, shall allow Landlord, Electric Service Provider, and any Alternate Service Provider reasonable access to the Building's electric feeder lines, risers wiring and any other machinery within the Premises. Should Landlord elect to supply the electricity used or consumed in the Premises, Tenant agrees to purchase and pay for the same as Rent at the applicable rates filed by Landlord with the proper regulatory authority. Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished to the Premises, or if the quantity or character of the electric energy supplied by the Electric Service Provider or any Alternative Service Provider is no longer available or suitable for Tenant's requirements, and no such change, failure, defect, unavailability, or unsuitability shall constitute eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease.



## 12. Assignment and Subletting.

**12.1 Landlord's Consent Required.** Except as otherwise set forth herein, Tenant shall not sell, assign, mortgage, pledge, hypothecate, encumber or otherwise transfer this Lease or any interest therein (each of which actions is hereafter referred to as a "transfer"), and shall not sublet the Premises or any part thereof, without the prior written consent of Landlord in each instance and any attempt to do so without such consent shall be voidable at Landlord's election.

**12.2 Tenant's Application.** If Tenant desires at any time to transfer this Lease (which transfer shall in no event be for less than its entire interest in this Lease) or to sublet the Premises or any portion thereof, Tenant shall submit to Landlord at least sixty (60) days prior to the proposed effective date of the transfer or sublease ("Proposed Effective Date"), in writing:

- (a) A notice of intent to transfer or sublease, setting forth the Proposed Effective Date, which shall be no less than sixty (60) days nor more than ninety (90) days after the sending of such notice;
- (b) The name of the proposed transferee or subtenant;
- (c) The nature of the proposed transferee's or subtenant's business to be carried on in the Premises;
- (d) The terms and provisions of the proposed transfer or sublease;
- (e) Such information as Landlord may request concerning the proposed transferee or subtenant, including recent financial statements and bank references; and
- (f) Evidence satisfactory to Landlord that the proposed transferee (if the transfer involves a transfer of possession) or subtenant will immediately occupy and thereafter use the affected portion of the Premises for the entire term of the transfer or sublease agreement.

**12.3 Landlord's Options.** As to any proposed transfer not expressly permitted hereunder, Landlord shall have the right, to be exercised by giving notice to Tenant within thirty (30) days after receipt of Tenant's above-described notice and such further financial information as may be requested by Landlord, together with the fees required under paragraph 12.7, to (i) terminate this Lease and recapture the portion of the Premises described in Tenant's notice, (ii) approve the transfer or sublease application, or (iii) reject the application for transfer or sublease. If notice of termination is given by Landlord, it shall serve to cancel and terminate this Lease with respect to such portion of the Premises; provided, however, that such termination shall be subject to the written consent of any mortgagee of Landlord. The effective date of such cancellation shall be as specified in Landlord's notice of termination. If this Lease is canceled pursuant to the foregoing with respect to only a portion of the Premises, the Rent required under this Lease shall be adjusted proportionately based on the square footage retained by Tenant and the square footage leased by Tenant hereunder immediately prior to such recapture and cancellation, and Landlord and Tenant shall thereupon execute an amendment of this Lease in accordance therewith. If Landlord so recaptures a portion of the Premises, it shall construct and erect at its sole cost such partitions as may be required to sever the space retained by Tenant from the space recaptured by Landlord. Landlord may, without limitation, lease the recaptured portion of the Premises to the proposed subtenant or transferee without liability to Tenant. If Landlord elects to terminate this Lease and recapture the portion of the Premises described in Tenant's notice ("Terminated Premises"), Landlord shall also be granted by Tenant, without charge, such rights of access to the Terminated Premises as was proposed to be given to the proposed subtenant and as is reasonable and necessary to permit occupancy of the Terminated Premises.

**12.4 Approval Procedure.** If Landlord approves a transfer or sublease, Tenant shall, prior to the Proposed Effective Date, submit to Landlord an executed original of the transfer or sublease agreement for execution by Landlord on the signature page after the words "the foregoing is hereby consented to." No purported transfer or sublease shall be deemed effective as against Landlord and no proposed transferee or subtenant shall take occupancy unless such document is so executed by Landlord.

**12.5 Required Provisions.** Any and all transfer or sublease agreements shall:

- (a) Contain such terms as are described in Tenant's notice under Paragraph 12.2 or as otherwise agreed by Landlord;
- (b) Prohibit further transfers or subleases without Landlord's consent under this paragraph 12;
- (c) Impose the same obligations and conditions on the transferee or subtenant as are imposed on Tenant by this Lease (except as to Rent and term or as otherwise agreed by Landlord);
- (d) Be expressly subject and subordinate to each and every provision of this Lease;
- (e) Have a term that expires on or before the expiration of the term of this Lease;
- (f) Provide that the Tenant and/or transferee or subtenant shall pay Landlord the amount of any additional costs or expenses incurred by Landlord for repairs, maintenance or otherwise as a result of any change in the nature of occupancy caused by the transfer or sublease; and
- (g) Contain Tenant's acknowledgment that Tenant remains liable under this lease notwithstanding the transfer or sublease.

**12.6 Transfer of Sublease Profit.** One-half of any sums or other economic consideration received by Tenant directly or indirectly in connection with any transfer or sublease (except to the extent of commissions paid by Tenant to a licensed real estate broker at prevailing rates and leasehold improvement costs incurred by Tenant) which exceed in the aggregate the sums which Tenant is obligated to pay Landlord hereunder (prorated to reflect obligations allocable to the portion of the Premises transferred or sublet) shall be payable to Landlord as additional Rent under this Lease. Within fifteen (15) days after written request by Landlord, Tenant shall at any time, and from time to time, certify to Landlord the amount of all such sums or other economic consideration received.

**12.7 Fees for Review.** Tenant shall pay to Landlord or Landlord's designee, together with the notice described in Paragraph 12.2, a non refundable fee as reimbursement for expenses incurred by Landlord in connection with reviewing each such transaction, in the amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00).

**12.8 No Release of Tenant.** No consent by Landlord to any transfer or subletting by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, transfer or subletting. Landlord's consent to any transfer or subletting shall not relieve Tenant from the obligation to obtain Landlord's express prior written consent to any other transfer or subletting. The acceptance by Landlord of payment from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any subsequent transfer or sublease, or be a release of Tenant from any obligation under this Lease.

**12.9 Assumption of Obligations.** Each transferee of this Lease shall assume all obligations of Tenant under this Lease and shall be and remain liable jointly and severally with Tenant for the payment of the Rent and the performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the term of this Lease. No transfer shall be binding on Landlord unless the transferee or Tenant delivers to Landlord a counterpart of the instrument of transfer which contains a covenant of assumption by the transferee satisfactory in substance and form to Landlord, consistent with the above requirements. The failure or refusal of the transferee to execute such instrument of assumption shall not release or discharge the transferee from its liability to Landlord hereunder. Landlord shall have no obligation whatsoever to perform any duty to or respond to any request from any subtenant, it being the obligation of Tenant to administer the terms of its sublease.

**12.10 Deemed Transfers.** If the Tenant is a nonpublicly traded corporation, or is an unincorporated association or partnership, the transfer, sale, exchange, assignment or hypothecation of any stock or interest

in such corporation, association or partnership in the aggregate in excess of fifty percent (50%) shall be deemed to be a transfer of this Lease and shall be subject to the provisions of this paragraph 12.

**12.11 Assignment by Operation of Law.** No interest of Tenant in this Lease shall be assignable by operation of law.

**12.12 Assignment of Sublease Rents.** Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or any part of the Premises, and Landlord, as assignee and as attorney-in-fact for Tenant for purposes hereof, or a receiver for Tenant appointed on Landlord's application, may collect such rents and apply same toward Tenant's obligations under this Lease, except that, until the occurrence of an act of default by Tenant, Tenant shall have the right and license to collect such rents.

**12.13 Permitted Transfers.** Notwithstanding anything to the contrary contained herein, so long as Tenant is not in default under this Lease beyond any applicable notice and cure periods, Tenant shall have the right, without Landlord's consent, but subject to all other terms of this Lease, to enter into an assignment or transfer of this Lease, or a sublease of the Premises to another entity, provided that (i) the combined tangible net worth (not including goodwill) of the transferee and all other entities obligated for Tenant's obligations under this Lease shall not be less than the greater of Tenant's net worth when it executed this Lease or Tenant's net worth on the date of the transfer, and (ii) the transferee continues to use the Premises in accordance with the permitted use set forth in paragraph 1.4 herein. Tenant shall provide Landlord with prompt notice of any transaction which is permitted pursuant to the terms of this paragraph 12.13 and, within thirty (30) days of the consummation of such transaction, Tenant shall provide Landlord with a true and correct copy of the relevant assignment or sublease agreement. Tenant shall not be released of any Lease obligations and future liability following any assignment or sublease as provided for in this paragraph 12.13.

### **13. Default; Remedies.**

**13.1 Default.** The occurrence of any one or more of the following events shall constitute a material default of this Lease by Tenant:

(a) The breach by Tenant of any of the provisions of paragraphs 7.3(a), (b) or (d) (Alterations and Additions), 12.1 (Assignment and Subletting), 16 (Estoppel Certificates), 30.2 (Subordination), 33 (Auctions, Other Sales and Cessation of Business), or 41.1 (Easements), all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.

(b) The failure by Tenant to pay Rent or make any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of five (5) days. In the event that Landlord serves Tenant with a notice regarding such nonpayment pursuant to any applicable summary eviction statute, such notice shall also constitute the notice required by this subparagraph.

(c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant other than those referenced in subparagraphs 13.1 (a) and (b) where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant, provided, however, that if the nature of Tenant's noncompliance is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said thirty (30) days and thereafter diligently pursues such cure to completion; provided, however, in no event shall such cure period extend beyond sixty (60) days. To the extent permitted by law, such thirty (30) day notice shall constitute the sole notice required to be given to Tenant under any applicable summary eviction statute.

(d) (i) The making by Tenant of any arrangement or assignment for the benefit of creditors; (ii) Tenant becoming a "debtor" as defined in the Bankruptcy Code or any successor statute, (unless, in

the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days, all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.

(e) The existence of materially false information in any financial statement given to Landlord by Tenant, or its successor in interest or by any guarantor of any of Tenant's obligations hereunder, all of which are hereby deemed to be non-curable defaults without the necessity of any notice by Landlord to Tenant thereof.

**13.2 Remedies.** In the event of any material default of this Lease by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default:

(a) Terminate this Lease and Tenant's right to possession of the Premises by any lawful means, in which case Tenant shall immediately surrender possession of the Premises to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, and any real estate commission actually paid; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid Rent for the balance of the term after the time of such award exceeds the amount of Rent loss for the same period that Tenant proves could be reasonably avoided; that portion of the leasing commission paid by Landlord pursuant to paragraph 15, applicable to the unexpired term of the Lease. No payment by Tenant after termination of this Lease following default by Tenant shall reinstate the Lease. Neither shall the receipt and retention of any such payment by Landlord reinstate the Lease.

(b) Without terminating this Lease, re-enter and take possession of the Premises or any part thereof and expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, and relet the Premises, or any part thereof, in Landlord's or Tenant's name, but for the account of Tenant, provided Landlord has an appropriate court order to do so. In such event, Tenant shall in no manner be relieved from liability for payment of Rent covering the balance of the term of this Lease, and Landlord's retaking shall not be considered an acceptance of the Premises nor a manifestation of an intent to terminate this Lease.

(c) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have vacated or abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due hereunder.

(d) **INTENTIONALLY DELETED.**

(e) **INTENTIONALLY DELETED.**

(f) To require Tenant to pay immediately the rent reserved for the entire unexpired portion of the term of this Lease, as if such rent were payable in advance, it being understood and agreed by both Landlord and Tenant that these sums shall represent liquidated damages, since Landlord's actual damages would be difficult to calculate.

(g) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises are located.

(h) Notwithstanding the foregoing, in the event Landlord shall, after a material default of this Lease by Tenant, retake possession of the Premises, Landlord agrees to use reasonable efforts to



relet the Premises; provided, however, in no event shall Landlord be required to (i) lease the Premises over any other available space in the Project; (ii) accept a below market rental rate for the Premises; (iii) accept any tenant whose creditworthiness is unsatisfactory to Landlord in its sole discretion; (iv) accept any tenant whose business violates any exclusives or restrictions granted to other tenants of the Project; or (v) accept any tenant whose business is not compatible with the character of the Project, as determined by Landlord in its sole discretion.

**13.3 Default by Landlord.** Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have theretofore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligation; provided however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

**13.4 Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Project. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to six percent (6%) of such overdue amount, but not to exceed the maximum late charge permitted by law in the jurisdiction where the Project is located. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

**13.5 Interest on Past-Due Obligations.** Any amount not paid by Tenant to Landlord when due shall bear interest from the date due at the maximum rate then allowable by law, except that interest shall not be payable on any late charge and interest on any amount upon which a late charge is payable shall not commence to accrue until thirty (30) days after the date due. Payment of interest shall not excuse or cure any default by Tenant.

**13.6 Application of Past-Due Payments.** It is understood and agreed by Tenant that Landlord's acceptance of any Rent payments from Tenant that represent less than all Rent arrearages due and owing from Tenant to Landlord shall be credited to Tenant's account in the order and manner deemed appropriate solely at the discretion of Landlord, and such acceptance shall not excuse or cure any default by Tenant.

**14. Condemnation.** If the Premises or any portion thereof or the Project are taken under the power of eminent domain, or sold under the threat of the exercise of said power (all of which are herein called "condemnation"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs; provided that if so much of the Premises or the Project is taken by such condemnation as would substantially and adversely affect the operation and profitability of Tenant's business conducted from the Premises, Tenant shall have the option, to be exercised only in writing within thirty (30) days after the condemning authority shall have taken possession, to terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that Base Rent and Tenant's Share of Operating Expenses and Real Property Taxes shall be reduced in the proportion that the floor area of the Premises taken bears to the total floor area of the Premises. Common Areas taken shall be excluded from the Common Areas usable by Tenant and no reduction of Rent shall occur with respect thereto or by reason thereof. Landlord shall have the option in its sole discretion to terminate this Lease as of the taking of possession by the condemning authority, by giving written notice to Tenant of such election within thirty (30) days after receipt of notice of a taking by condemnation of any part of the Premises or the Project. Any award for the taking of all or any part of the

Premises or the Project under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any separate award for loss of or damage to Tenant's trade fixtures, removable personal property and unamortized tenant improvements that have been paid for by Tenant. For that purpose, the cost of such improvements shall be amortized over the original term of the lease excluding any options. In the event that this Lease is not terminated by reason of such condemnation, Landlord shall, to the extent of severance damages received by Landlord in connection with such condemnation, repair any damage to the Premises caused by such condemnation except to the extent that Tenant has been reimbursed therefor by the condemning authority. Tenant shall pay any amount in excess of such severance damages required to complete such repair.

15. **Broker's Fee.**

(a) Subject to the execution of this Lease by both parties, Landlord shall pay to the Listing Broker and the Cooperating Broker, if any, designated in paragraph 1.14 of this Lease jointly, or in such separate shares as they may mutually designate in writing, a fee as set forth in a separate agreement between Landlord and the Listing Broker.

(b) Tenant and Landlord each represent and warrant to the other that neither has had any dealing with any person, firm, broker or finder (other than the person(s), if any, whose names are set forth in paragraphs 1.13 and 1.14) in connection with the negotiation of this Lease or the consummation of the transaction contemplated hereby, and no other broker or other person, firm or entity is entitled to any commission or finder's fee in connection with said transaction and Tenant and Landlord do each hereby indemnify and hold the other harmless from and against any costs, expenses, attorneys' fees or liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party.

16. **Estoppel Certificates.**

(a) Each party (as "responding party") shall at any time upon not less than ten (10) days prior written notice from the other party ("requesting party") execute, acknowledge and deliver to the requesting party a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to the responding party's knowledge, any uncured defaults on the part of the requesting party, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Project or of the business of Tenant. At Landlord's request, the estoppel certificate shall be addressed to any lender or assignee of Landlord and shall contain the provisions contained in Exhibit F, or such other provisions as may be requested by Landlord's lender or assignee.

(b) At the requesting party's option, the responding party's failure to deliver such statement within such time shall be a material default of this Lease, without any further notice to such party, or it shall be conclusive upon such party that (i) this Lease is in full force and effect, without modification except as may be represented by the requesting party, (ii) there are no uncured defaults in the requesting party's performance, and (iii) if Landlord is the requesting party, not more than one month's rent has been paid in advance.

(c) If Landlord desires to finance, refinance or sell the Project, or any part thereof, Tenant hereby agrees to deliver to any lender or purchaser designated by Landlord such financial statements of Tenant as may be reasonably required by such lender or purchaser. Such statements shall include the past three (3) years' financial statements of Tenant. All such financial statements shall be received by Landlord and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Landlord's Liability.** The term "Landlord" as used herein shall mean only the owner or owners, at the time in question, of the fee title or the leasehold interest under a ground lease of the Project. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers then the grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed, provided that any funds in the hands of Landlord or the then grantor at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns, only during their respective periods of ownership.

18. **Severability.** The invalidity of any provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

19. **Force Majeure.** Any obligation of Landlord or Tenant (other than the obligation to pay Rent) which is delayed or not performed due to an act of God, strike, riot, shortage of labor or materials, war (whether declared or undeclared), laws, governmental regulations or restrictions or any other governmental action or inaction, or any other cause of any kind whatsoever which is beyond Landlord's or Tenant's, as applicable, reasonable control, shall not constitute a default hereunder and shall be performed within a reasonable time after the end of the cause for delay or non-performance.

20. **Time is of Essence.** Time is of the essence with respect to the obligations to be performed under this Lease.

21. **Additional Rent.** All monetary obligations of Tenant to Landlord under the terms of this Lease, including but not limited to any expenses payable by Tenant hereunder, shall be deemed to be rent.

22. **Incorporation of Prior Agreement; Amendments.** This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior or contemporaneous agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, Tenant hereby acknowledges that neither the Listing Broker nor the Cooperating Broker, if any, designated in paragraph 1.14 nor the Landlord or any employee or agent of any of said persons has made any oral or written warranties or representations to Tenant relative to the condition or use by Tenant of the Premises or the Project and Tenant acknowledges that Tenant assumes all responsibility regarding the Occupational Safety Health Act, the Americans with Disabilities Act (subject to the provisions of paragraph 1.15 and paragraph 7.5), the legal use and adaptability of the Premises and the compliance thereof with all applicable laws and regulations in effect during the term of this Lease.

23. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by nationally recognized overnight courier or by certified or registered mail (provided that notice of exercise of any Option, as defined in paragraph 39, must in all events be given either by nationally recognized overnight courier or by certified or registered mail) addressed to a party at the address beneath such party's signature on this Lease or such other address for notice purposes as may be later specified by notice to the other party, except that upon Tenant's taking possession of the Premises, the Premises shall constitute Tenant's address for notice purposes. Mailed notices shall be deemed given upon actual receipt at the address required, or forty-eight hours following deposit in the mail, postage prepaid, whichever first occurs. A copy of all notices required or permitted to be given to Landlord hereunder shall be concurrently transmitted to such other party or parties at such addresses as Landlord may from time to time hereafter designate by notice to Tenant.

24. **Waivers.** No waiver by Landlord of any provision hereof shall be deemed a waiver of any other provision or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent by Landlord shall not be a waiver of any preceding breach of this Lease by Tenant, other than Tenant's failure to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

25. **Intentionally Deleted.**



26. **Holding Over.**

26.1 If Tenant, with Landlord's consent, remains in possession of all or any part of the Premises after the expiration of the term of this Lease, such occupancy shall be a tenancy from month-to-month upon all of the provisions of this Lease pertaining to the obligations of Tenant, except that the Base Rent payable shall be one hundred fifty percent (150%) of the Base Rent payable immediately preceding the expiration of the term.

26.2 If Tenant holds over without the consent of Landlord, the same shall be a tenancy at will terminable at any time, and Tenant shall be liable to Landlord for, and Tenant shall be liable to Landlord for all costs, losses, claims or liabilities (including, without limitation, attorney's fees and court costs) that Landlord may incur as a result of Tenant's failure to surrender possession of the Premises to Landlord upon the expiration or earlier termination of the Lease, including, without limitation, costs, damages and fees related to (i) Landlord's failure to deliver the Premises to a new tenant(s) or occupant(s) for said space, or (ii) Landlord's delay or inability to re-design and/or re-develop and or re-construct that portion of the Project of which the Premises is part. All of the other terms and provisions of this Lease shall be applicable during any holdover period without consent of Landlord, except that Tenant shall pay to Landlord from time to time upon demand, as Base Rent for the period of any holdover, an amount equal to two hundred percent (200%) of the then applicable Base Rent in effect on the termination date, computed on a daily basis for each day of the holdover period. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease. The preceding provisions of this paragraph 26.2 shall not be construed as Landlord's consent to any holding over by Tenant.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Intentionally Deleted.**

29. **Binding Effect; Choice of Law.** Subject to any provisions hereof restricting assignment or subletting by Tenant and subject to the provisions of paragraph 17, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State where the Project is located and any litigation concerning this Lease between the parties hereto shall be initiated in the county in which the Project is located.

30. **Subordination.**

30.1 This Lease, including but not limited to any Option, as defined in paragraph 39, shall, at Landlord's option, be subordinate to any ground lease, mortgage, trust deed, or any other security interest now or hereafter affecting the Project and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. If any ground lessor or the holder of any mortgage, trust deed or other security interest shall elect to have this Lease prior to its ground lease, mortgage, trust deed or other security interest, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, mortgage, trust deed or other security interest, whether this Lease is dated prior or subsequent to the date of said ground lease, mortgage, trust deed or other security interest or the date of recording thereof. Upon termination of any ground lease or foreclosure of any mortgage, deed of trust or other security interest, Tenant shall attorn to the ground lessor or any purchaser upon foreclosure. Landlord represents that there is no mortgage encumbering the Building as of the date hereof.

30.2 Tenant agrees to execute any documents required to effectuate a subordination or attornment, or to make this Lease prior to any ground lease, mortgage, trust deed or other security interest, if requested by the ground lessor or holder of the mortgage, trust deed or other security interest. Tenant's failure to execute such documents within ten (10) days after written demand shall constitute a material default by Tenant hereunder without further notice to Tenant or, at Landlord's option, Landlord may execute such documents on behalf of Tenant as Tenant's attorney-in-fact. Tenant does hereby make, constitute and irrevocably



appoint Landlord as Tenant's attorney-in-fact and in Tenant's name, place and stead, to execute such documents.

31. **Attorneys' Fees.** If either party brings any lawsuit to enforce or declare rights under this Lease, the prevailing party in the action, including any appeal, shall be entitled to reasonable attorneys' fees paid by the losing party as fixed by the court in the same or a separate proceeding, whether or not such action is pursued to decision or judgment. The attorneys' fee award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred in good faith. Landlord shall be entitled to reasonable attorneys' fees and all other costs and expenses incurred in the preparation and service of notice of default and consultations in connection therewith, whether or not a legal action is subsequently commenced.

32. **Landlord's Access.**

32.1 Upon reasonable prior notice (or without notice in case of an emergency), Landlord and Landlord's agents shall have the right to enter the Premises at reasonable times (or at any other time in case of an emergency) for the purpose of inspecting the same, performing any services required of Landlord, showing the same to prospective purchasers, lenders, or lessees, taking such measures, erecting such scaffolding or other necessary structures, making such alterations, repairs, improvements or additions to the Premises or to the Project as Landlord may reasonably deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Tenant's use of the Premises.

32.2 All activities of Landlord pursuant to paragraph 32 shall be without abatement of Rent and Landlord shall not have any liability to Tenant for the same.

32.3 Landlord shall have the right to retain keys to the Premises and to unlock all doors in or upon the Premises other than files, vaults and safes, and in the case of emergency to enter the Premises by any reasonably appropriate means, and any such entry shall not be deemed a forcible or unlawful entry or detainer of the Premises or an eviction. Tenant waives any charges for damages or injuries or interference with Tenant's property or business in connection therewith.

33. **Auctions, Other Sales and Cessation of Business.** Tenant shall not conduct, nor permit to be conducted, either voluntarily or involuntarily, any auction upon the Premises or the Common Areas without Landlord's prior written consent. Notwithstanding anything to the contrary in this Lease, Landlord shall not be obligated to exercise any standard of reasonableness in determining whether to grant such consent. Tenant shall not make a bulk sale of its goods or move, or attempt to or threaten to move its goods and equipment out of the Premises (other than in the ordinary course of business) or cease to conduct business from the Premises.

34. **Signs.** Subject to the terms set forth in paragraph 55 herein, Tenant shall not place any sign upon the Premises or the Project without Landlord's prior written consent. Under no circumstances shall Tenant place a sign on any roof of the Project.

35. **Merger.** The voluntary or other surrender or mutual cancellation or termination by Landlord of this Lease shall not work a merger, but shall, at the option of Landlord, terminate all or any subtenancies or may, at the option of Landlord, operate as an assignment to Landlord of any or all subtenancies.

36. **Consents.** Except as otherwise set forth in the Lease to the contrary, wherever in this Lease the consent of one party is required to an act of the other party such consent shall not be unreasonably withheld or delayed.

37. **Intentionally Deleted.**

38. **Quiet Possession.** Upon Tenant paying the rent for the Premises and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder,

Tenant shall have quiet possession of the Premises for the entire term subject to all of the provisions of this Lease.

**39. Options.**

**39.1 Options Personal.** The term "Option" as used in this Lease refers to any option to extend, renew or expand and to any right of first refusal or first offer granted to Tenant. Each Option is personal to the original Tenant and may be exercised only by the original Tenant while occupying the Premises without the intent of thereafter assigning this Lease or subletting the Premises or any portion thereof, and may not be, voluntarily or involuntarily, exercised by or assigned to any other person or entity. Options shall not be assignable separate and apart from this Lease, and may not be separated from this Lease in any manner, by reservation or otherwise.

**39.2 Multiple Options.** If Tenant has multiple options to extend or renew this Lease, a later option cannot be exercised unless the prior option to extend or renew has been exercised.

**39.3 Effect of Default on Options.**

(a) Tenant shall have no right to exercise any Option, notwithstanding any provision in the grant of the Option to the contrary, (i) if Tenant has committed any non-curable material default, or (ii) from the date Landlord gives Tenant notice of a curable default until the default is cured, or (iii) from the day after a monetary obligation to Landlord is due from Tenant and unpaid (without any necessity of notice thereof to Tenant) until the obligation is paid, or (iv) if, during the twelve (12) month period prior to the date Tenant gives Landlord notice of Tenant's exercise of the option, Landlord has given to Tenant three or more notices of default under paragraph 13.1 (b) or (c), whether or not the defaults are cured. The period of time within which an Option may be exercised shall not be extended by reason of Tenant's inability to exercise an option because of the provisions of this paragraph.

(b) All rights of Tenant under the provisions of any Option shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of the Option, if after such exercise (i) Tenant fails to pay a monetary obligation to Landlord within thirty (30) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Tenant fails to cure a default when required after notice given pursuant to paragraph 13.1(c), or (iii) Landlord gives Tenant three (3) or more notices of default under paragraph 13.1(c), whether or not the defaults are cured, or (iv) Tenant commits any non-curable material default.

**40. Security Measures-Landlord's Reservations.**

**40.1** Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Premises or the Project. Tenant assumes all responsibility for the protection of Tenant and its agents and invitees and the property of Tenant and its agents and invitees from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option, from providing security protection for the Project or any part thereof, in which event the cost thereof shall be included within the definition of Operating Expenses, as set forth in paragraph 4.2(b).

**40.2 Landlord shall have the following rights:**

(a) To change the name, address or title of the Project or the Buildings upon not less than 90 days prior written notice, so long as any new name is not the same or similar to a competitor of Tenant;

(b) To grant to any lessee of the Project the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein;

(c) To place such signs, notices or displays as Landlord reasonably deems necessary or advisable upon the roof and exterior portions of the Common Areas.

**40.3 Tenant shall not:**

(a) Use a representation (photographic or otherwise) of the Building or the Project or their name(s) in connection with Tenant's business;

(b) Suffer or permit anyone, except in emergency, to go upon the roof of the Building.

**41. Easements.**

41.1 Landlord reserves the right, from time to time, to grant easements and rights, make dedications, agree to restrictions and record maps affecting the Project as Landlord may deem necessary or desirable, so long as such easements, rights, dedications, restrictions and maps do not unreasonably interfere with (i) the use of the Premises by Tenant, (ii) the rights of Tenant under this Lease or (iii) Tenant's access to and from the Premises. Tenant shall sign any of the aforementioned documents upon request of Landlord.

42. **Performance.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of said party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease.

43. **Authority.** If Tenant is a corporation, trust, limited liability company or general or limited partnership, Tenant, and each individual executing this Lease on behalf of such entity represent and warrant that such individual is duly authorized to execute and deliver this Lease on behalf of said entity and shall, at or prior to the execution of this Lease, deliver to Landlord evidence of such authority satisfactory to Landlord. If Tenant is a corporation, trust, limited liability company or general or limited partnership, Tenant represents and warrants that Tenant is qualified to do business in the State of Delaware, and at or prior to the execution of this Lease, Tenant shall deliver to Landlord a subsistence certificate or certificate of foreign qualification as evidence thereof.

44. **Conflict.** Any conflict between the printed provisions, Exhibits or Addenda of this Lease and the typewritten or handwritten provisions, if any, shall be controlled by the typewritten or handwritten provisions.

45. **No Offer.** Preparation of this Lease by Landlord or Landlord's agent and submission of same to Tenant shall not be deemed an offer to Tenant to lease. This Lease shall become binding upon Landlord and Tenant only when fully executed by both parties.

**46. Intentionally Deleted.**

47. **Multiple Parties.** If more than one person or entity is named as either Landlord or Tenant herein, except as otherwise expressly provided herein, the obligations of the Landlord or Tenant herein shall be the joint and several responsibility of all persons or entities named herein as such Landlord or Tenant, respectively.

48. **Hazardous Material.** Tenant shall not cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees, without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion. For the purpose of this Lease, "Hazardous Material" shall include oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" as such terms are

defined in the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act, and in any other law, ordinance, rule, regulation or order promulgated by the federal or state government, or any other governmental entity having jurisdiction over the Project or the parties to this Lease. If Tenant breaches the obligations set forth in this paragraph, or if the presence of Hazardous Material in the Premises or at the Project caused or permitted by Tenant (whether or not Landlord has given its consent to the presence of such Hazardous Material in the Premises) results in contamination of the Premises or any other part of the Project, or if contamination of the Project by Hazardous Material otherwise occurs for which Tenant is legally liable, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, assessments, costs, liabilities or losses, including, without limitation, diminution in value of the Project, damages for the loss or restriction on use of rentable or useable space or floor area in or of any amenity of the Project, damages arising from any adverse impact on leasing space in the Project, sums paid in settlement of claims, and any attorneys' fees, consultant fees and expert fees which arise during or after the term of this Lease as a result of such contamination. This indemnification of Landlord by Tenant shall survive expiration or termination of this Lease and includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in, on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material caused or permitted by Tenant or its agents, employees, contractors or invitees, results in any contamination of the Project, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the Project to the condition existing prior to the introduction of any such Hazardous Material; provided that Landlord's approval, and that of any ground lessor or mortgagee of Landlord, of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effects on the Project. Tenant shall promptly notify Landlord of any such contamination.

49. **Attachments.** Attached hereto are the following documents which constitute a part of this Lease.

EXHIBIT A: Plan; Tenant's Parking Area; Drop-off / Pick-up Area.

EXHIBIT B: Rules And Regulations.

EXHIBIT C: Intentionally Deleted.

EXHIBIT D: Intentionally Deleted.

EXHIBIT E: Intentionally Deleted.

EXHIBIT F: Form of Tenant Estoppel Certificate.

EXHIBIT G: Mold and Mildew Addendum.

EXHIBIT H: Initial Tenant Improvements.

EXHIBIT I: Exclusives and Restrictions.

EXHIBIT J: Site Plan

50. **Intentionally Deleted.**

51. **Liability of Landlord.** The liability of Landlord and all officers, directors, shareholders, partners, members and employees of Landlord to Tenant for any default by Landlord under the terms of this Lease shall be limited to the interest of Landlord in the Project, and Landlord or any officer, director, shareholder, partner, member or employee of Landlord shall not be personally liable for any deficiency.

52. **Litigation; Consent to Jurisdiction; Waiver of Jury Trial.** As an independent covenant, Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the



parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use of or occupancy of the Premises and/or any claim or injury or damage and any emergency statutory remedy or any other statutory remedy.

**53. Intentionally Deleted.**

**54. Outdoor Recreation Area.**

54.1 So long as the federal, state, and local laws and ordinances permit, Landlord agrees that Tenant shall have the right during the term of the Lease to create and use an outdoor recreation area for the benefit of Tenant's employees and students (the "Outdoor Recreation Area"), which shall be located in an area mutually acceptable to both parties (which approval may be withheld in either party's sole discretion). Tenant shall be responsible, at its sole cost and expense, to obtain any and all necessary approvals, permits and licenses required in connection with the creation and use of the Outdoor Recreation Area in accordance herewith. The Outdoor Recreation Area shall only be used by Tenant and its employees and students during those hours when the school is operating in the Premises. To the extent applicable, all provisions of this Lease shall apply to Tenant's use and occupancy of the Outdoor Recreation Area; provided, however, Tenant shall not be obligated to pay any Base Rent for its use of the Outdoor Recreation Area, nor shall Tenant's Share of Operating Expenses and Real Property Taxes take into consideration the square footage of the Outdoor Recreation Area for purposes of determining the Rent payable by Tenant hereunder. Tenant shall reimburse Landlord immediately upon Landlord's demand therefor, the cost of repairs or restoration of the Common Areas arising out of Tenant's use of the Outdoor Recreation Area or any acts or negligence of Tenant, its customers, employees, agents, contractors, invitees or licensees. Landlord shall have no liability to Tenant if Tenant is unable to use the Outdoor Recreation Area for any reason other than the negligence or willful misconduct of Landlord, its agents or employees.

54.2 Tenant shall install, at its sole cost and expense, an exterior fence and all playground equipment (collectively, the "Recreation Area Improvements") in the Outdoor Recreation Area. Tenant acknowledges and agrees that: (a) the Recreation Area Improvements shall not be installed, used or placed in the Outdoor Recreation Area until its design, size, position and method of attachment or installation are first approved by Landlord in writing; and (b) Tenant shall be solely responsible for any destruction, damage, theft or vandalism of, or to, the Recreation Area Improvements. Tenant shall clean and keep in good repair the Outdoor Recreation Area and the Recreation Area Improvements and shall remove all trash generate therefrom on a daily basis or more frequently as needed.

54.3 Tenant hereby covenants and agrees that it shall not: (a) erect or place any canopy or other covering on the Outdoor Recreation Area without Landlord's prior written approval; (b) permit any music or other similar sounds to be heard in the Outdoor Recreation Area without Landlord's prior written approval; or (c) permit loitering in the Outdoor Recreation Area by anyone other than Tenant's students and guests.

**55. Exterior Sign.** Tenant shall have the right, at Tenant's expense, to install and maintain an identification sign with Tenant's name on the exterior of the Building (the "Exterior Sign"), subject to the following terms and conditions: (i) the size, location and illumination of the Exterior Sign shall be subject to Landlord's approval; (ii) the Exterior Sign shall be designed so that the same will be architecturally and aesthetically compatible and harmonious with all other buildings in the Project; (iii) prior to the installation of the Exterior Sign, Tenant shall deliver to Landlord complete plans for the installation of such Exterior Sign for Landlord's review and approval; (iv) prior to the installation the Exterior Sign, Tenant shall obtain all required municipal and other governmental approvals therefor and shall submit copies of the same to Landlord; (v) Tenant shall repair all damage to the Building caused by the installation of the Exterior Sign; (vi) Tenant shall repair and maintain the Exterior Sign in good condition and in accordance with all applicable laws and requirements throughout the term of the Lease; (vii) if the Exterior Sign is illuminated, Tenant shall be solely responsible for all utility costs (including installation and consumption costs) for the Exterior Sign; and (viii) upon the expiration or earlier termination of this Lease, Tenant shall remove the Exterior Sign and shall repair all damage occasioned thereby, which obligation shall survive the expiration or earlier termination of this Lease. In the event that the Exterior Sign is not so removed or any damage caused by the removal is not so restored, Landlord may remove and dispose of the Exterior Sign, and/or

repair such damage, as Landlord determines in its sole discretion, the cost of such removal, disposal and repair to be charged to Tenant.

**56. Permit Contingency.** This Lease and Tenant's obligations hereunder are expressly contingent upon Tenant being able to obtain, on or before March 31, 2014, all permits and approvals required by applicable laws, rules and regulations to enable Tenant to construct the Initial Tenant Improvements to the Premises (collectively, the "Tenant's Permits"). In the event Tenant, after using reasonable best efforts in good faith, is unable to obtain Tenant's Permits by March 31, 2014, then Tenant and Landlord shall each have the option to terminate this Lease (the "Permits and Approvals Termination Option") upon written notice to the other party (the "Permits and Approvals Termination Notice"). If Tenant's Permits are obtained prior to the exercise by either party of the Permits and Approvals Termination Option and delivery of the Permits and Approvals Termination Notice to the other party, the Permits and Approvals Termination Option shall no longer be available to either party.

**57. Agreement of Sale.** Landlord and Tenant are parties to a Real Estate Sale Agreement dated as of September 17, 2013, as amended (as amended, the "Sale Agreement") whereby Landlord, as seller, has agreed to sell, and Tenant, as buyer, has agreed to purchase, certain property within the Project as more specifically set forth in the Sale Agreement. Notwithstanding anything to the contrary contained herein and as more fully set forth in the Sale Agreement, if Closing (as defined in the Sale Agreement) has not yet occurred, then commencing upon the start of Tenant's 2014-2015 academic school year and the Premises being open to the public for its operation as a school (the "Opening Date"), Tenant, as buyer under the Sale Agreement, shall be entitled to request from time to time that the Deposit (as defined in the Sale Agreement) be utilized to pay Landlord Base Rent and Tenant's Share of Operating Expenses and Real Property Taxes as the same become due and payable under this Lease from and after the Opening Date, all in accordance with the terms and conditions more specifically set forth in the Sale Agreement.

[Signatures to Follow]


LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH PROVISION IN IT AND BY EXECUTING IT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT. THE PARTIES AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, ITS TERMS ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE PREMISES.

This Lease has been prepared for submission to your attorney for approval; no representation or recommendation is made as to the legal sufficiency, legal effect, or tax consequences of this Lease or the transaction relating thereto; the parties shall rely solely upon the advice of their own legal counsel as to the legal and tax consequences of this issue.

LANDLORD:

HARLEY MILL LLC, a Delaware limited liability company

Witness:

By:   
Name: Michael J. Connolly  
Title: Authorized Person


Address for Landlord Notices:

Stoltz Management of Delaware, Inc.  
725 Conshohocken State Road  
Bala Cynwyd, PA 19004  
Attention: General Counsel

TENANT:

ODYSSEY CHARTER SCHOOL, INC., a Delaware corporation

Witness:

By:   
Name: George Chambers  
Title: Board President - Odyssey Charter School

Address for Tenant Notices:

ODYSSEY CHARTER SCHOOL  
201 BAYARD AVE.  
WILMINGTON, DE 19805

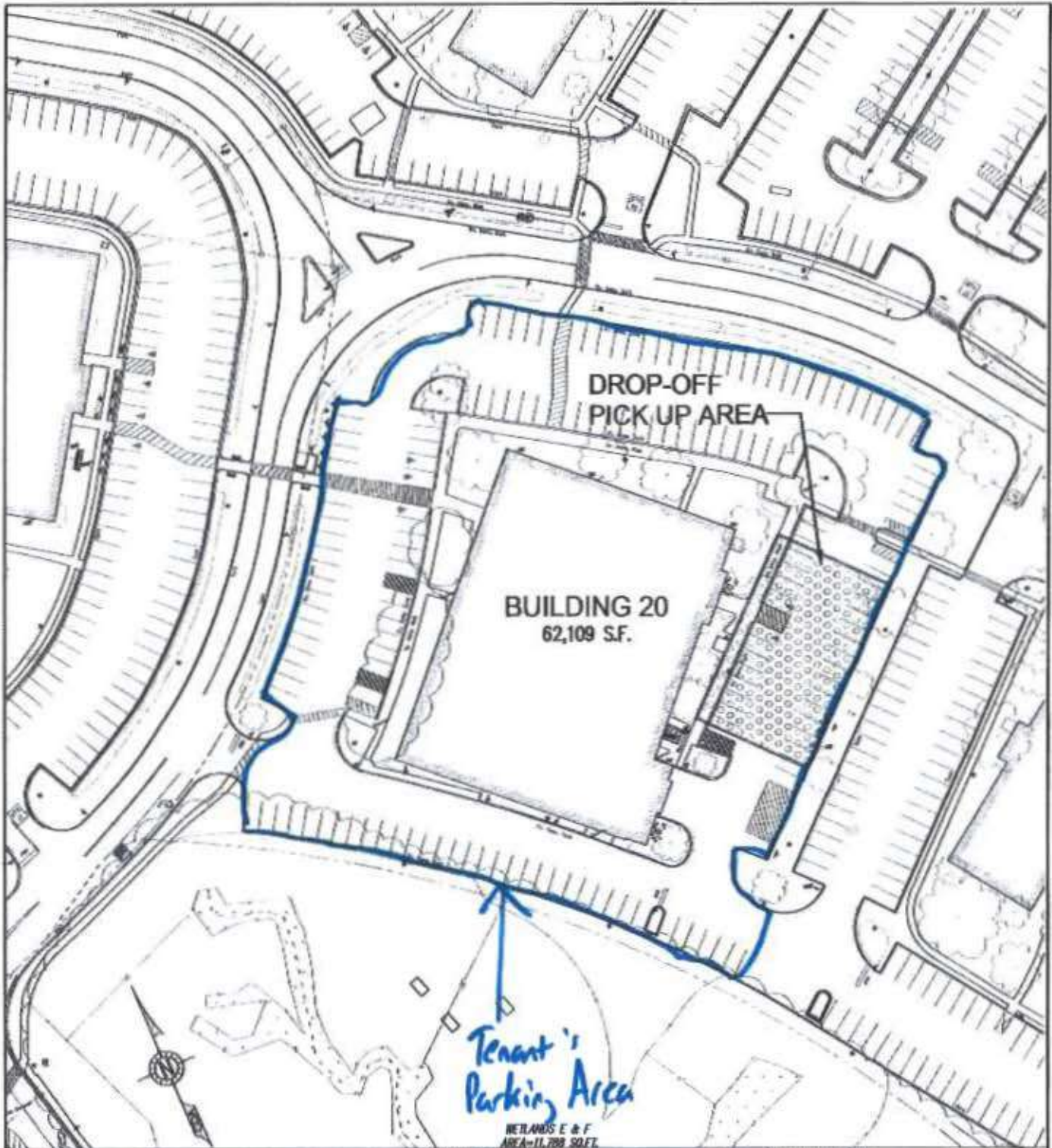
Employer ID Number:

201787299

**EXHIBIT A**

**PLAN; TENANT'S PARKING AREA; DROP-OFF / PICK-UP AREA**





**CDA** ENGINEERING INC.

CIVIL/SITE ENGINEERING AND LAND PLANNING

6 Larch Avenue Suite 401 Wilmington, Delaware 19804  
Ph. 302-998-9202 Fax 302-691-1314  
cdaengineering.com

PROJECT:  
**BARLEY MILL PLAZA - BUILDING 20**  
ODYSSEY CHARTER SCHOOL  
NEW CASTLE COUNTY, DE

**LEASE EXHIBIT PLAN**

SCALE:  
**N.T.S.**

PROJECT NO.:  
**13.104.00**

DRAWING NAME:  
**ODYSSEY CHARTER SCHOOL  
LEASE PREMISES PLAN**  
DRAWING NUMBER:

**EXH-1**

DATE:  
**12.09.13**

THIS DRAWING AND THE DESIGN FEATURES REPRESENTED ARE PROPRIETARY TO CDA ENGINEERING, INC. AND SHALL NOT BE REPRODUCED, ALTERED OR COPIED WITHOUT WRITTEN PERMISSION.

## **EXHIBIT B**

### **RULES AND REGULATIONS FOR STANDARD LEASE**

#### **GENERAL RULES**

1. Tenant shall not suffer or permit the obstruction of any Common Areas, including driveways, walkways and stairways.
2. Landlord reserves the right to refuse access to any persons Landlord in good faith judges to be a threat to the safety, reputation, or property of the Project and its occupants.
3. Tenant shall not make or permit any offensive noise or odors that annoy or interfere with other lessees or persons having business within the Project (the operation of a prototypical charter school for grades kindergarten through eight (8) shall not be considered "offensive" for purposes of this provision).
4. Tenant shall not keep animals or birds within the Project, and shall not bring bicycles, motorcycles or other vehicles into areas not designated as authorized for same.
5. Tenant shall not make, suffer or permit litter except in appropriate receptacles for that purpose.
6. Tenant shall not alter any lock or install new or additional locks or bolts. Notwithstanding the foregoing, Tenant shall, subject to the terms set forth in paragraph 7.3 of the Lease, have the right to install a security system within the Premises.
7. Tenant shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
8. Tenant shall not deface the walls, partitions or other surfaces of the premises or Project.
9. Tenant shall not suffer or permit any thing in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Project.
10. Intentionally Deleted.
11. Tenant shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Landlord.
12. Intentionally Deleted.
13. Tenant shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
14. No outside awnings shall be installed by Tenant. If Tenant desires the use of shades or window coverings, they must be of such shape, color, materials and make as approved in advance by Landlord, such approval not to be unreasonably withheld or delayed.
15. Neither Tenant nor any employee or invitee of Tenant shall go upon the roof of the Building.
16. Tenant shall not suffer or permit smoking or carrying of lighted cigar or cigarettes in areas reasonably designated by Landlord or by applicable governmental agencies as non-smoking areas.
17. Tenant shall not use any method of heating or air conditioning other than as provided by Landlord.

18. Tenant shall not install, maintain or operate any vending machines upon the Premises without Landlord's written consent, except for the dispensing of beverages, snacks, coffee and similar items to the employees, students or guests of Tenant for consumption upon the Premises.

19. The Premises shall not be used for lodging or manufacturing, cooking or food preparation, other than is customary in a normal office or school setting, such as the use of a refrigerator and microwave for the benefit of Tenant's employees, students and guests.

20. Tenant shall comply with all safety, fire protection and evacuation regulations established by Landlord or any applicable governmental agency.

21. Landlord reserves the right to waive any one of these rules or regulations, and/or as to any particular lessee, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Tenant.

22. Tenant assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.

23. Landlord reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Project and its occupants. Tenant agrees to abide by such rules and regulations as well as these rules and regulations.

## **PARKING RULES**

1. Intentionally Deleted.
2. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities.
3. Parking stickers or identification devices shall be the property of Landlord and be returned to Landlord by the holder thereof upon termination of the holder's parking privileges. Tenant will pay such replacement charge as is reasonably established by Landlord for the loss of such devices.
4. Landlord reserves the right to refuse the sale of monthly identification devices to any person or entity that willfully refuses to comply with the applicable rules, regulations, laws and/or agreements.
5. Intentionally Deleted.
6. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.
7. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Landlord will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
8. Intentionally Deleted.
9. The maintenance, washing, waxing or cleaning of vehicles in the parking structure or Common Areas is prohibited.
10. Tenant shall be responsible for seeing that all its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements.
11. Landlord reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.
12. Such parking use as is herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.



**EXHIBIT C**  
**INTENTIONALLY DELETED**

ADT 6685/1382 3215886v3

**EXHIBIT D**  
**INTENTIONALLY DELETED**

**EXHIBIT E**  
**INTENTIONALLY DELETED**

**EXHIBIT F**  
**FORM OF TENANT ESTOPPEL CERTIFICATE**

[BUYER OR LENDER]

Gentlemen:

For the purposes of certifying, representing and warranting information to \_\_\_\_\_ ("Buyer"/ "Lender") regarding the premises consisting of approximately 62,109 rentable square feet (the "Premises") in the building more commonly known as "Building 20" within the Barley Mill Plaza located at the intersection of Route 141 (Center Road) and Route 48 (Lancaster Pike) in Wilmington, Delaware 19805, in which the undersigned is a tenant under that certain lease agreement between \_\_\_\_\_ ("Tenant") and BARLEY MILL LLC, a Delaware limited liability company ("Landlord") dated \_\_\_\_\_ (the "Lease"), the undersigned, in connection with Buyer's/Lender's acquisition of/loan in connection with the Premises and the real property of which they are a part, does, with the intention that Buyer/Lender or Buyer's/Lender's assignee may fully rely hereon, represents, warrants and certifies that:

1. A true and correct copy of the Lease, together with all amendments and modifications thereof, is attached hereto as Exhibit "A", and except as reflected, there are no other amendments, modifications, or agreements, oral or written, in respect to the Lease, or Tenant's occupation of the Premises subject to the Lease.
2. The date of commencement of the Lease term was: \_\_\_\_\_.
  - a) The expiration of the term of the Lease is: \_\_\_\_\_.
  - b) The rentable square footage of the Premises is \_\_\_\_\_.
  - c) The only renewal options or options to extend the Lease are: \_\_\_\_\_.
  - d) The only expansion options are: \_\_\_\_\_.
  - e) The current annual base rental amount is: \_\_\_\_\_.
  - f) The operating expense base year is: \_\_\_\_\_.
  - g) The real estate taxes base year is: \_\_\_\_\_.
  - h) The security deposit held by Landlord is: \_\_\_\_\_.
  - i) The current monthly electric payment is: \_\_\_\_\_.
3. Tenant does not have any rights of first refusal, purchase options, or other rights to purchase the Premises or real property of which it is a part.
4. The Lease is in full force and effect and valid and enforceable according to its terms against the Tenant and has not been modified or supplemented either orally or in writing except as specified above.



5. The Tenant is a tenant in possession pursuant to the terms of the Lease, the Tenant is open and doing business therein, and no existing use by any other tenant violates the terms of the Lease.
6. All rent, charges or other payments due the Landlord under the Lease have been paid as of the date of this certification, and there has been no prepayment of rent or other obligations more than thirty (30) days in advance of the due date thereof.
7. Landlord is not in default under any of the terms of the Lease nor has any event occurred, which with the passage of time, notice, or both, could constitute a default by Landlord under the Lease.
8. The Tenant under the Lease has no claims, counterclaims, defenses or set-offs against the Landlord arising from the Lease, nor is the Tenant entitled to any concession, rebate, allowance or free rents for any period after this certification.
9. All contingencies to Tenant's obligations under the Lease and all rights of Tenant to cancel or terminate the Lease, if any, have expired or have been waived by Tenant.
10. There has not been filed by or against Tenant a petition in bankruptcy, voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under the bankruptcy laws of the United States or any state thereof, or any other action brought under said bankruptcy laws with respect to Tenant.
11. Tenant has not assigned any portion of its interest in the Lease nor has Tenant sublet any portion of the Premises except as set forth in the sublease agreement described as follows: \_\_\_\_\_
12. Tenant has not received notice from any governmental entity or instrumentality indicating that the Premises or the real property of which the Premises are a part violate or fail to comply with any governmental or judicial law, order, rule or regulation.

All provisions of the Lease are hereby ratified. Tenant understands that Buyer may purchase (/Lender may make a loan to Landlord secured by) the real property of which the Premises are a part and that such purchase/loan will be in material reliance on this certificate. This certificate shall be binding upon Tenant, and shall inure to the benefit of the Buyer, Landlord and both Buyer's/Lender's and Landlord's respective successors and assigns and all parties claiming through or under such persons or any of their successors or assigns. Tenant further understands and acknowledges that a potential capital source of Buyer may rely on this certificate as a material condition to the funding of the purchase, and this certificate shall inure to the benefit of such capital source and its successors and assigns. Tenant agrees to promptly notify Buyer/Lender in writing (at the above address) of any material change in the certifications, representations, or warranties set forth in this certificate.

TENANT: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name) (Title)

## EXHIBIT G

### MOLD AND MILDEW ADDENDUM

This Mold and Mildew Addendum ("Addendum") dated this 13<sup>th</sup> day of December, 2013, is hereby incorporated by reference into the Standard Lease of even date herewith (the "Lease") by and between BARLEY MILL LLC, a Delaware limited liability company ("Landlord"), and ODYSSEY CHARTER SCHOOL, INC., a Delaware corporation ("Tenant") for approximately 62,109 rentable square feet (the "Premises") in the building more commonly known as "Building 20" within the Barley Mill Plaza located at the intersection of Route 141 (Center Road) and Route 48 (Lancaster Pike) in Wilmington, Delaware 19805 and is made a part thereof as is fully set forth therein.

#### PURPOSE OF ADDENDUM

It is the goal of this Addendum to provide sufficient information, and instructions to enable the parties to protect the quality of the environment of the Premises from the affect of mold and mildew in its various forms. It is also the goal of this Addendum to clearly set forth the responsibilities of each of the parties to the Lease.

#### INFORMATION ON MOLD

Mold is found everywhere in the environment, both indoors and outdoors. In fact, mold is a significant portion of the earth's bio-mass. Without mold, dead organic material would rapidly accumulate in the environment. If that were to occur, life as we know it would be impossible to sustain. Therefore, mold is both natural and an essential part of the earth's biology.

Mold is especially effective in digesting cellulose materials such as wood, leaves, grass, drywall, paper and dust. Part of what mold does is to break these complex materials down into simpler substances that can be easily recycled back into the eco-system.

Once mold has completed the process of eating, by breaking down the complex materials into digestible substances, its next purpose is to reproduce. As part of the reproductive cycle, mold produces tiny airborne reproductives that are called "spores". Mold spores are literally everywhere in our environment. They are found in the air throughout the year. The number of spores in the environment swell in the warm humid months of summer. It is physically impossible to remove mold spores from the air without special filtration equipment.

Experts are not in agreement as to the cause, but it appears that more people are now developing sensitivities to airborne pollens, mold spores, dust and animal dander than has historically been seen. Some people are affected by mold spores in relatively benign ways such as watery eyes or a runny nose. Other people can become seriously ill from exposure to mold, its spores and/or toxins. Mold is unlike other environmentally dangerous substances such as lead that can be objectively measured to determine dangerous levels. Mold's impact varies tremendously from person to person. If you listen to the daily weather reports, mold and pollens are often noted, as measured by so many parts per volume of air. The higher the number of mold spores, the greater the number of people that may be affected.

Why is mold such a complex health issue when it is a naturally occurring life form which is found almost everywhere? Mold produces not only spores but it also produces a by-product which are generically described as "toxins". Each form of mold competes for food and survival with other life forms such as bacteria and other molds. In an effort to defend itself from its enemies, mold produces toxins that kill bacteria and other forms of mold. We are all familiar with penicillin, a mold toxin, and its ability to kill bacteria. Unfortunately, mold toxins can cause medical problems, even death for those people sensitive to mold by-products.

Mold must eat to survive. We now know that various forms of mold can digest drywall, paper, hair, dust and soap scum. Just about anything organic in your Premises can be directed by mold. Two critical factors must be present for mold to grow. The most important factor other than food to the growth of mold is water. Without water, either in the form of liquid or humidity in the air, most cannot live and grow. Mold

growth rate when food and water are abundant increases when the ambient temperature rises. Hot and humid weather is ideal for mold growth.

We now know something about "molds" life processes and its functions in the environment. We also know that mold must have food, water and warm temperatures to survive. With this knowledge we can take the necessary steps to keep mold where it belongs; outside your Premises!

### **EFFECTIVELY PREVENTING MOLD**

The most effective way to prevent mold is to focus on what it needs to survive and thrive. Water is the most important factor for mold growth inside buildings. If you can effectively remove sources of water then mold growth will be prevented. As a Tenant, you must be especially alert and on guard whenever there is a water leak. Plumbing leaks, roof leaks, foundation leaks or any other source of water that penetrates into the Premises **MUST** be reported, **in writing**, to the Landlord. You are obligated to report, in writing, as soon as practical, any defective condition in the Premises that comes to your attention and that you believe is the duty of the Landlord to repair. Failure to make such a report in writing is a breach of the Lease and this Addendum. A prompt report in writing will give the Landlord the opportunity to repair the water penetration promptly and thereby prevent the growth of mold.

Humidity is another source of water. Mold will live off the humidity in the air when it condenses on any cold surface. When the humidity level in the air reaches 60% and temperatures are above 80 degrees Fahrenheit, mold activity will increase. At relative humidity of 90% and temperatures about 90 degrees Fahrenheit mold growth and resulting reproduction will dramatically increase.

We urge you as a precaution to use your air conditioner whenever relative humidity is 60% or higher and temperatures are 80 degrees Fahrenheit or higher. You are required by the terms of this Addendum and the Lease to use your air conditioner to remove excessive humidity and thereby thwart mold growth, whenever the outside temperature is 90 degrees Fahrenheit and the outside relative humidity is 80% or higher. Ideally, you should keep humidity levels within the Premises at less than 60%.

It is also important that you keep your Premises clean to deny mold potential food sources. It is your responsibility to remove standing water whenever you see it standing on windowsills, frames or walls. You must remove the water and make sure that you let things properly dry out.

If you become aware of any excessive mold growth, especially on walls and ceilings, you must immediately notify the Landlord in writing so that it can examine the growth, determine the cause of the growth and effect proper repairs. Again, Tenant is required by this Addendum and the Lease to give Landlord this notice as soon as is practical.

### ACKNOWLEDGEMENT

The Tenant acknowledges by signing this Addendum that they have read and understand this Addendum. The Tenant acknowledges that it is necessary to make use of appropriate climate controls to keep humidity below 60%. Tenant further acknowledges that they have a duty to keep the Premises clean and take measures to retard and prevent mold from accumulating in the Premises. Tenant agrees to remove visible moisture accumulations on windows, walls and other surfaces. Tenant agrees not to block or cover any heating ventilation or air conditioning ducts in the Premises and to take measures to retard and prevent mold from accumulating in and on the surfaces of the Premises. Tenant also agrees to immediately report to Landlord (i) any evidence of a water leak or excessive moisture in the Premises; (ii) any evidence of mold or mildew-like growth that cannot be removed by simply applying a common household cleaner and wiping the area; (iii) any failure or malfunction in the heating, ventilation or air-conditioning system in the Premises; and (iv) any inoperable doors or windows. Tenant further agrees that Tenant shall be responsible for damage to the Premises as well as injury to employees and occupants resulting from Tenant's failure to comply with the terms of this Addendum.

A default under the terms of this Addendum shall be deemed a material default under the terms of the Lease, and Landlord shall be entitled to exercise all rights and remedies at law. Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of the Addendum shall control. Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for the purposes of the Lease.

TENANT: ODYSSEY CHARTER SCHOOL, INC., a Delaware corporation

By:

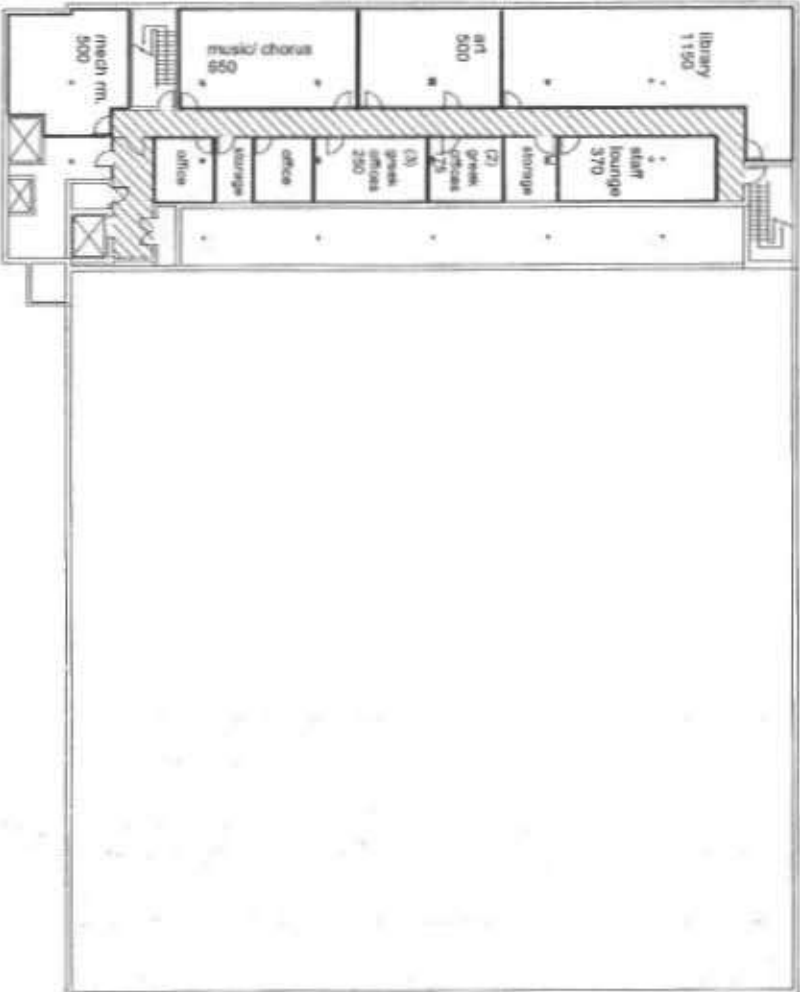
  
George Chambers - Board President, OCS  
(Print Name) (Title)



**EXHIBIT H**  
**INITIAL TENANT IMPROVEMENTS**

# BUILDING #20 BARLEY MILL PLAZA

ODYSSEY CHARTER SCHOOL

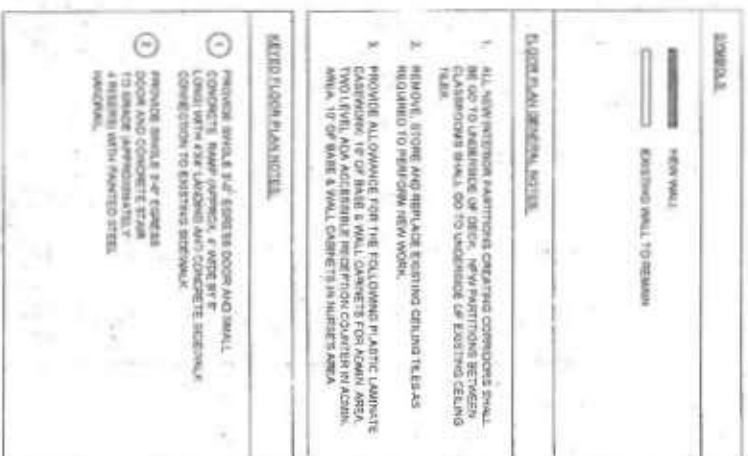


SYMBOL	
	NEW WALL
	EXISTING WALL TO REMAIN
FLOOR PLAN GENERAL NOTES	
<p>1. ALL NEW INTERIOR PARTITIONS CREATING CORRIDORS SHALL BE 30 TO 40 INCHES OF DECK. NEW PARTITIONS BETWEEN CLASSROOMS SHALL BE 10 TO 12 INCHES OF EXISTING CEILING TILES.</p> <p>2. REMOVE, STONE AND REPLACE EXISTING CEILING TILES AS REQUIRED TO REPAIR NEW VENT.</p> <p>3. PROVIDE ALLOWANCE FOR THE FOLLOWING PLASTIC LAMINATE CARPETING, 10' OF TAIL &amp; WALL CABINETS FOR ADMIN. AREA, TWO LEVEL, ADA ACCESSIBLE RECEPTION COUNTER IN ADMIN. AREA, 18' OF BAKER &amp; WALL CABINETS IN NURSE'S AREA.</p>	

LOWER LEVEL NEW  
 CONSTRUCTION PLAN  
 NOVEMBER 22, 2013  
  
 SCALE: 1" = 20'

**TETRA TECH**  
 ARCHITECTS & ENGINEERS

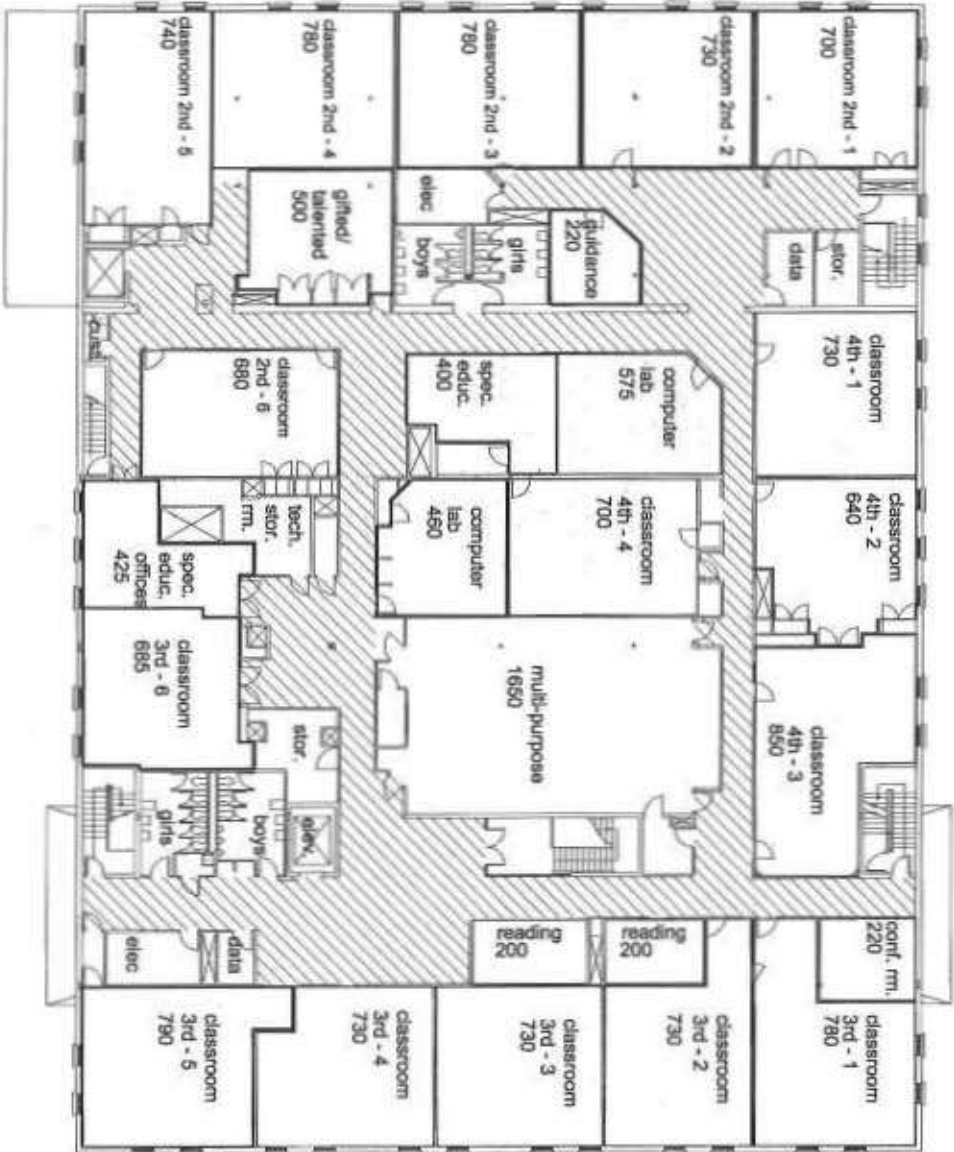
ODYSSEY CHARTER SCHOOL



**FIRST FLOOR NEW  
CONSTRUCTION PLAN**  
NOVEMBER 22, 2013

**TETRA TECH**  
ARCHITECTS & ENGINEERS

**BUILDING #20**  
**BARLEY MILL PLAZA**  
 ODYSSEY CHARTER SCHOOL



EXERCISE	
	NEW WALL
	EXISTING WALL TO REMAIN
FLOOR PLAN (SEE DETAIL NOTES)	
1. ALL NEW PARTITION PARTITIONS (CREATING CORRIDORS SHALL BE SO TO UNDERLIE OR OVERLIE, NEW PARTITIONS BETWEEN CLASSROOMS SHALL GO TO UNDERLIE OR EXISTING CEILING TILES). 2. REMOVE, STONE AND REPLACE EXISTING CEILING TILES AS REQUIRED TO PARTITION NEW WORK.	

**SECOND FLOOR NEW CONSTRUCTION PLAN**  
 NOVEMBER 22, 2013  
 SCALE: 1" = 20'

**TETRA TECH**  
 ARCHITECTS & ENGINEERS



*Lower School Classroom Needs*

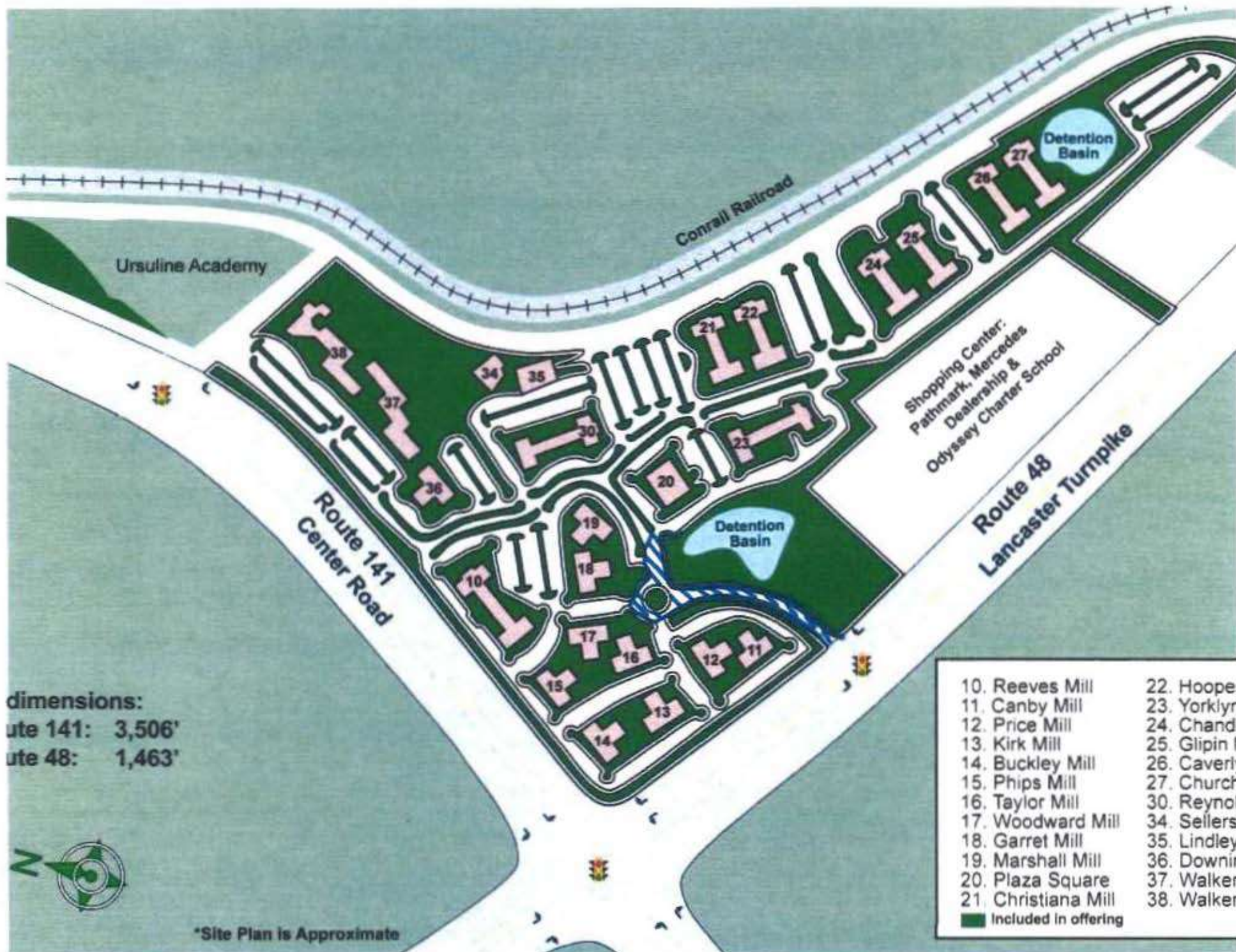
<b>Class Description</b>	<b>No. of Classrooms</b>	<b>No. of Offices</b>	<b>Other</b>	<b>floor</b>
Kindergarten	6			1st
First Grade	6			1st
Second Grade	6			2nd
Third Grade	6			2nd
Fourth Grade	4			2nd
Assistant Headmaster		2		1st
Secretary		2		1st
Nurse		1		1st
Reading Specialist	2			2nd
OT/PT/Speech	2			1st
Special Ed				2nd
Special Ed Office		3		2nd
Guidance		1		2nd
Gym/Multi-purpose Room			1	2nd
Conference Room		2		2nd
Staff Lounge			2	LL
Music	1			LL
Art	1			LL
Computer Lab			2	2nd
Library			1	LL
Greek Offices		5		LL
Copy Room			3	1st
Teacher Storage Closet			4	furniture
Technology Storage Room			1	2nd
Gifted/ Talented				2nd
Custodian Closet			2	all
<b>TOTAL:</b>	<b>32</b>	<b>16</b>	<b>17</b>	

**EXHIBIT I**  
**EXCLUSIVES AND RESTRICTIONS**

1. Heights of buildings on the Retail Site shall exceed neither one (1) story nor forty (40) feet, except that a four (4) story building combining first floor retail and three (3) floors of hotel, if constructed, shall be located generally as shown on the Compromise Plan and shall not exceed fifty (50) feet in height, plus rooftop mechanical equipment not exceeding an additional ten (10) feet in height. As used herein, and throughout this Declaration, the term "height" shall have the meaning as set forth in Section 40.33.300 of the UDC in effect as of the time of execution of this Declaration. Decorative spires, cupolas, architectural chimneys and flag poles shall not be subject to the height limitations of this Declaration. No single user store or single user building on the Retail Site will be larger than 75,000 GFA, except food stores or furniture stores, which shall not exceed 90,000 GFA. The parties understand and agree that the GFA limitations for the Retail Site do not apply to a building or buildings occupied by more than one user. For this purpose, affiliated companies or specialty business operated by one or more separate owners within what would customarily be considered a single store (such as, by way of illustration and not limitation, a pharmacy or bank branch in a super market), shall be regarded as a single user. Except for construction activities while new structures are being erected or existing structures are being renovated or repaired, no portions of the Retail Site will be used for storage trailers or for the outdoor display, storage or sale of merchandise or other materials. Uses within the Retail Site shall be permitted to have temporary special sales events making use of the sidewalks or side or rear yards (where no walks exist) adjacent to the building or buildings occupied by the merchant or merchants sponsoring such events. The prohibition as to exterior usage does not apply to outdoor dining associated with restaurants within the Retail Site. No pad site shall be used for a gas station or automobile service station or for fuel pumps incidental to any other retail or commercial use. No pad site shall be used for a convenience store as such use is reasonably defined by Wawa, 7 Eleven, and Cumberland Farm; or used for a fast food restaurant as such use is reasonably defined by McDonalds, Burger King, Wendy's, Arbys, Kentucky Fried Chicken, Taco Bell, Chick-fil-A, Hardees, Jack in the Box, Dairy Queen, Popeyes, Sonic, Subway, Pizza Hut, Papa John's, Dominos Pizza, Bojangles, Quiznos, Roy Rogers, Little Caesar's and Church's Chicken. The fast food genre may evolve in the future in ways that cannot now reasonably be anticipated, and presently existing businesses not named above may or may not fall within the genre illustrated by the businesses named above. Declarant shall have reasonable latitude in accommodating such evolutions or other existing business for the four (4) pad sites located along Route 48, but such evolutions or other existing businesses shall not be accommodated against the reasonable objections of KPA or Greenways on the other four (4) pad sites located directly on Rt. 141, closest to Greenville.

**EXHIBIT J**  
**SITE PLAN**







## DEPARTMENT OF EDUCATION

The Townsend Building  
401 Federal Street Suite 2  
Dover, Delaware 19901-3639  
DOE WEBSITE: <http://www.doe.k12.de.us>

Lillian M. Lowery, Ed.D.  
Secretary of Education  
Voice: (302) 735-4000  
PAX: (302) 739-4654

February 14, 2012

Mr. George Chambers  
Board President  
Odyssey Charter School  
201 Bayard Avenue  
Wilmington, DE 19805

Dear Mr. Chambers:

I am pleased to inform you that the minor modification request submitted by Odyssey Charter School to redistribute the student population as approved in Odyssey's existing charter document. This modification falls within the range for a minor modification, as defined by DOE Regulation 275 9.9.1.7.

Due to the nature of the minor modification, an additional condition has been imposed on the charter:

By December 15, 2012, the school's Board of Directors shall submit to the Department for review and approval an updated plan on the housing of the increased student population as outlined in the modification request for school year 2013-2014. The plan must contain a timeline to ensure a certificate of occupancy can be obtained by the school by the June 15, 2013 deadline.

Sincerely,

A handwritten signature in cursive script that reads "Lillian M. Lowery".

Lillian Lowery, Ed. D.  
Secretary of Education

cc: Dan Cruce, Esq., Deputy Secretary of Education/Chief of Staff  
John Carwell, Charter School Officer, Charter Schools Office  
Gregory Fulkerson, DOE Liaison to Odyssey Charter School  
George Righos, Board Member, Odyssey Charter School

/sak

## Appendix-3

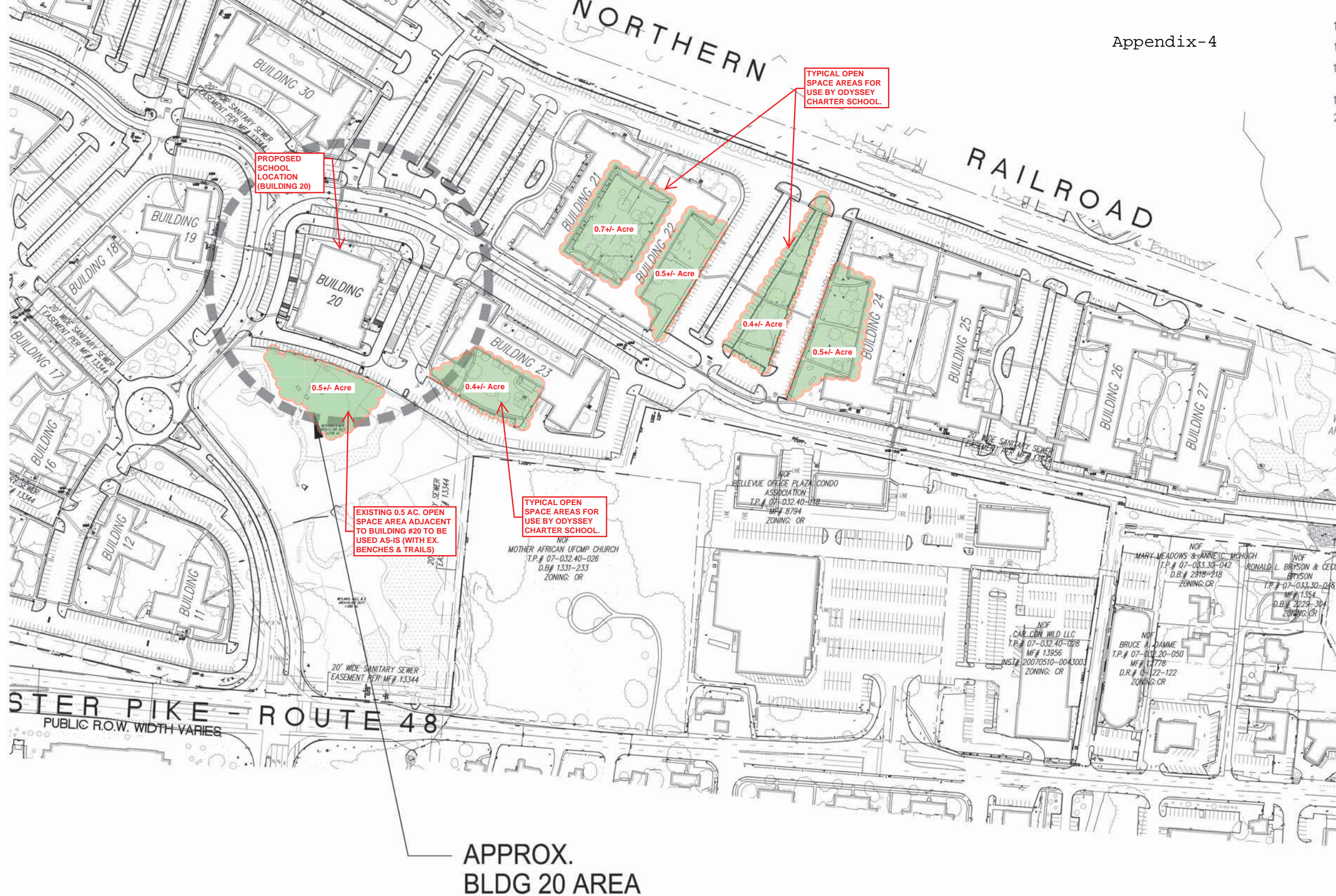
Odyssey Charter School Enrollment, Waitlist Information and Projections (with Minor Charter Modifications)																												
Introduction of OUTSIDE students in 6th Grade in 2013, 2014, 2015 and 2016																												
Rev Date - 1/7/12																												
	Actual											Projections																
School Year	2007-8		2008-9		2009-10		2010-11		2011-12		Total En+WL	2012-13		2013-14		2014-15		2015-16		2016-17		2017-18		2018-19		2019-20		
Grade	Enroll-ment	Wait-list	Enroll-ment	Wait-list	Enroll-ment	Wait-list	Enroll-ment	Wait-list	Enroll-ment	Wait-list		No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	No. Cla	Proj. Enroll-ment	
Kindergarten	80	33	80	41	80	27	80	52	84	125	209	6	120	6	120	6	120	6	126	6	126	6	132	6	132	6	132	
First Grade	80	17	80	31	80	23	80	33	84	41	125	6	126	6	126	6	126	6	132	6	132	6	132	6	132	6	132	
Second Grade	40	18	80	10	80	15	80	23	84	40	124	4	84	6	132	6	132	6	132	6	132	6	132	6	132	6	132	
Third Grade	20	5	40	10	80	7	80	16	92	20	112	4	84	4	84	6	132	6	132	6	132	6	132	6	132	6	132	
Fourth Grade			20	12	40	12	80	9	92	26	118	4	92	4	84	4	84	6	132	6	132	6	132	6	132	6	132	
Fifth Grade					20	5	40	0	64	3	67	4	92	4	92	4	84	4	84	6	132	6	132	6	132	6	132	
Sixth Grade														6	132	6	132	6	132	6	132	6	132	6	132	6	132	
Seventh Grade																6	132	6	132	6	132	6	132	6	132	6	132	
Eighth Grade																		6	132	6	132	6	132	6	132	6	132	
Ninth Grade																				6	132	6	132	6	132	6	132	
Tenth Grade																					6	132	6	132	6	132	6	132
Eleventh Grade																						6	132	6	132	6	132	
Twelfth Grade																								6	132	6	132	
Enrollment Totals	220	73	300	104	380	89	440	133	500	255	755	28	598	36	770	44	942	52	1,134	60	1,314	66	1,452	72	1,584	78	1,716	
Original Charter													480		642		804		966		1,128		1,290		1,452		1614	
Proposed Student Count (+) or (-)													118		128		138		168		186		162		132		102	
Student Percent Increase																									6.32%			

### Notes

- 1- Year 2012-13 we enroll 2 sections each in grade K and 1 @ 20 & 21 students per section respectively.
- 2- Year 2013-14 we may enroll 132 students in Grade 6, by adding 40 non-Odyssey students to 92 students from 5th grade (6 sections @ 22 st per section).
- 3- Years 2014-15 and 2015-16 and 2016-17 we may repeat step #2
- 4- By year 2019-20 we have full enrollment at 132 students per grade K-12
- 5- Present Charter allows for K-5 : 4 sections per grade @ 20 students per section (80 students per grade / 480 students K-5)
- 6- Present Charter allows for 6-12 : 6 sections per grade @ 27 students per section (162 students per grade / 1134 students 6-12)
- 7- Present charter total student population : 1614 students
- 8- Proposed student population K-12 : 1716 students.
- 9- Proposed TOTAL student increase of 102 students or 6.32% (Under the 15% upper limit, to qualify for minor modification).



1  
1  
1  
1  
2



APPROX.  
BLDG 20 AREA

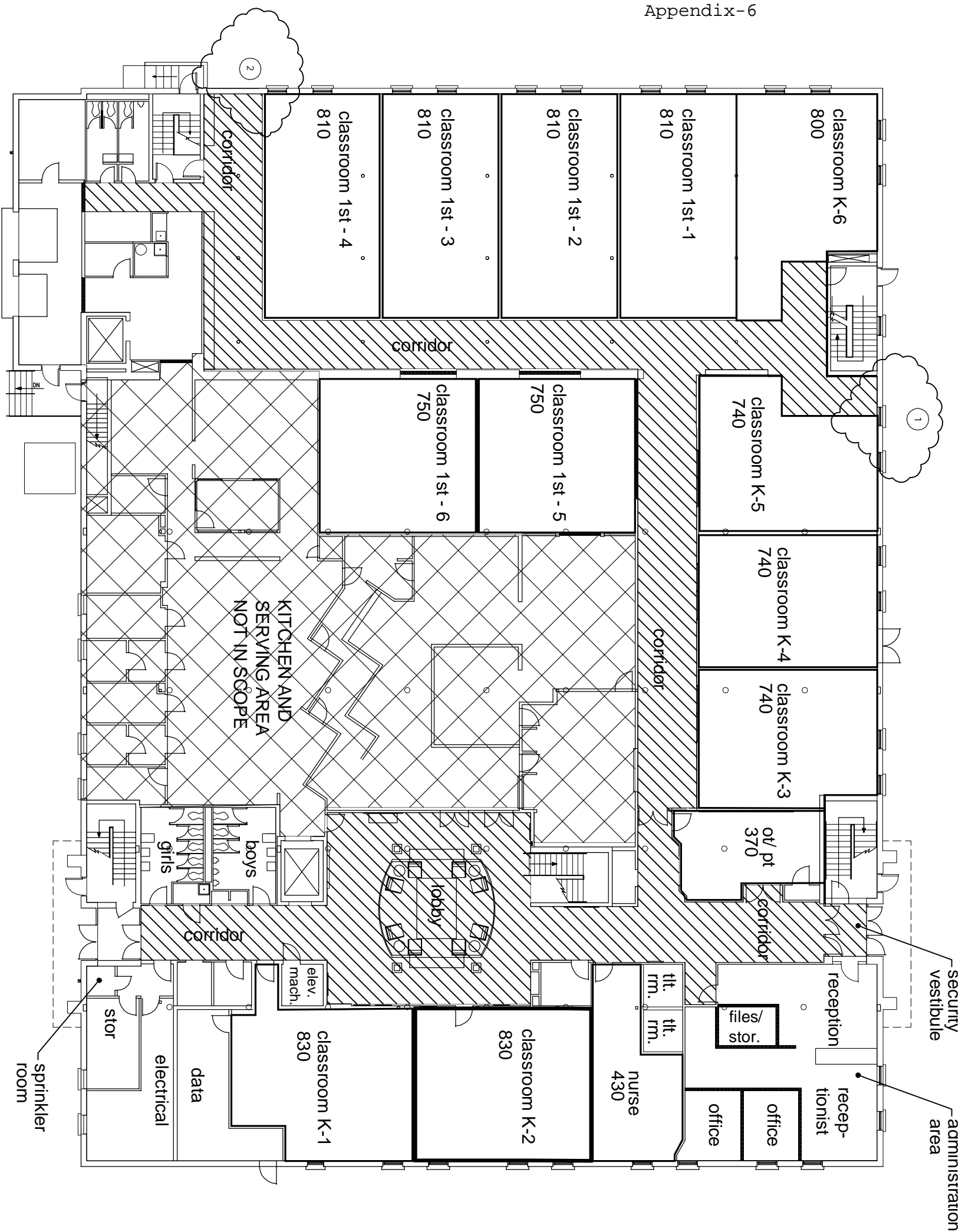




BLDG. #20

STUDENT PICK-UP / DROP-OFF





BUILDING #20  
BARLEY MILL PLAZA

ODYSSEY CHARTER SCHOOL

SYMBOLS:	
	NEW WALL
	EXISTING WALL TO REMAIN
FLOOR PLAN GENERAL NOTES:	
1. ALL NEW INTERIOR PARTITIONS CREATING CORRIDORS SHALL BE GO TO UNDERSIDE OF DECK. NEW PARTITIONS BETWEEN CLASSROOMS SHALL GO TO UNDERSIDE OF EXISTING CEILING TILES.	
2. REMOVE, STORE AND REPLACE EXISTING CEILING TILES AS REQUIRED TO PERFORM NEW WORK.	
3. PROVIDE ALLOWANCE FOR THE FOLLOWING PLASTIC LAMINATE CASEWORK: 10' OF BASE & WALL CABINETS FOR ADMIN. AREA, TWO LEVEL ADA ACCESSIBLE RECEPTION COUNTER IN ADMIN. AREA, 10' OF BASE & WALL CABINETS IN NURSE'S AREA	
KEYED FLOOR PLAN NOTES:	
1	PROVIDE SINGLE 3'-0" EGRESS DOOR AND SMALL CONCRETE RAMP (APPROX. 4' WIDE BY 6' LONG) WITH 4'x4' LANDING AND CONCRETE SIDEWALK CONNECTION TO EXISTING SIDEWALK
2	PROVIDE SINGLE 3'-0" EGRESS DOOR AND CONCRETE STAIR TO GRADE (APPROXIMATELY 4 RISERS) WITH PAINTED STEEL HANDRAIL.

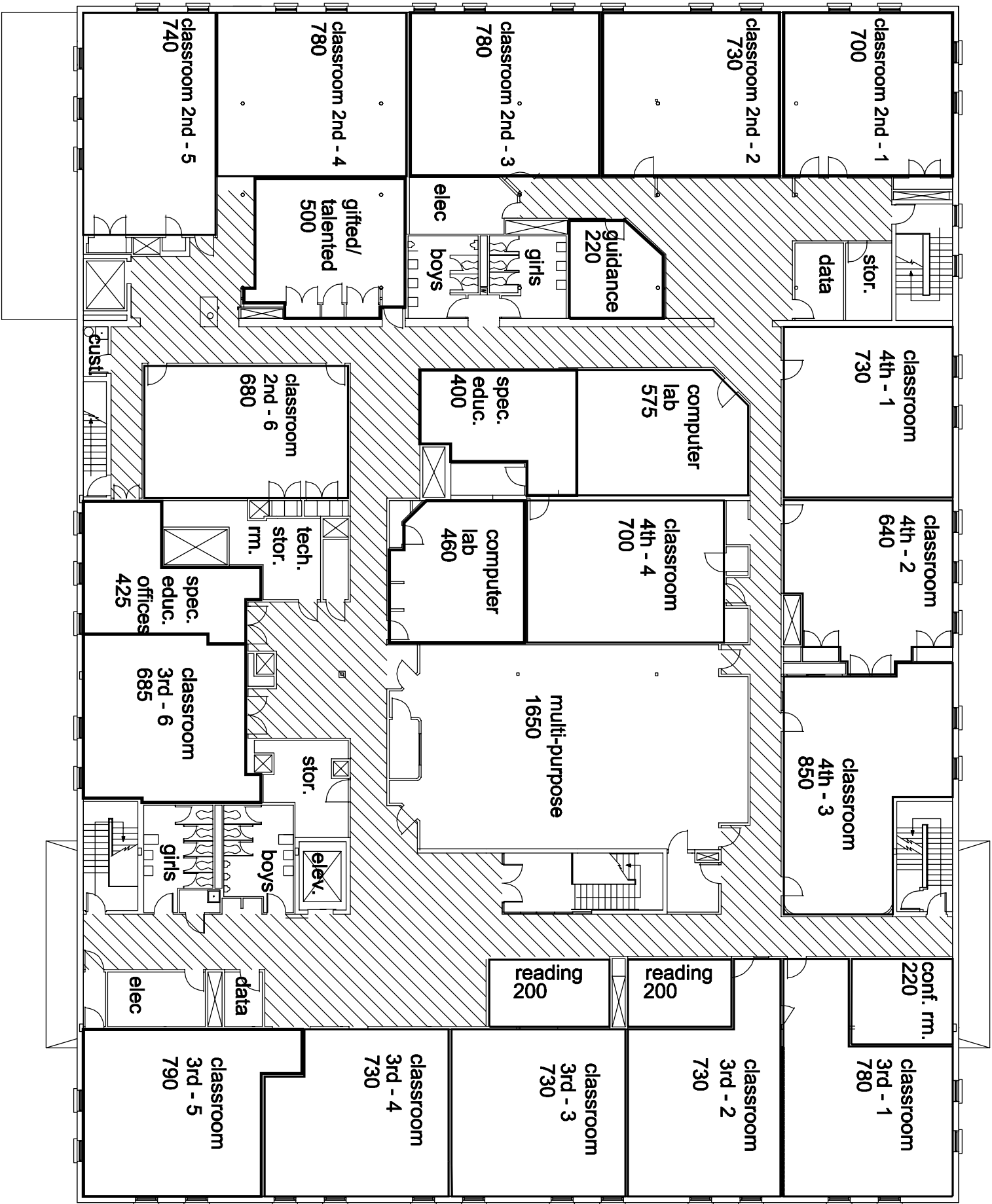
0102040



SCALE: 1" = 20'

N

NOVEMBER 22, 2013

FIRST FLOOR NEW CONSTRUCTION PLAN



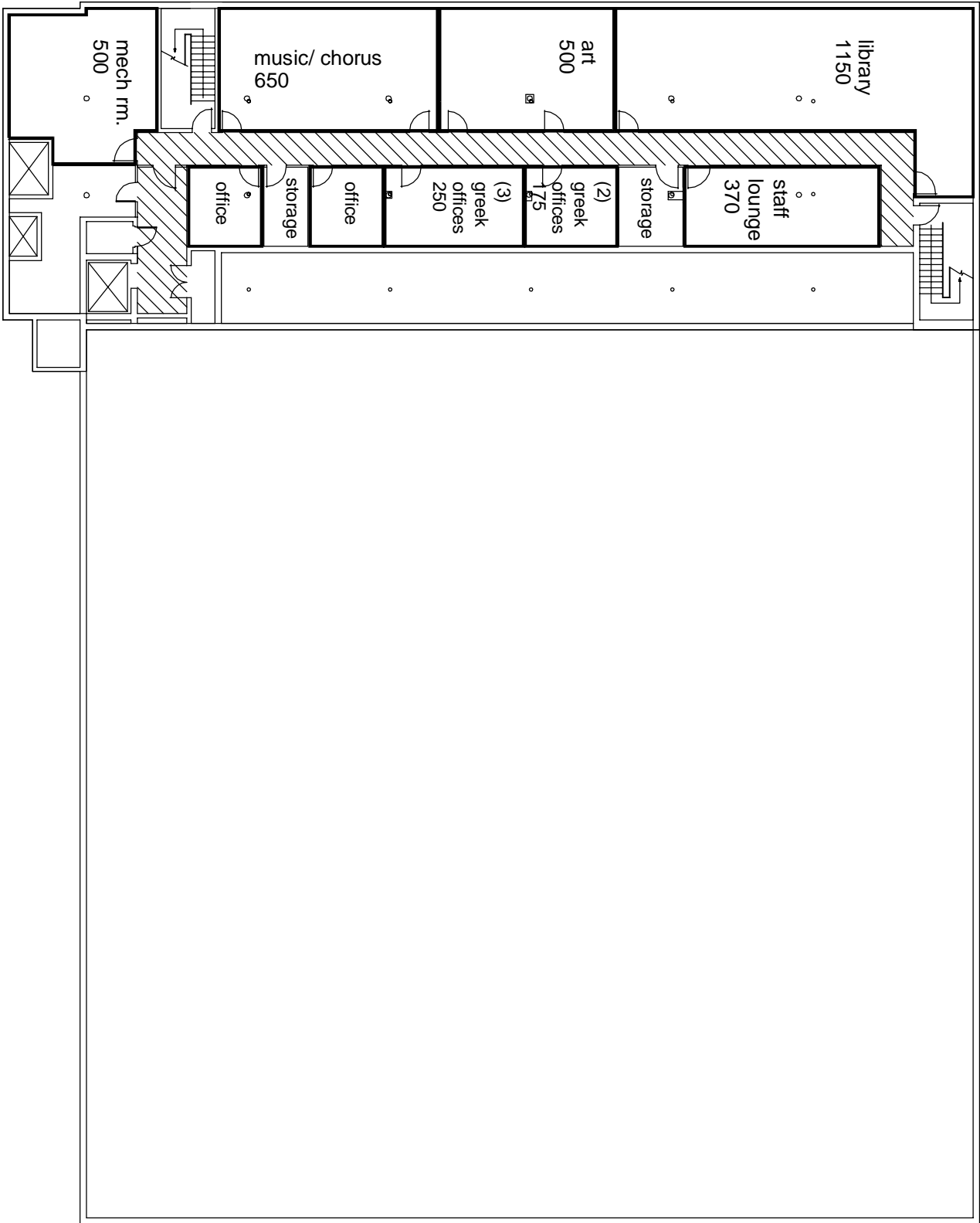
SYMBOLS:	
	NEW WALL
	EXISTING WALL TO REMAIN
FLOOR PLAN GENERAL NOTES:	
1. ALL NEW INTERIOR PARTITIONS CREATING CORRIDORS SHALL BE GO TO UNDERSIDE OF DECK. NEW PARTITIONS BETWEEN CLASSROOMS SHALL GO TO UNDERSIDE OF EXISTING CEILING TILES.	
2. REMOVE, STORE AND REPLACE EXISTING CEILING TILES AS REQUIRED TO PERFORM NEW WORK.	



BUILDING #20

BARLEY MILL PLAZA

ODYSSEY CHARTER SCHOOL



SYMBOLS:

-  NEW WALL
-  EXISTING WALL TO REMAIN

FLOOR PLAN GENERAL NOTES:

- ALL NEW INTERIOR PARTITIONS CREATING CORRIDORS SHALL BE GO TO UNDERSIDE OF DECK. NEW PARTITIONS BETWEEN CLASSROOMS SHALL GO TO UNDERSIDE OF EXISTING CEILING TILES.
- REMOVE, STORE AND REPLACE EXISTING CEILING TILES AS REQUIRED TO PERFORM NEW WORK.
- PROVIDE ALLOWANCE FOR THE FOLLOWING PLASTIC LAMINATE CASEWORK: 10' OF BASE & WALL CABINETS FOR ADMIN. AREA, TWO LEVEL ADA ACCESSIBLE RECEPTION COUNTER IN ADMIN. AREA, 10' OF BASE & WALL CABINETS IN NURSE'S AREA

# BUILDING #20

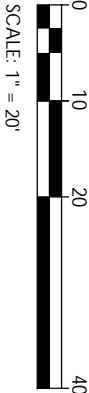
## BARLEY MILL PLAZA

ODYSSEY CHARTER SCHOOL



### LOWER LEVEL NEW CONSTRUCTION PLAN

NOVEMBER 22, 2013



**TETRA TECH**  
ARCHITECTS & ENGINEERS



## Appendix-7

Odyssey Charter School Operating Forecast			2012-13	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
		Highest Grade	5	6	7	8	9	10	11	12	12	12	12
	2012-2013 Odyssey Actual	Per Student	587	702	960	1140	1320	1452	1584	1716	1716	1716	1716
Beginning Cash Balance	\$948,987.38		\$948,987	\$1,333,423	\$1,697,671	\$2,195,788	\$2,787,302	\$3,472,214	\$4,225,616	\$5,047,509	\$5,937,894	\$6,828,279	\$7,718,663
FY2012 INCOME													
State Appropriations	\$3,972,982.00	\$6,768	\$3,972,982	\$4,751,335	\$6,497,551	\$7,715,842	\$8,934,133	\$9,827,547	\$10,720,960	\$11,614,373	\$11,614,373	\$11,614,373	\$11,614,373
Grants	\$94,664.00	\$161	\$94,664	\$113,210	\$154,817	\$183,845	\$212,873	\$234,160	\$255,448	\$276,735	\$276,735	\$276,735	\$276,735
Interest Income FSF	\$8,823.92	\$15	\$8,824	\$10,553	\$14,431	\$17,137	\$19,843	\$21,827	\$23,811	\$25,795	\$25,795	\$25,795	\$25,795
Local Funds	\$2,271,231.15	\$3,869	\$2,271,231	\$2,716,191	\$3,714,450	\$4,410,909	\$5,107,368	\$5,618,105	\$6,128,842	\$6,639,579	\$6,639,579	\$6,639,579	\$6,639,579
Childcare/Camp	\$191,179.62	\$326	\$191,180	\$228,634	\$312,662	\$371,286	\$429,910	\$472,901	\$515,892	\$558,883	\$558,883	\$558,883	\$558,883
Greek Classes	\$1,275.00	\$2	\$1,275	\$1,525	\$2,085	\$2,476	\$2,867	\$3,154	\$3,441	\$3,727	\$3,727	\$3,727	\$3,727
Milk Income	\$22,671.25	\$39	\$22,671	\$27,113	\$37,077	\$44,029	\$50,981	\$56,079	\$61,178	\$66,276	\$66,276	\$66,276	\$66,276
Fundraising/Donations	\$33,666.22	\$57	\$33,666	\$40,262	\$55,059	\$65,382	\$75,706	\$83,277	\$90,847	\$98,418	\$98,418	\$98,418	\$98,418
Rebates/Commissions	\$14,796.63	\$25	\$14,797	\$17,695	\$24,199	\$28,736	\$33,274	\$36,601	\$39,928	\$43,256	\$43,256	\$43,256	\$43,256
Total Cash Inflows	\$6,611,289.79		\$6,611,290	\$7,906,517	\$10,812,331	\$12,839,643	\$14,866,955	\$16,353,650	\$17,840,346	\$19,327,041	\$19,327,041	\$19,327,041	\$19,327,041
Available Cash Balance	\$7,560,277.17		\$7,560,277	\$9,239,940	\$12,510,002	\$15,035,431	\$17,654,257	\$19,825,864	\$22,065,962	\$24,374,551	\$25,264,935	\$26,155,320	\$27,045,705
Cash Outflows (Expenses):			52.8%	54.9%	55.4%	54.8%	54.0%	52.9%	51.9%	50.9%	49.1%	47.4%	45.8%
Payroll	\$2,858,945.28	\$4,870	\$2,858,945	\$3,632,500	\$4,967,521	\$5,898,932	\$6,830,342	\$7,513,376	\$8,196,410	\$8,879,444	\$8,879,444	\$8,879,444	\$8,879,444
Payroll Taxes/Benefits	\$1,132,161.88	\$1,929	\$1,132,162	\$1,438,495	\$1,967,172	\$2,336,017	\$2,704,862	\$2,975,348	\$3,245,835	\$3,516,321	\$3,516,321	\$3,516,321	\$3,516,321
Therapists/Psychologist	\$116,846.25	\$199	\$116,846	\$139,738	\$191,094	\$226,925	\$262,755	\$289,030	\$315,306	\$341,581	\$341,581	\$341,581	\$341,581
Substitute Teachers/Nurse	\$18,074.50	\$31	\$18,075	\$21,616	\$29,560	\$35,102	\$40,645	\$44,709	\$48,773	\$52,838	\$52,838	\$52,838	\$52,838
Exchange Teachers	\$34,079.63	\$58	\$34,080	\$40,756	\$55,735	\$66,185	\$76,636	\$84,299	\$91,963	\$99,626	\$99,626	\$99,626	\$99,626
Student Testing	\$9,110.20	\$16	\$9,110	\$10,895	\$14,899	\$17,693	\$20,486	\$22,535	\$24,584	\$26,632	\$26,632	\$26,632	\$26,632
Loan Payments/Guarantees	\$329,112.26	\$561	\$329,112	\$393,589	\$538,242	\$639,162	\$740,082	\$814,090	\$888,099	\$962,107	\$962,107	\$962,107	\$962,107
Insurance	\$32,563.61	\$55	\$32,564	\$38,943	\$53,256	\$63,241	\$73,227	\$80,549	\$87,872	\$95,194	\$95,194	\$95,194	\$95,194
Lancaster Rent	\$469,101.43	\$799	\$469,101	\$561,004	\$767,185	\$911,032	\$1,054,879	\$1,160,367	\$1,265,855	\$1,371,343	\$1,371,343	\$1,371,343	\$1,371,343
Student Transportation	\$264,557.44	\$451	\$264,557	\$316,387	\$432,666	\$513,791	\$594,916	\$654,408	\$713,899	\$773,391	\$773,391	\$773,391	\$773,391
Field Trips	\$1,974.05	\$3	\$1,974	\$2,361	\$3,228	\$3,834	\$4,439	\$4,883	\$5,327	\$5,771	\$5,771	\$5,771	\$5,771
Office Supplies	\$26,565.10	\$45	\$26,565	\$31,770	\$43,445	\$51,592	\$59,738	\$65,711	\$71,685	\$77,659	\$77,659	\$77,659	\$77,659
Instructional/School Supplies	\$57,710.02	\$98	\$57,710	\$69,016	\$94,381	\$112,077	\$129,774	\$142,751	\$155,729	\$168,706	\$168,706	\$168,706	\$168,706
Medical Supplies	\$1,555.87	\$3	\$1,556	\$1,861	\$2,545	\$3,022	\$3,499	\$3,849	\$4,198	\$4,548	\$4,548	\$4,548	\$4,548
Postage	\$7,330.64	\$12	\$7,331	\$8,767	\$11,989	\$14,237	\$16,485	\$18,133	\$19,781	\$21,430	\$21,430	\$21,430	\$21,430
Copiers	\$15,093.98	\$26	\$15,094	\$18,051	\$24,685	\$29,314	\$33,942	\$37,336	\$40,731	\$44,125	\$44,125	\$44,125	\$44,125
Alarm/Monitor/Fire	\$2,898.50	\$5	\$2,899	\$3,466	\$4,740	\$5,629	\$6,518	\$7,170	\$7,822	\$8,473	\$8,473	\$8,473	\$8,473
Utilities	\$74,331.74	\$127	\$74,332	\$88,894	\$121,565	\$144,358	\$167,151	\$183,867	\$200,582	\$217,297	\$217,297	\$217,297	\$217,297
Water & Sewer	\$9,818.42	\$17	\$9,818	\$11,742	\$16,057	\$19,068	\$22,079	\$24,287	\$26,495	\$28,703	\$28,703	\$28,703	\$28,703
Telephone/T1 Line	\$9,599.08	\$16	\$9,599	\$11,480	\$15,699	\$18,642	\$21,586	\$23,744	\$25,903	\$28,061	\$28,061	\$28,061	\$28,061
Cleaning Services	\$107,239.43	\$183	\$107,239	\$128,249	\$175,383	\$208,267	\$241,152	\$265,267	\$289,382	\$313,497	\$313,497	\$313,497	\$313,497
Janitorial Supplies	\$12,725.19	\$22	\$12,725	\$15,218	\$20,811	\$24,713	\$28,615	\$31,477	\$34,339	\$37,200	\$37,200	\$37,200	\$37,200
Trash Removal	\$10,912.34	\$19	\$10,912	\$13,050	\$17,846	\$21,193	\$24,539	\$26,993	\$29,447	\$31,900	\$31,900	\$31,900	\$31,900
Snow Removal	\$0.00	\$4	\$0	\$2,990	\$4,089	\$4,855	\$5,622	\$6,184	\$6,746	\$7,308	\$7,308	\$7,308	\$7,308
Exterminating Services	\$2,925.00	\$5	\$2,925	\$3,498	\$4,784	\$5,681	\$6,578	\$7,235	\$7,893	\$8,551	\$8,551	\$8,551	\$8,551
Professional Services	\$117,819.32	\$201	\$117,819	\$140,901	\$192,686	\$228,814	\$264,943	\$291,437	\$317,932	\$344,426	\$344,426	\$344,426	\$344,426
Building Maint. & Repairs	\$58,335.02	\$99	\$58,335	\$69,764	\$95,403	\$113,291	\$131,179	\$144,297	\$157,415	\$170,533	\$170,533	\$170,533	\$170,533
Advertising	\$10,095.00	\$17	\$10,095	\$12,073	\$16,510	\$19,605	\$22,701	\$24,971	\$27,241	\$29,511	\$29,511	\$29,511	\$29,511
Food/Milk	\$20,928.24	\$36	\$20,928	\$25,028	\$34,227	\$40,644	\$47,062	\$51,768	\$56,474	\$61,180	\$61,180	\$61,180	\$61,180
Tuition Reimb/Prof Dev	\$31,137.01	\$53	\$31,137	\$37,237	\$50,923	\$60,471	\$70,018	\$77,020	\$84,022	\$91,024	\$91,024	\$91,024	\$91,024
Conferences/Travel	\$2,234.49	\$4	\$2,234	\$2,672	\$3,654	\$4,340	\$5,025	\$5,527	\$6,030	\$6,532	\$6,532	\$6,532	\$6,532
Misc. Staff Events	\$10,285.01	\$18	\$10,285	\$12,300	\$16,820	\$19,974	\$23,128	\$25,441	\$27,754	\$30,067	\$30,067	\$30,067	\$30,067
Books - Expense	\$1,856.56	\$3	\$1,857	\$2,220	\$3,036	\$3,606	\$4,175	\$4,592	\$5,010	\$5,427	\$5,427	\$5,427	\$5,427
Small Equipment/Furniture - expense	\$9,191.94	\$16	\$9,192	\$10,993	\$15,033	\$17,851	\$20,670	\$22,737	\$24,804	\$26,871	\$26,871	\$26,871	\$26,871
Computers/Tech Support	\$52,568.81	\$90	\$52,569	\$62,868	\$85,973	\$102,093	\$118,213	\$130,034	\$141,855	\$153,676	\$153,676	\$153,676	\$153,676
Renovation/Temporary Facilities	\$52,770.31	\$90	\$52,770	\$63,109	\$86,302	\$102,484	\$118,666	\$130,532	\$142,399	\$154,266	\$154,266	\$154,266	\$154,266
Misc.	\$8,239.03	\$14	\$8,239	\$9,853	\$13,474	\$16,001	\$18,527	\$20,380	\$22,233	\$24,085	\$24,085	\$24,085	\$24,085
Subtotal	\$5,980,692.58		\$5,980,693	\$7,453,353	\$10,192,619	\$12,103,735	\$14,014,851	\$15,416,336	\$16,817,821	\$18,219,306	\$18,219,306	\$18,219,306	\$18,219,306
Other Cash Out Flows:													

Odyssey Charter School Operating Forecast			2012-13	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
		Highest Grade	5	6	7	8	9	10	11	12	12	12	12
	2012-2013 Odyssey Actual	Per Student	587	702	960	1140	1320	1452	1584	1716	1716	1716	1716
New Capital Purchase	\$171,811.85		\$171,812	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Asset - Books	\$48,825.64	\$83	\$48,826	\$58,391	\$79,851	\$94,823	\$109,795	\$120,775	\$131,754	\$142,734	\$142,734	\$142,734	\$142,734
Asset - Computers	\$1,501.18	\$3	\$1,501	\$1,795	\$2,455	\$2,915	\$3,376	\$3,713	\$4,051	\$4,388	\$4,388	\$4,388	\$4,388
Asset - Equipment	\$12,976.59	\$22	\$12,977	\$15,519	\$21,222	\$25,202	\$29,181	\$32,099	\$35,017	\$37,935	\$37,935	\$37,935	\$37,935
Asset - Furniture	\$11,046.70	\$19	\$11,047	\$13,211	\$18,066	\$21,454	\$24,841	\$27,325	\$29,809	\$32,293	\$32,293	\$32,293	\$32,293
Subtotal Other Cash Outflows:	\$246,161.96		\$246,162	\$88,916	\$121,595	\$144,394	\$167,193	\$183,912	\$200,631	\$217,351	\$217,351	\$217,351	\$217,351
Obligated Cash Outflows	\$6,226,854.54	\$10,608	\$6,226,855	\$7,542,269	\$10,314,214	\$12,248,129	\$14,182,044	\$15,600,248	\$17,018,452	\$18,436,657	\$18,436,657	\$18,436,657	\$18,436,657
Current Cash Balance	\$1,333,422.63	\$2,272	\$1,333,423	\$1,697,671	\$2,195,788	\$2,787,302	\$3,472,214	\$4,225,616	\$5,047,509	\$5,937,894	\$6,828,279	\$7,718,663	\$8,609,048
For Loan Szing Calculations													
Contingency Reserve	6.0%	\$676	\$0	\$474,391	\$648,740	\$770,379	\$892,017	\$981,219	\$1,070,421	\$1,159,622	\$1,159,622	\$1,159,622	\$1,159,622
Add Lease, & Loan Payments	\$970,025.54		\$970,026	\$954,593	\$1,305,426	\$1,550,194	\$1,794,961	\$1,974,457	\$2,153,953	\$2,333,449	\$2,333,449	\$2,333,449	\$2,333,449
Available Funds for Debt Coverage	\$2,303,448.11		\$2,303,448	\$2,177,873	\$2,852,474	\$3,567,117	\$4,375,157	\$5,218,854	\$6,131,042	\$7,111,721	\$8,002,105	\$8,892,490	\$9,782,875
Phase 1 Acquisition / Renovation													
Exisitng Facility Payments/Guarantees													
Lancaster Ave Lease	\$469,101.00	\$799	\$469,101	\$542,556	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PNC Loan/WSFS \$246,377	\$22,000.00		\$22,000	\$22,000	\$22,000	\$22,000	\$11,000	\$0	\$0	\$0	\$0	\$0	\$0
WCNJ (Harvey Hanna) \$800,000	\$25,111.00		\$25,111	\$25,111	\$25,111	\$25,111	\$12,556	\$0	\$0	\$0	\$0	\$0	\$0
WSFS Mundy Farm Land \$1,000,000.	\$63,613.00		\$63,613	\$63,613	\$63,613	\$63,613	\$31,807	\$0	\$0	\$0	\$0	\$0	\$0
WSFS Small Loan \$52,852	\$15,682.00		\$15,682	\$15,682	\$15,682	\$15,682	\$7,841	\$0	\$0	\$0	\$0	\$0	\$0
WSFS St Thomas \$2,269,671	\$129,362.00		\$129,362	\$129,362	\$129,362	\$129,362	\$64,681	\$0	\$0	\$0	\$0	\$0	\$0
St Thomas Loan \$500,000	\$40,512.00		\$40,512	\$40,512	\$40,512	\$40,512	\$20,256	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Exisitng Facility Payments	\$765,381.00		\$765,381	\$838,836	\$296,280	\$296,280	\$148,140	\$0	\$0	\$0	\$0	\$0	\$0
Required Facility Projections													
Modular Lease			\$0	\$40,653	\$40,653	\$40,653	\$0	\$0	\$0	\$0	\$0	\$0	\$0
- Installation & Site Work	\$52,770.00		\$52,770	\$112,261	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BMP Bldg 20													
- Building Lease				\$260,000	\$780,000	\$804,000							
- Building Renovation				\$150,000									
Phase 1 BMP Purchase & Build-Out													
- Prep & Settlement (OCS Funds)			\$0	\$0	\$570,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
- PNC Loan (Interest Only)			\$0	\$0	\$0	\$546,188	\$1,092,375	\$1,092,375	\$546,188	\$0	\$0	\$0	\$0
- Stoltz SubDebt (Interest Only)			\$0	\$0	\$0	\$112,500	\$225,000	\$225,000	\$112,500	\$0	\$0	\$0	\$0
Phase 2 BMP Purchase & Build-Out			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
- PNC Bond (Interest Only)			\$0	\$0	\$0	\$0	\$1,188,075	\$2,376,150	\$0	\$0	\$0	\$0	\$0
- PNC Bond (P&I)			\$0	\$0	\$0	\$0	\$0	\$0	\$2,877,079	\$2,877,079	\$2,877,079	\$2,877,079	\$2,877,079
Subtotal Projected Facility Payments	\$52,770.00		\$52,770	\$562,914	\$1,390,653	\$1,503,341	\$2,505,450	\$3,693,525	\$3,535,766	\$2,877,079	\$2,877,079	\$2,877,079	\$2,877,079
Carry Over Funds	\$1,485,297		\$1,485,297	\$776,123	\$1,165,541	\$1,767,497	\$1,721,567	\$1,525,329	\$2,595,276	\$4,234,642	\$5,125,027	\$6,015,411	\$6,905,796
Debt Service Ratio	2.82		2.82	1.55	1.69	1.98	1.65	1.41	1.73	2.47	2.78	3.09	3.40



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

250 BEAR-CHRISTIANA ROAD  
BEAR, DELAWARE 19701

SHAILEN P. BHATT  
SECRETARY

Letter  
of  
No Contention

January 15, 2014

Barley Mill, LLC  
c/o Stoltz Real Estate Partners  
200 Montchanin Rd., Suite 250  
Greenville, DE 19870

Dear Sir or Madam:

Subject: **Odyssey Charter School  
Tax Parcel No: 07-032.20-003  
Lancaster Pike  
New Castle County**

The Department of Transportation has no contention to the above referenced application dated December 12, 2013. During a recent inspection of this parcel, our inspector has verified you have an existing entrance. In addition, in your application you request permission to use the existing entrance for accessing Barley Mill Plaza for the purpose of Odyssey Charter School. This **Letter of No Contention** is being issued to act as a **waiver** thereby **permitting use of the existing entrance without modifications**.

**General Conditions:**

1. **The site shall have access from the existing entrance along Lancaster Pike (Road No.237).**
2. **Comply with New Castle County zoning and permit requirements.**

January 15, 2014

4. **Permits for Utilities construction and sign installation require a separate permit application. Contact the DelDOT Public Works Office at (302) 326-4679 for information on obtaining permits for sign installation on private property, and for utilities installation within State right-of-way.**
5. **DelDOT reserves the right to review and modify this "Letter of No Contention" in the future, in the event that re-development or "change of use" issues arise on the applicant's property, or surrounding properties.**

If in the future the site is rezoned, changes layout, changes use, or adds a new use that alters the flow and/or volume of traffic, the property owner shall submit information to the Department for review. Changes of this nature may require a new **Letter of No Contention** and/or Permit(s) to be issued.

Thank you for your cooperation. If you have any questions, please do not hesitate to call me at (302) 326-4679.

Sincerely,



R. C. Greybill  
Permits Engineer  
Canal District, Public Works

RCG:db

cc: New Castle County, Land Use  
Kevin Canning, P.E., Canal District, Public Works Engineer  
John Garcia, Development Coordination, New Castle County Reviewer  
Lenny Massotti, Development Coordination, Process & Quality Control Engineer  
Chuck Leary, Jr., Regional Manager  
Ron Rambo, Area Inspector





# OFFICE OF STATE FIRE MARSHAL

## Technical Services

2307 MacArthur Road  
New Castle, DE 19720-2426  
Phone: 302-323-5365  
Fax: 302-323-5366

1537 Chestnut Grove Road  
Dover, DE 19904-9610  
Phone: 302-739-4394  
Fax: 302-739-3696

22705 Park Avenue  
Georgetown, DE 19947  
Phone: 302-856-5298  
Fax: 302-856-5800



## FIRE PROTECTION PLAN REVIEW REPORT

Plan Review Number 2013-02-1701-MJS-02

Tax Parcel Number 0703220050

Review Status APPROVED AS SUBMITTED

Review Date 01/23/2014

### PROJECT

ODYSSEY CHARTER SCHOOL  
BARLEY MILL PLAZA

Phase#

Building # 20

Unit #

4319 LANCASTER PIKE  
WILMINGTON, DE 19807

### SCOPE OF PROJECT

Project Type MJS Major Site

Number of Stories 2

Occupant Load

Square Footage 62109

Occupancy Code 9665

Construction Class III (200) ORDINARY

Fire District 16

### APPLICANT

### OWNER

CDA ENGINEERING INC

BARLEY MILL LLC

6 LARCH AVE  
SUITE 401

WILMINGTON, DE 19804

725 CONSHOCKEN STATE ROAD

BALA CYNWYD, PA 19004

This office has reviewed the plans and specifications of the above described project for compliance with the Delaware State Fire Prevention Regulations, in effect as of the date of this review.

A Review Status of "Approved as Submitted" or "Not Approved as Submitted" must comply with the provisions of the attached Plan Review Comments.

Any Conditional Approval does not relieve the Applicant, Owner, Engineer, Contractor, nor their representatives from their responsibility to comply with the plan review comments and the applicable provisions of the Delaware State Fire Prevention Regulations in the construction, installation and/or completion of the project as reviewed by this Agency.

This Plan Review Project was prepared by:

 012314  
JOHN RUDD, ASST CHIEF, TECHNICAL SERVICES

# FIRE PROTECTION PLAN REVIEW COMMENTS

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Project Name ODYSSEY CHARTER SCHOOL  
Plan Review Number 2013-02-1701-MJS-02 Tax Parcel Number 0703220050  
Review Status APPROVED AS SUBMITTED Review Date 01/23/2014

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## PROJECT COMMENTS

- 1002      This project has been reviewed under the provisions of the Delaware State Fire Prevention Regulations (DSFPR) Effective December 11, 2012. The current Delaware State Fire Prevention Regulations are available on our website at [www.statefiremarshal.delaware.gov](http://www.statefiremarshal.delaware.gov). These plans were not reviewed for compliance with the Americans with Disabilities Act (ADA). These plans were not reviewed for compliance with any Local, Municipal, nor County Building Codes.
- 
- 1180      This report reflects site review only. It is the responsibility of the applicant and owner to forward copies of this review to any other agency as required by those agencies.
- 
- 1190      Separate plan submittal is required for the building(s) proposed for this project.
- 
- 2313      Standpipes shall be provided in accordance with DSFPR and NFPA 14 (DSFPR Part II, Chapter 4 & 5). The standpipes shall be designed and installed by a company licensed by this Agency. Formal plan submittal to this Agency is required prior to installation. The list of current, licensed fire suppression companies is found on our website [www.statefiremarshal.delaware.gov](http://www.statefiremarshal.delaware.gov)
- 
- 9999      Tenant fit-out plans required to be submitted and approved by this office.
- 
- 1501      If there are any questions about the above referenced comments please feel free to contact the Fire Protection Specialist who reviewed this project. Please have the plan review number available when calling about a specific project. When changes or revisions to the plans occur, plans are required to be submitted, reviewed, and approved.
-

Thomas P. Gordon  
County Executive



87 Read's Way  
New Castle, DE 19720

OFFICE OF THE EXECUTIVE

January 17, 2014

Dear Friend:

I am in receipt of your email and I commend you for taking the time to articulate your position on the Odyssey Charter School. My office and the various Departments in New Castle County are here to assist and support the School in its plans and endeavors and we are supportive of the School's pending request. Here is the path forward.

Odyssey Charter School has submitted a site plan for utilization of Building 20 at Barley Mill Plaza. The Department of Land Use is currently processing the plan, which does not require a Traffic Impact Study or any public hearing. As soon as the County receives the final plan from the Odyssey Charter School Engineer, it will be reviewed and approved immediately.

If your group would like to meet with me, please contact Angela Walker at [adwalker@nccde.org](mailto:adwalker@nccde.org) or 302-395-5118. Thank you for being a caring citizen of New Castle County.

Sincerely,

A handwritten signature in black ink, appearing to read "TPGordon", is written over the name and title of the County Executive.

Thomas P. Gordon  
County Executive

## **MILESTONE CONSTRUCTION, LLC.**

5163 W. Woodmill Drive Suite 13B  
Wilmington, Delaware 19808  
302.442.4252 Office  
302.757.74.11 Fax

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November 22, 2013

Stoltz Management Company  
3828 Kennett Pike  
Greenville, DE 19807

Attn: Mr. Patrick Ammermon

Re: Barley Mill Plaza Building 20

We propose to provide our budget proposal for all labor, materials, equipment and supervision necessary to complete the scope of work listed below for the sum of: **\$150,251.00**

### **Scope of Work:**

- Management and supervision.
- Dust Controls.
- General conditions and disposal fees.
- Remove designated partitions, doors and associated electric devices.
- Install new drywall partitions and doors per new layout.
- Paint new partitions, doors and railings.
- Patch carpet where partitions are removed and install vinyl cove base on new partitions.
- Rework ceilings at new partitions.
- Install two exterior egress doors.
- Install concrete ramp.
- Install concrete steps and handrails.
- Relocate sprinkler head locations to accommodate new layout.
- Install new casework in admin. Area, reception area and nurse's area.

### **Notes/Clarifications:**

1. All work to be performed during normal hours unless otherwise noted.

If you should have any questions please feel free to contact me at our office.

Thank you,

**Robert Nibblett**

Estimator

**MILESTONE CONSTRUCTION, INC.**



## George Chambers

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**From:** dandolcl@comcast.net  
**Sent:** Thursday, January 09, 2014 1:38 PM  
**To:** Sharon O Sampson; christina m muzzi; Robert J Bristow  
**Cc:** George Chambers; George Righos; Nick Manolakos; Carol L Dandolos  
**Subject:** Building 20 Furnishings and Equipment

Dear Sharon, Christina and Bob,

Happy New Year!

I would like to thank you for meeting with me before the Holidays to discuss and consider our school's request to DuPont to donate furnishings and equipment located in Barley Mill Plaza building 20. I am truly delighted and extremely thankful by your most generous gesture to honor our request and allow our school to keep for our use much of the resources that presently exist in that building! This invaluable contribution could not have come at a more crucial moment in our quest to find a permanent home for our school and our students.

Since the beginning in the spring of 2004, we have embarked on the challenging journey to create Odyssey, Delaware's first foreign-language, math-focused elementary charter school. Opening its doors in August of 2006 and with limited resources, Odyssey Charter School, a public (tuition-free), non-profit educational organization, has continually pursued the development of new, innovative, and effective ways to create a nurturing and safe learning environment for children, today and in the future. DuPont's contribution will greatly assist us in our ongoing efforts to pursue our mission, educational initiatives, and strategic growth plans.

Last night, in a combined Odyssey Board and PTO meeting, I announced DuPont's donation to the delight of all those present and we are all sending you our profound thanks on behalf of all the children of Odyssey and our entire school Community!

Sharon, Christina and Bob, I look forward to our next conversation and your next visit to our school—hopefully at Odyssey's new home! In the meantime, if either of you has any questions regarding this project, please do not hesitate to contact me.

Respectfully,

Dimitri Dandolos

Board Member

Odyssey Charter School

**CONFIDENTIAL**

January 30, 2014

Mr. Richard Julian, Jr.  
Vice President  
Eastern States Development Company, Inc.  
702 First State Blvd.  
Wilmington, DE 19804

Re: Request for Proposal – 6580 Lancaster Pike, Hockessin, Delaware (“Mundy Farm”)

Dear Rich:

On behalf of the Odyssey Charter School, Inc. (the “School”), we are currently accepting proposals for the sale and disposition of a parcel of land known as the Mundy Farm, located in Hockessin, Delaware (the “Property”). The School purchased the Property with the intent to develop a school campus thereon, but is now seeking to dispose of this Property.

1. Property: The following is some basic information regarding the Property:
  - Address: 6580 Lancaster Pike, Hockessin, Delaware 19707
  - Tax Parcel Number: 08-020.00-053
  - Acreage: Approximately 16.12 acres
  - Current Zoning: Suburban (S) District
2. Additional Materials and Information: A Plan depicting the Property is attached to this RFP.

Please note that the Coffee Run Mission Cemetery, a separate parcel, is surrounded on three sides by the Property. Development of the Property will likely require some type of buffer between the cemetery and any new improvements to protect the historical and archeological resources contained in and around the cemetery parcel. The attached Plan depicts an approximation of a 150 foot buffer, although formal requirements for such have not yet been determined by the appropriate governing bodies.

Also, the Property is divided by a stream and riparian areas. This area will require a riparian buffer, and the attached Plan depicts an approximation of a 100 foot riparian

buffer, although formal requirements have not yet been determined by the appropriate governing bodies.

Finally, the adjacent properties along the southerly border of the Property are single family detached homes. To the extent that the use of the Property proposed by the prospective purchaser is not consistent with such use, a buffer may be required between the single family homes and the proposed improvements on the Property. The attached Plan depicts an approximation of a 50 foot buffer for development of townhomes along this boundary.

3. Contents of Proposal: Your proposal should be in the form of either a letter of intent or a formal Agreement of Sale and the following information:

- Purchase Price
- Deposit
- Proposed Due Diligence period
- Any proposed contingencies
- Indication of proposed development plans and use of the site
- Settlement Date
- Any other special terms
- Please note: No brokers or realtors are involved with this transaction

4. General Instructions: Proposals must be received by us no later than 4:00 pm EST on Friday, February 21, 2014 by first class mail, overnight courier, hand delivery, or electronic mail. Please submit proposals to:

Odyssey Charter School, Inc.  
c/o Tarabicos Grosso, LLP  
One Corporate Commons  
100 West Commons Boulevard, Suite 415  
New Castle, Delaware 19720  
Attention: Ms. Sophia Tarabicos  
Email: [sophia@tarabicosgrosso.com](mailto:sophia@tarabicosgrosso.com)

**THE CONTENT OF THIS LETTER AND THE ATTACHED PLAN ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE SCHOOL, TARABICOS GROSSO, LLP, AND THEIR RESPECTIVE DIRECTORS, PARTNERS OR EMPLOYEES, MAKE NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF THE CONTENTS OF THIS LETTER, THE ATTACHED PLAN, OR THE SUITABILITY OR APPROVABILITY OF THE PROPERTY FOR ANY PROPOSED DEVELOPMENT.**

Eastern States Development Company, Inc.

January 30, 2014

Page 3

Should you have any questions regarding the submissions required herein, please contact me at [Larry@tarabicosgrosso.com](mailto:Larry@tarabicosgrosso.com) or 302-757-7807.

Very truly yours,

Larry J. Tarabicos



**LEGEND**

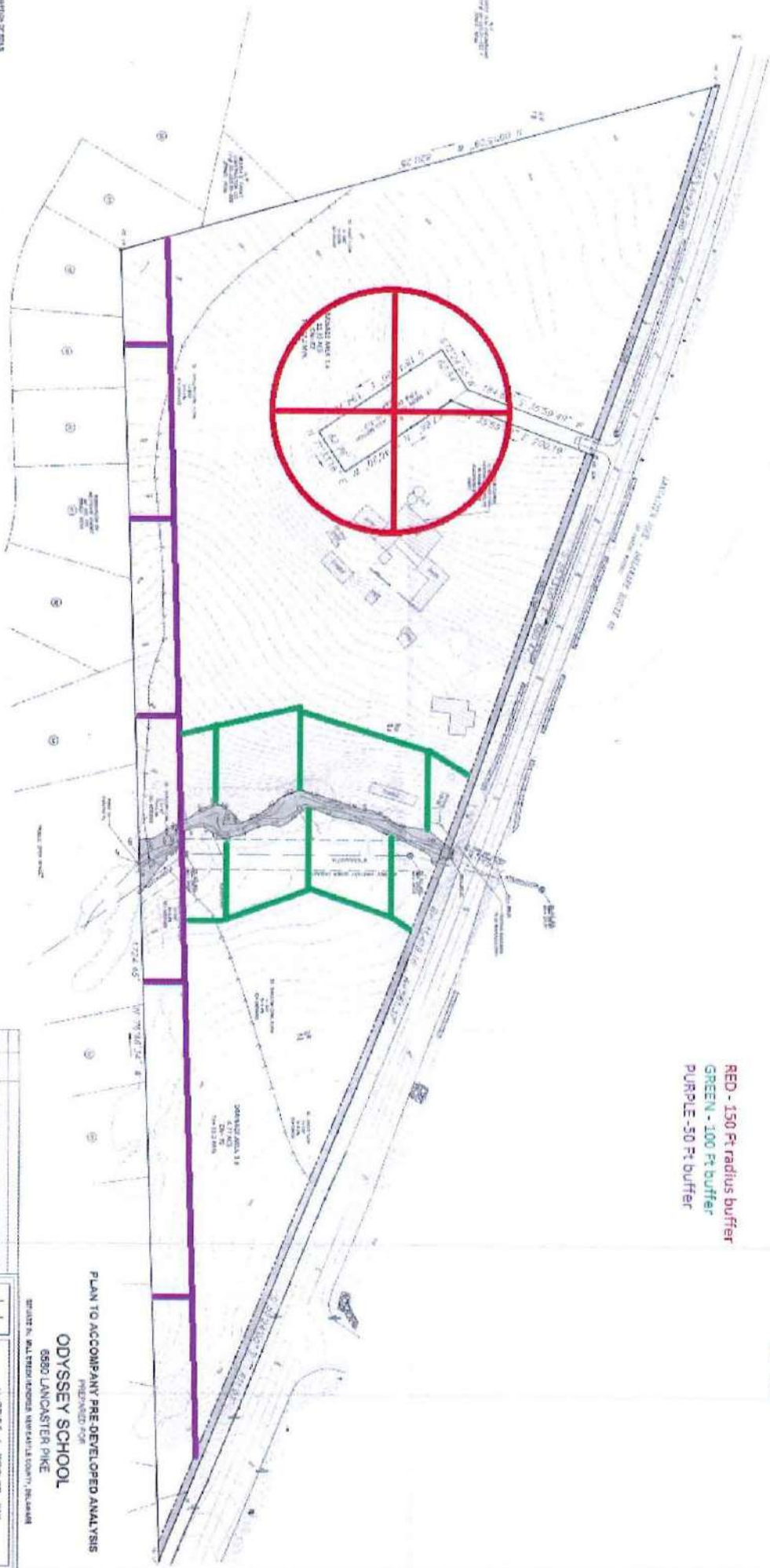
- EXISTING LOT LINES
- EXISTING TIE LINES
- LINE OF SUBDIVISION FROM 1978
- LOCAL ROADWAY LANE
- DEVELOPED DIVISION LANE

RED - 150 Ft radius buffer  
 GREEN - 100 Ft buffer  
 PURPLE - 50 Ft buffer



NO.	DATE	DESCRIPTION
1	10/1/2014	PRELIMINARY
2	10/1/2014	REVISED
3	10/1/2014	REVISED
4	10/1/2014	REVISED
5	10/1/2014	REVISED
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7	10/1/2014	REVISED
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**DISCLAIMER**

NOTHING IN THIS PLAN SHALL BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED FOR ANY OTHER PURPOSE.

DATE: 10/1/2014  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]



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**PLAN TO ACCOMPANY PRE-DEVELOPED ANALYSIS**

**ODYSSEY SCHOOL**

6550 LANCASTER PIKE

BRIDGE N. WALL STREET, NEWCASTLE COUNTY, DELAWARE

W. G. & Z. G. INC.

LAND DEVELOPMENT ENGINEERING

PHONE: (302) 777-8888 FAX: (302) 777-8888

APPROVED BY: [Signature]

DATE: 10/1/2014