

SUBLEASE AND DEVELOPMENT AGREEMENT
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
MONTGOMERY SOCCER, INC.

DATE:

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SUBLEASE AND DEVELOPMENT AGREEMENT

THIS SUBLEASE AND DEVELOPMENT AGREEMENT (the "Sublease"), made this day of 16th April, 2012, by and between **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic (the "County") and **MONTGOMERY SOCCER, INC**, a Maryland non-profit corporation (the "Sublessee"), (the County and the Sublessee together the "Parties").

WITNESSETH:

WHEREAS, the County is committed to helping solve the unmet recreation need for soccer fields in the down county area of Bethesda and Potomac, to be used by boys and girls under the age of 19, and to ensure that this is done in accordance with the vision of the Master Plan, while also addressing community concerns; and

WHEREAS, the Montgomery County Board of Education (the "Board of Education") is the owner of fee simple title in certain property located on Brickyard Road, Potomac, Maryland, consisting of 20.00 acres of land, identified as Parcel 106 on tax map FN33, tax account number 10-01-1614590 (for the purpose of this document, the "Subleased Premises"); and

WHEREAS, the Montgomery County Board of Education and the County entered into a Land Lease Agreement dated April 19, 2011 (the "Prime Lease"), attached hereto as Exhibit B, whereby the County leased the Subleased Premises from the Montgomery County Board of Education for use as ball fields and improvements associated with ball fields, such as a parking lot and other amenities; and

WHEREAS, in January 2012, the County publicly issued a Request For Qualifications and Development Proposals for the development, construction, maintenance and operation of soccer fields on the Subleased Premises and received one qualified response and now wishes to enter into this Sublease and Development Agreement in order to realize the goal of providing soccer fields and other amenities;

NOW THEREFORE, in consideration of the covenants contained in this Sublease, the foregoing recitals which are incorporated herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties mutually agree as follows:

1. SUBLEASED PREMISES: County does hereby grant Sublessee the right to the exclusive use of the twenty (20) acre parcel located on Brickyard Road, Potomac, Maryland, further identified as P106 on tax map FN33 and as outlined in red on **Exhibit A** (the “**Subleased Premises**”), which is attached to this Sublease and incorporated as if fully set forth (which is the same property as described in Exhibit A to the Prime Lease), for the sole purpose of the Sublessee constructing, maintaining and operating soccer fields and associated amenities.

2. SUBLEASE TERM: The term of this Sublease commences on August 16, 2012 (the “**Commencement Date**”) and expires at midnight on April 30, 2021 (the “**Sublease Term**”).

3. EARLY TERMINATION:

A. **FOR THE COUNTY**: This Sublease shall terminate immediately in the event the Prime Lease or this Sublease is determined by the Courts to be void, illegal or otherwise unenforceable, or if a or permanent injunction is issued against the Board of Education or the County. In such event, the County is under no obligation to provide alternative space for the Sublessee or to reimburse any expenses incurred by the Sublessee as a result of the termination of this Sublease.

The Sublessee acknowledges that, based on the sole determination of the Board of Education, if the property is needed for school purposes, the County may reclaim the Subleased Premises for educational use by giving the Sublessee

two (2) years notice in writing, at any time during the Sublease Term.

The Sublessee acknowledges that this Sublease shall terminate in the event that Sublessee fails to construct and have operational the Phase I Improvements shown on the attached Exhibit C, by midnight on April 1, 2016.

B. FOR THE SUBLESSEE: This Sublease may be terminated by the Sublessee at any time up to and including the date on which all permits necessary for construction are issued, but prior to the commencement of work on the Subleased Premises, if the cost estimates for Phase I of the project, excluding optional items, exceed the estimated budget of ONE MILLION FIVE HUNDRED AND ONE THOUSAND SIX HUNDRED AND FIFTY DOLLARS(\$1,501,650). All costs must be the result of an independent cost analysis or a competitive bid.

4. RENEWAL OPTION: The Sublessee acknowledges that there are no renewal options available. This Sublease will terminate on the same date that the Prime Lease expires or is earlier terminated.

In the event that the Board of Education and the County extend or renew the Prime Lease, a new Sublease shall be offered to the Sublessee according to the same terms and conditions as the Prime Lease. If the terms and conditions are acceptable to the Sublessee, a new agreement will be executed. This Sublease renewal is contingent upon Sublessee completing all Phase I Improvements and successfully operating the Improvements as a youth soccer facility. As a condition of the renewing the Sublease, the Sublessee shall provide additional amenities, such as playground equipment, with cost not to exceed TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500). Sublessee shall also provide a one acre grassed recreation area, with no greater than five percent slope, for the public. The area must be accessible and can be used for unstructured play by members of

the community or pre-game warm-up or practice space for MSI teams. Construction of the additional amenities shall be completed within one year of the date of the new Sublease.

5. SUBLEASE FEE: In consideration of services provided by the Sublessee as set forth in this Sublease, and for the rights and obligations provided for in this Sublease, Sublessee shall pay annually to the County, without offset, deduction or demand, a sublease fee of one thousand five hundred dollars (\$1,500). The Sublease fee shall be payable by check to: Montgomery County, Maryland, Office of Real Estate, P. O. Box 62077, Baltimore, Maryland 21264-2077, no later than ten (10) days after the Commencement Date or the annual anniversary of the Commencement Date.

6. DESIGN AND CONSTRUCTION OF THE IMPROVEMENTS:

A. The Parties agree that Sublessee is solely responsible for the design, permitting, and construction of the Improvements, as described in the Proposal and Amendments to the Proposal, which are attached hereto as Exhibit C and incorporated as if fully set forth. The Parties have agreed upon a two phase development, as outlined in a letter dated March ~~19~~²¹, 2012, attached as part of Exhibit C. In Phase I, the Sublessee shall provide a public amenity with broad appeal, such as a playground, with a cost not to exceed FIFTEEN THOUSAND DOLLARS (\$15,000). The public amenity will be enhanced or expanded, or a new amenity added, by Sublessee during Phase II, or at the execution of a new Sublease, at a not to exceed cost of TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500). The Parties agree that the Phase II development will not take place without the additional public amenity. Selection of the public amenity and management of the public amenity will be the subject of future negotiations between the Parties. The Parties agree that Sublessee is solely responsible for selection of all contractors through a fair and competitive bid process. Any agreements to construct the Improvements (“**Construction Agreements**”) shall be between the Sublessee and its contractors and will contain milestones for completion of the work reasonably satisfactory to the County. Contracts with a value of

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FIVE HUNDRED THOUSAND dollars (\$500,000) or more will require 100% Performance and Payment bonds on which the County shall be named as additional obligee.

B. The County has the right to inspect all work and materials before, during and after design and construction.

7. USE OF SUBLEASED PREMISES: Sublessee covenants and agrees that the Subleased Premises shall be used solely as soccer fields and associated amenities. The Subleased Premises will be operated and maintained as a youth soccer facility. Sublessee agrees to ensure compliance with all licensing and operational requirements regulating the use of the Subleased Premises herein described. Sublessee shall be responsible for obtaining all permits required by State, Federal, and Local law for operation of the Improvements. Failure to obtain and maintain any permits required under State, Federal, or Local law to operate the Improvements will constitute a breach of this Sublease. Sublessee will use and occupy the Subleased Premises during the Sublease Term for no purpose other than the use described herein. Sublessee shall, at all times use the Subleased Premises only for, and strictly in conformance with, the Prime Lease.

The Sublessee agrees to restrict the number of tournaments, playoffs, and championship games permitted to be played on the Subleased Premises to no more than five (5) per year. Any games played by MSI teams as part of their normal course of league participation or team activities shall not be considered to fall in the categories above. "MSI teams" refers to all sponsored activities within MSI, including MSI's special needs program (often referred to as TOPSoccer, The Outreach Program for Soccer) and MSI's premier teams (often referred to as MSC, Montgomery Soccer Club).

8. INDEMNITY: The Sublessee hereby indemnifies, and agrees to pay the cost of defense of and hold harmless the County and the Board of Education and the County's and the Board's agents employees and officers (together the "Indemnities") from and against all liabilities, obligations, damages, judgments, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorney's fees, which may be

imposed upon, incurred by, or asserted against any of the Indemnities and arising, directly or indirectly, out of or in connection with (i) the Sublessee's breach of its obligations under this Sublease; (ii) the acts or negligence of the Sublessee, its agents, contractors, and employees in or on the Subleased Premises; or (iii) the use or occupancy of the Subleased Premises, and by the Sublessee, its agents, servants, employees, contractors, and/or invitees. In case any action or proceeding is brought against any of the Indemnities by reason of any of the foregoing, the Sublessee must reimburse the County the cost of defending such action or proceeding, or upon the County's written demand and at the Sublessee's sole cost and expense, the Sublessee must defend such action and proceeding by counsel approved by the County.

9. HOURS OF OPERATION: No soccer game or other organized play activity shall occur on the Subleased Premises prior to 9 AM. Arrival of participants, set up of equipment, team warm-up and other preparatory activities may begin at 8AM. Site irrigation and individual preparatory activities by site supervisory personnel such as inspection and staging of equipment, hanging of nets, etc shall be allowed beginning at 7 AM. All organized play activities on the Subleased Premises will end by 9 PM.

10. ASSIGNMENT: The Sublessee shall not assign, transfer, mortgage or otherwise encumber this Sublease, or sublet the Subleased Premises or any part of the Subleased Premises. The Sublessee shall have the right to license parts of the Subleased Premises to third party vendors and service providers for the provision of goods and services that are customary for the uses allowed in Paragraph 7, above. The Sublessee shall permit the use of the Improvements by other soccer organizations from time to time, as the Improvements are available and not otherwise in use for the Sublessee's programs.

11. CONDITION OF SUBLEASED PREMISES: Sublessee accepts the Subleased Premises in "as is" condition. Sublessee agrees to maintain the Subleased Premises in good condition and free of clutter and trash throughout the Sublease Term. Sublessee acknowledges and agrees that at the end of the Sublease Term, the Subleased Premises shall be returned to the County in the same condition as they were when Sublessee accepted the Subleased Premises, improved by the Improvements.

12. COMPLIANCE WITH LAWS: The Sublessee shall cause the Improvements and all operations connected with the Use to be operated in accordance with all applicable Laws. "Laws" means all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, Subleases, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen and unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Subleased Premises or any part thereof.

13. REPAIRS: The Sublessee shall make all repairs to the Improvements, whether required as a result of damage, destruction, or normal wear and tear, and replace landscaping when necessary. The Sublessee shall keep the Improvements mowed, clear of debris, the paths clear of ice and snow when the Improvements are in use, and maintain all safety lighting, including replacement of bulbs. The County shall have no obligation whatsoever for any maintenance or repairs.

In the event that Sublessee fails to perform its repair and maintenance obligations, the County, after ten (10) days notice to Sublessee, has the right, but not the obligation, to perform such repair and maintenance obligations at the cost of Sublessee, and Sublessee agrees to reimburse County the cost of such repairs or maintenance within fifteen (15) days of receipt of invoice for such services.

14. ALTERATIONS AND ADDITIONAL IMPROVEMENTS: Sublessee shall not be permitted to undertake any alterations or improvements to the Subleased Premises without the written approval of the County and the Board of Education. Sublessee shall submit plans and specifications to the County, which will coordinate with the Board of Education, in the event Sublessee wishes to make alterations or improvements. Any alterations or improvements to the Subleased Premises shall be at Sublessee's sole cost and expense.

15. SERVICES AND OPERATING EXPENSES:

A. Sublessee agrees to maintain and operate the Improvements in a

prudent and economical manner and to keep the Subleased Premises properly mowed and maintained.

- B. Sublessee shall have full and complete authority to manage the Improvements subject to policies determined by Sublessee provided the same do not conflict with any of the provisions of the Prime Lease, this Sublease or any applicable laws.
- C. Sublessee shall be fully responsible at the Sublessee's sole cost and expense, for all operating expenses for the Subleased Premises, including, but not limited to, utility bills, safety lighting, trash removal, pest control, bathroom cleaning, stocking and maintenance, snow and ice removal when required for field operations, mowing and grounds maintenance, striping, paving, insurance, repair and administrative costs attributable to parking areas, preventive maintenance, and day-to-day maintenance.

16. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE:

- A. **LIABILITY:** Sublessee shall indemnify, protect, defend and save Montgomery County and the Board of Education harmless against all liabilities, loss, damages, judgments and expenses, including court costs and attorney's fees incurred or suffered by the County or the Board of Education as a result of the negligence of, or failure of Sublessee, their licensees, contractors, invitees or employees for any claims, lawsuits, actions, injuries and property damage to person or property occurring upon the Subleased Premises, its appurtenances, or arising out of any operations which takes place on the Subleased Premises prior to termination of this Agreement. The provisions of indemnification shall survive the termination of this Agreement.

Sublessee will maintain a policy of general liability insurance at a minimum of \$1,000,000 per occurrence during the period of this Sublease and Construction. The Sublessee's General Liability Policy

must list Montgomery County, Maryland and the Montgomery County Board of Education as additional insured's and all insurance policies obtained by the Sublessee as required by this Agreement must provide written notice per policy provisions to the County and the Board of Education of amendment, cancellation, termination or non-renewal. Sublessee shall also provide evidence of State mandated worker's compensation coverage.

- B. County's Insurance: The County and the Board of Education will maintain their normal fire and liability insurance on the Subleased Premises. The County and the Board of Education reserve the right to self-insure.

- C. Certificate of Insurance: The Sublessee must, within forty-five (45) days from execution of this Sublease Agreement, deliver to the County a certificate(s) of insurance evidencing the coverages required under this Sublease Agreement and, if requested by the County, complete and accurate copies of all insurance policies. The certificates must be issued to: Montgomery County, Maryland, mailed to the Department of General Services, Attn.: Chief, Division of Real Estate, 101 Monroe Street, 9th Floor, Rockville, Maryland 20850.

- D. The Sublessee must provide, on an annual basis, evidence that is satisfactory to the County of the insurance coverages required under this Sublease Agreement, and if requested by County provide copies of the insurance policies.

- E. Subrogation: If a casualty or other occurrence which should be covered by the insurance required by this Sublease Agreement occurs, the Sublessee must look solely to its insurer for reimbursement and the Sublessee must ensure that such insurance is

so written that the Sublessee's insurer waives all rights of subrogation and shall have no cause of action against the County or the Board of Educations, their agents, or employees as a result of such casualty or occurrence. The Sublessee waives and releases all right of recovery which it might otherwise have against Montgomery County, the Board of Education or their licensees, contractors, agents or employees by reason of any loss or damage resulting from such casualty or other occurrence, to the extent that the Sublessee would be covered by insurance if the Sublessee complied with the requirements of this Sublease Agreement pertaining to insurance.

17. RESPONSIBILITIES OF SUBLESSEE: Sublessee covenants and agrees as follows:

A. Sublessee shall not keep gasoline or other flammable material or any explosive within the Subleased Premises which will increase the rate of fire insurance on the Subleased Premises beyond the ordinary risk established for the type of operations described in Paragraph 7, above. Any such increase in the insurance rate due to the above, or due to Sublessee's operations within the Subleased Premises, shall be borne by Sublessee. Sublessee shall not willfully do any act or thing in or about the Subleased Premises which may make void or voidable any insurance on the Subleased Premises, and Sublessee, upon receipt of the same in writing, agrees to conform to all rules and regulations established from time to time by the County, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

B. Sublessee shall not use or allow the Subleased Premises or any part thereof to be used for any illegal, unlawful or improper purpose or for any act or thing that may cause waste or damage to the Subleased Premises, adjacent properties or the adjacent neighborhood.

C. Sublessee shall not place upon the Subleased Premises any placard, sign, or lettering except such, and in such place and manner as shall have been first approved in writing by the County and which complies with applicable laws.

D. Sublessee acknowledges that all responsibilities of Sublessee relating to the use or misuse of the Subleased Premises and anything therein shall be construed to include use or misuse thereof by Sublessee's agents and employees, guests and invitees, and shall include use or misuse which is inconsistent with the provisions of the Prime Lease.

E. Sublessee, upon receipt of the same in writing shall comply with all reasonable rules and regulations with regard to the use of the Subleased Premises that may be from time to time promulgated by the County, and any violation of said rules and regulations upon the expiration of any applicable notice and cure period shall be deemed to constitute a violation of this Sublease. It is understood that such rules and regulations shall not unreasonably interfere with or prevent the intended uses of the Subleased Premises as set forth in this Sublease. The County shall not discriminate against Sublessee in the enforcement of any rule or regulation. If there shall be a conflict between this Sublease and the rules and regulations, the terms of this Sublease shall govern.

F. The Sublessee is responsible for on site management of the Subleased Premises.

G. The Sublessee must not permit any trade or occupation to be carried on or use made of the Subleased Premises outside the scope of this Sublease or the Prime Lease.

H. The Sublessee will not knowingly employ an individual to work or volunteer to participate in activities on the Subleased Premises if he or she is a registered sex offender, or if her or she has pleaded (1) guilty, (2) "no contest," or (3) nolo contendere to a crime involving sexual misconduct (whether or not resulting in a conviction). The Sublessee hereby agrees that the above requirements are not unreasonable.

18. DESTRUCTION OF SUBLEASED PREMISES: In the event of damage to or destruction of the Subleased Premises or any part of the Subleased Premises by fire, storm, flood or other casualty which does not require the Sublessee to suspend entirely the operation of the Improvements, the Sublessee shall, as soon as practicable after said damage or destruction, repair and restore the Subleased Premises to the condition they were in immediately prior to said damage or destruction. Should such damage or destruction of said Subleased Premises or any substantial part of the Subleased Premises render the Subleased Premises wholly unavailable for use by the Sublessee for its intended use, the County shall terminate this Sublease within thirty (30) days following the date of the destruction of the Subleased Premises as described above by sending a termination notice to the Sublessee.

19. DEFAULT: Sublessee shall be considered in default of this Sublease and County may terminate this Sublease upon the occurrence of any of the following:

A. Failure to perform under any term, covenant or condition of this Sublease;

B. The commencement of any action or proceeding for the dissolution or liquidation of Sublessee, or for the appointment of a receiver or trustee of Sublessee's property;

C. The making of any assignment for the benefit of Sublessee's creditors;

D. The abandonment of the Subleased Premises by Sublessee for more than sixty (60) days;

E. Use of the Subleased Premises by the Sublessee or with the consent of Sublessee, for uses other than those permitted under paragraph 7 and the Prime Lease; and

F. The use of the Subleased Premises by Sublessee or by Sublessee's agents, employee, contractors, or guests, for any unlawful purpose.

20. ACCESS: Sublessee shall allow County and County's employees or agents, including the Board of Education, to have unlimited access to the Subleased Premises at all times for the purpose of inspection, or in the event of fire or other property damage, or for the purpose of performing any work required to be performed by the County, or which the County considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Subleased Premises. The County shall have the right but not the obligation to access the Subleased Premises for performance of such work as described in this paragraph. Further, the County shall have the right to recover its costs by invoicing the Sublessee the costs of performing such work.

21. SURRENDER OF POSSESSION: Sublessee covenants and agrees that, at Sublessee's sole cost and expense, at the expiration or other termination of this Sublease, to remove all goods and effects from the Subleased Premises not the property of County, to remove all non-standard alterations; except as County has agreed with Sublessee to leave on the Subleased Premises; and to yield up to County the Subleased Premises and all keys, gate cards, security cards, locks and other fixtures connected therewith (except property belonging to Sublessee), in good repair, order and condition in all respects, reasonable wear and use thereof and damage by fire or other casualty and damage from any risk with respect to which Sublessee is not herein expressly made liable excepted (which exception does not apply to any casualty damage as to which Sublessee is required to maintain insurance coverage under the provisions of this Sublease.) Any of Sublessee's equipment, non-standard alterations, goods, personal property and effects not so removed may, at the

County's election and without limiting the County's right to compel removal thereof, be deemed abandoned and may be retained by the County as its property or be disposed of at Sublessee's sole cost and expense, without accountability, in such manner as the County may see fit.

22. NOTICE OF ACCIDENTS, DEFECTS OR DAMAGES: Sublessee shall give to the County prompt verbal notice of accidents in or damages to the Subleased Premises within twenty-four (24) hours of the occurrence or receipt of the notice, as the case may be, and the Sublessee shall follow-up with a detailed written report of such accidents, damages or notice within five (5) business days.

23. COMPLIANCE WITH LAWS: It is understood, agreed and covenanted by and between the Parties that Sublessee, at Sublessee's expense, shall promptly comply with, observe and perform all of the requirements of all of the statutes, ordinances, rules, orders and regulations now in effect or hereinafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County Government, or any municipality in which the Subleased Premises are located, including without limitations the Montgomery County Department of Environmental Protection and Montgomery County Fire Marshal's Office (the "Applicable Laws").

24. WAIVER: The waiver of at any time by either of the Parties of any particular covenant, condition, obligation, or duty under this Sublease shall extend to the particular case only, and for the particular time and in the particular manner specified, and such waiver must not be construed or understood as waiving any further or other rights of either Party.

25. NON-DISCRIMINATION: The Sublessee agrees to comply with the non-discrimination in policies in County contracts as required by Section IIB-33 and Chapter 27 of the Montgomery County Code (2004), as amended, as well as all other federal, state and local laws and regulations regarding discrimination. By signing this Sublease Agreement, the Sublessee assures the County that in accordance with Applicable Laws, it does not, and agrees that it will not engage in any discrimination in violation of the above

sections of the Montgomery County Code as well as any other federal, state or local laws, rules and regulations.

26. PUBLIC EMPLOYMENT: The Sublessee understands and agrees that unless authorized under Sections 11B-52 and Chapter 19A of the Montgomery County Code 2004, as amended, that it is unlawful for any person or entity transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

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

Sublessee:

Montgomery Soccer, Inc.
7650 Standish Place, Suite 108
Rockville, MD 20855
Attn: Executive Director

County:

Montgomery County, Maryland
Department of General Services
101 Monroe Street, 9th Floor
Rockville, Maryland 20850
Attn: Chief, Division of Real Estate

With a copy, that does not Notice, to:

Montgomery County, Maryland
Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

28. PROHIBITION OF HAZARDOUS SUBSTANCES: The Sublessee agrees not to store or bring hazardous substances onto the Subleased Premises. The Sublessee agrees to remain in compliance with all applicable Laws and Regulations with regard to any hazardous substance. The Sublessee indemnifies the County against any and all claims of

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

29. NON-APPROPRIATION: Any obligation or liability of the County arising in any way from this Agreement is subject to, limited by, and contingent upon the appropriation and availability of funds, as well as the damage caps and notice requirements stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. §§ 5-301, et seq. (2006 Repl. Vol.) (the “LGTCA”); Md. Code Ann. Art. 25A, § 1A (2011 Repl. Vol.); and Md. Code Ann., Cts. & Jud. Proc. § 5-509 (2006 Repl. Vol.), (together the “County Indemnification Statutes”), all as amended from time to time, and that any indemnification given by the County in this Agreement is not intended to create any rights or causes of action in any third parties or to increase the County’s liability above the caps provided in the County Indemnification Statutes, as applicable.

30. AMERICANS WITH DISABILITIES ACT REQUIREMENTS: Sublessee agrees that the Improvements and any future modifications made to the Subleased Premises by Sublessee shall be made in conformance with the requirements of the Americans with Disabilities Act, the Federal Fair Housing Act, and all safety and accessibility requirements in Federal, State, and County Laws and regulations. Sublessee must obtain all required permits prior to constructing the Improvements or making any modifications to the Subleased Premises and must comply with all applicable Building and Safety Codes.

31. EMINENT DOMAIN: The Sublessee is not entitled to any condemnation award granted to the County for County’s property rights by virtue of the Prime Lease in the Subleased Premises. In the event that the Subleased Premises shall be taken by any governmental or quasi-governmental authority pursuant to its power of eminent domain or sold under threat of such taking, the Sublessee will not be entitled to recover from the County any capital expenditures for improvements and betterments made by the Sublessee to the Subleased Premises at the Sublessee's expense.

32. FORCE MAJEURE: Neither Party will be deemed in default with respect to the performance of any terms, covenants, and conditions of this Sublease if the same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or upsurged power, sabotage, inability to obtain any material or service, through natural or other cause beyond the control of either party; provided, however, that this provision shall not excuse any non-payment of Sublease Fees. For purposes of this provision, lack of funds shall not be considered a cause beyond the control of a Party except to the extent that the same is expressly made conditioned upon the appropriation of future funds.

33. ENTIRE AGREEMENT: This Sublease (which contains and includes the Exhibits) is the entire agreement between the Parties, and no representations, inducements, or agreement, oral or otherwise, between the Parties not contained in this Sublease shall be of any force or effect.

34. MODIFICATION: This Sublease (other than the Rules and Regulations, which may be changed from time to time) must not be modified in any manner except by an instrument in writing executed by both Parties with the same formality as this Sublease.

35. GOVERNING LAW: This Sublease and its performance is to be governed, interpreted, construed and regulated by the laws of Montgomery County and the State of Maryland. Both Parties agree and acknowledge that the Montgomery County Circuit Court shall have exclusive jurisdiction and venue as to any claims or suits filed with respect to the matters addressed in this Sublease.

36. CLAIMS: Any action brought by or on behalf of either Party in connection with the performance of this Sublease must be filed and maintained in a court of competent jurisdiction in Montgomery County, Maryland.

37. WAIVER OF JURY TRIAL: **BOTH PARTIES AGREE, AND HEREBY DO, WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY CLAIMS OR SUITS RELATING TO THIS SUBLEASE.**

38. SUBLESSEE'S CERTIFICATION OF AVAILABLE FUNDS: Sublessee, by its execution of this Sublease, hereby certifies and represents to the County that Sublessee has funds available for construction of the Improvements in Phase I in accord with the specifications, as modified and set forth in Exhibit C to this Sublease.

39. THE COUNTY'S TITLE AND COVENANT OF QUIET ENJOYMENT: The County covenants that it has, to the best of its knowledge, full right and power to execute and perform this Sublease, and that it shall put Sublessee into complete and exclusive possession of the Subleased Premises, as set forth herein. The County covenants and agrees that, if Sublessee pays all Sublease Fees, and performs all of its obligations under this Sublease, the Sublessee shall, at all times during the Sublease Term have the peaceable and quiet enjoyment and possession of the Subleased Premises for the purposes stated in this Sublease.

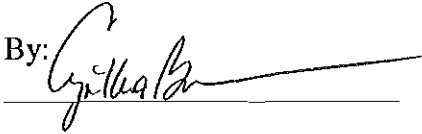
40. MANDATORY REFERRAL: The Sublessee acknowledges that the County will submit this project to the Planning Board for review under the Mandatory Referral statute. The County reserves the right to alter or terminate this Sublease based on recommendations received from the Planning Board through the Mandatory Referral process. The Sublessee shall have the right to terminate this agreement in response to any requirements imposed by the County as a result of the Mandatory Referral process.

TLF
LEP

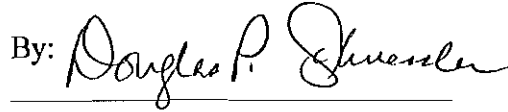
SIGNATURE PAGE FOLLOWS

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WITNESS:

By: 

SUBLESSEE:
MONTGOMERY SOCCER, INC.

By: 

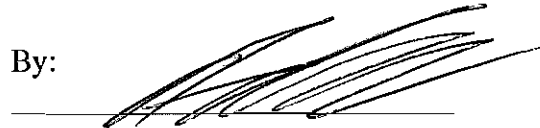
Title: President, Executive Director

Date: 3/21/2012

WITNESS:

By: 

SUBLESSEE:
MONTGOMERY SOCCER, INC.

By: 

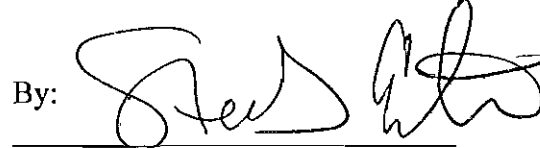
Title: CHAIR, BOARD OF DIRECTORS

Date: 3/21/2012

WITNESS:

By: 

SUBLESSEE:
MONTGOMERY SOCCER, INC.

By: 

Title: FIRST VICE CHAIR

Date: MARCH 21, 2012

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

WITNESS:


COUNTY:
MONTGOMERY COUNTY,
MARYLAND

By: Rebecca S. Domaruk

By: 
Ramona Bell Pearson, Assistant ~~Timothy L. Firestine~~
Chief Administrative Officer

Date: 4/16/2012

RECOMMENDED

By: 
David E. Disc, Director
Department of General Services

Date: 4/10/2012

APPROVED AS TO FORM &
LEGALITY
OFFICE OF THE COUNTY
ATTORNEY

By: Marc Hansen
Marc Hansen, County Attorney

Date: 4/16/12

EXHIBIT "A"

**BRICKYARD MIDDLE SCHOOL SITE
BRICKYARD ROAD, POTOMAC, MARYLAND**

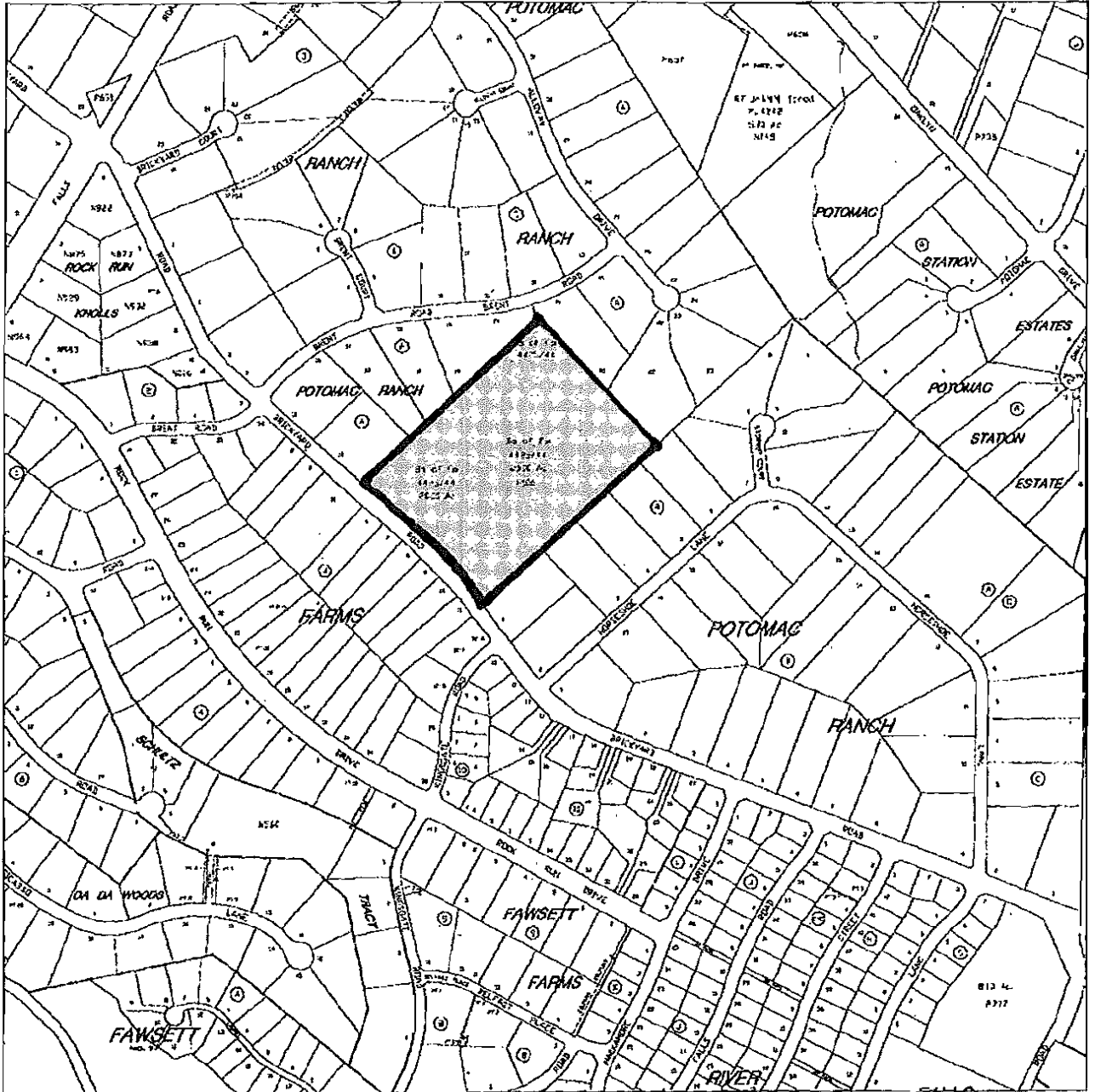


EXHIBIT A