

**A RESOLUTION REGARDING THE LEASE OF THE
NORTH BEACH COMMUNITY CENTER**

RESOLUTION

WHEREAS, *Article 25*, Section 9B(e)(1) of the Annotated Code of Maryland authorizes the Board of County Commissioners of Calvert County, Maryland to convey any interest in real property to any other political subdivision or public instrumentality if the property will be used for a public purpose, subject to appraisal, notice and public hearing requirements; and

WHEREAS, the Board of County Commissioners has determined that the property known as the North Beach Community Center, located at 4025 4th Street, North Beach, Maryland (hereinafter, the "Property") may be used by the Town of North Beach as a public museum; and

WHEREAS, by the authority of the Board of County Commissioners of Calvert County, notice of a public hearing was published in *The Recorder*, a newspaper of general circulation in Calvert County, on March 16, 2012 and March 23, 2012 in accordance with the statutory provisions of Section 9B(e)(3)(ii) of *Article 25* of the Annotated Code of Maryland; and

WHEREAS, the Board of County Commissioners for Calvert County held a public hearing, as advertised and in accordance with applicable statutory provisions on April 3, 2012; and

WHEREAS, upon consideration of all testimony, the Board of County Commissioners has determined that the Property shall be leased to the Town of North Beach for use as a public museum.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Calvert County, Maryland that Gerald W. Clark, Commissioner President, is hereby authorized to execute such documents necessary to Lease the Property to the Town of North Beach upon such terms and conditions as set forth in Exhibit A hereto, hereby incorporated by reference; and

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Resolution or Lease is found to be unconstitutional, illegal, null or void, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of this Resolution and Lease shall be enforceable and valid; and

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert County, Maryland that the foregoing recitals are adopted as if fully rewritten herein; and

BE IT FURTHER RESOLVED by the Board of County Commissioners of Calvert

County, Maryland that this Resolution shall be effective upon recordation.

DONE, this 17 day of April, 2012 by the Board of County Commissioners of Calvert County, Maryland, sitting in regular session.

Aye: 5
Nay: 0
Absent/Abstain: 0

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND

Corinne J. Cook, Clerk

Gerald W. Clark, President

Approved for form and legal sufficiency on April 17, 2012 by:

Steven R. Weems, Vice-President

Pat Nutter

John B. Norris, III, County Attorney

Susan Shaw

Evan K. Slaughenhoupt Jr.

Received for Record Apr 18 2012 at 1:45 o'clock P.M. Same day recorded in Liber KPS No. 39 Folio 436 COUNTY COMMISSIONERS ORDINANCES AND RESOLUTION.

Gentry P. Smith

LEASE AGREEMENT

THIS LEASE AGREEMENT entered into this ____ day of _____, 2012, by and between the County Commissioners of Calvert County, Maryland, a body corporate and politic, (hereinafter referred to as the "Lessor"), and the Town of North Beach, a body corporate and politic, (hereinafter referred to as the "Lessee"):

WITNESSETH: That in consideration of the rental payment below specified and of the covenants hereinafter stipulated, the Lessor agrees to Lease to Lessee the land and improvements situated at 4025 4th Street, North Beach Maryland 20714, and described as lots 4 through 7 of block 15 in the Town of North Beach (hereinafter referred to as the "Premises"). Being the same property that was conveyed to the Board of County Commissioners of Calvert County, Maryland by deed recorded among the Land Records of Calvert County, Maryland at Liber JLB 00210, folio 00006 and shown on attached plat which is incorporated herein by reference.

- SECTION 1.** To have and to hold the demised Premises unto the Lessee for the term of thirty (30) years, commencing the 1st day of June, 2012, and ending the 31st day of May, 2042. Notwithstanding the foregoing, Lessee may cancel this Lease at any time upon twelve (12) months' notice to the Lessor. The rent for the term of this Lease is \$1.00 (one dollar) payable annually on the 1st day of July. This Lease may be renewed by written agreement of both parties hereto.
- SECTION 2.** The use of the Premises shall be for the provision of a Public Museum and for no other purpose except with the written consent of the Lessor.
- SECTION 3.** The Lessee may not assign this Lease or sublet any part of said Premises without the written consent of the Lessor. This section shall not bar the Lessee from allowing short-term use of this facility by outside individuals or groups for such activities that are commonly permitted in other museum facilities in Calvert County.
- SECTION 4.** The Lessee hereby agrees to provide funding for repair and maintenance of the improvements upon the Premises and pay all utility costs and fees associated with the use and operation of the facility. The Lessee agrees to maintain the land and improvements, including, without limitation, all improvements erected during the term of this Lease, in good repair at all times. However, alterations, additions or structural improvements made to the Premises must have the prior written consent of the Lessor. Said alterations, additions or structural improvements shall remain a part of the Premises at the conclusion of the term of this Lease.
- SECTION 5. Insurance.**
- A. The Lessee agrees to carry adequate public liability insurance in the amount of One Million Dollars (\$1,000,000.00) with an insurance company licensed to do business in the State of Maryland, and, further, maintaining sufficient protection against any injuries or damages sustained by individuals while upon the demised Premises for which the Lessor or Lessee may become liable. The Lessee shall provide the Lessor with a Certificate of Insurance naming the Lessor as an additional insured.

B. During the term of this Lease and any renewal thereof, the Lessee agrees to indemnify and hold harmless the Lessor, its officers, agents, employees, contractors and subcontractors from any liability for any damage, loss, injury, death, or expense (including reasonable attorney's fees) to any person or thing caused by or arising from any act or omission by the Lessee, its officers, employees, agents, principals, subcontractors and guests related directly or indirectly to the use of the Premises. The Lessor agrees to carry adequate fire and casualty insurance covering Lessor's building and equipment.

- SECTION 6.** The said Lessee hereby covenants and agrees that if a default shall be made in the payment of rent or if the Lessee shall violate any of the covenants of this Lease then Lessor will give Lessee thirty (30) days' notice of said default during which time Lessee must cure the default. If Lessee does not cure, then Lessee shall become a tenant at sufferance, and the Lessor shall be entitled to re-enter and re-take possession of the demised premises after notice of at least thirty (30) days.
- SECTION 7.** The Lessee agrees to quit and deliver up said Premises at the end of said term in as good a condition as they are now, ordinary wear and tear excepted.
- SECTION 8.** The said Lessee hereby agrees to provide an acceptable alternative location for the Lessor's Parks and Recreation programs currently held on this property and agrees to provide archival storage as it currently exists for the Chesapeake Beach Railway Museum at the facility. Failure to meet these requirements is considered due cause for immediate termination if after thirty (30) days' notice Lessee has not complied with this section. Lessor, at that time, shall take whatever action is deemed appropriate.
- SECTION 9.** As long as the Lessee performs all of the covenants and conditions of this Lease and abides by the rules and regulations it shall have peaceful and quiet enjoyment of the demised premises for the term of this Lease.
- SECTION 10.** By entering into this contract, the Lessor and its "employees," as defined in the Local Government Tort Claims Act, §§5-30 1 *et seq.* of the *Courts and Judicial Proceedings Article*, do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability as may be provided for by law. No provision of this Lease modifies and/or waives any provision of the Local Government Tort Claims Act.
- SECTION 11.** It is specifically agreed between the parties executing this Lease that it is not intended by any of the provisions of this Lease to create in the public or any member thereof, third party beneficiary status in connection with the performance of the obligations herein without the written consent of the Lessor.
- SECTION 12.** No elected official, appointed official, employee, servant, agent or law enforcement officer shall be held personally liable under this Agreement and any extension or renewals thereof because -of its enforcement or attempted enforcement provided they are acting within the course and scope of their employment or

governmental duties and responsibilities.

SECTION 13. The Lessor's financial obligations, if any, under this Lease are contingent upon sufficient appropriations and authorization being made by the Lessor for the performance of this Lease. The Lessor's decision as to whether sufficient appropriations are available shall be accepted by the other party or parties to this Lease and shall be final.

SECTION 14. Miscellaneous Provisions.

- A. This Lease Agreement contains the entire understanding between the parties hereto with respect to the Premises and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between and among the parties hereto with respect to the property other than as set forth herein. No change or modification of the Lease Agreement shall be valid unless the same is in writing and signed by all parties hereto. No purported or alleged waiver of any of the provisions of this Lease Agreement shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced.
- B. Either party to this Lease may terminate the Lease Agreement without cause by giving written notice to the other party not less than twelve (12) months prior to the date of early termination. In the event of a conflict between this clause and any other clause of this Lease Agreement, this clause shall control. All notices, demands and requests to be given hereunder by either party shall be in writing and must be sent by registered mail, postage prepaid, or by a nationally recognized courier that tracks delivery (e.g. FedEx or UPS) and shall be deemed properly delivered (upon proof of delivery or refusal of receipt) if tendered at the following addresses as set forth below of the party intended to be notified or at such other address as either party shall designate by written notice to the other: if to the Lessor: County Commissioners of Calvert County, 175 Main Street, Prince Frederick, Maryland 20678; if to Lessee: Town of North Beach, P. O. Box 99, North Beach, Maryland 20714.
- C. This Lease shall be deemed a valid contract and governed by the laws of the State of Maryland without giving effect to its choice of law provisions.
- D. Lessee shall not place this Lease Agreement on record without Lessor's consent. At Lessor's request, Lessee will execute a Memorandum of Lease for recording purposes containing references to the provisions of this Lease that Lessor deems necessary.
- E. This Lease Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- F. Time is expressly declared to be the essence of this Lease Agreement. All of the covenants, agreements and conditions of this Lease Agreement shall accrue to the benefit of and be binding upon the respective parties hereto and their successors and assigns as if they were in every case named and express.

G. The Lessor and the Lessee hereby agree that both parties were equally influential in preparing and negotiating this Lease Agreement, and each had the opportunity to seek the advice of legal counsel prior to the execution of this Lease Agreement. Therefore, the Lessor and the Lessee agree that no presumption should arise construing this Lease Agreement more unfavorably against any one party.

IN WITNESS WHEREOF, the Lessor and Lessee have executed this Lease the day and year first above written.

ATTEST:

LESSOR:

Corinne J. Cook, Clerk

By: _____
Gerald W. Clark, President
Board of County Commissioners of Calvert
County, Maryland

ATTEST:

LESSEE:

By: _____
Mark Frazer, Mayor
Town of North Beach

Res. No. 19-12