

## LEASE

THIS LEASE is made by and between the Glebe Harbor-Cabin Point Property Owners Association ("Lessor" or sometimes "Glebe Harbor-Cabin Point" or "GHCP") and the Board of Supervisors of the County of Westmoreland, Virginia ("Lessee" or sometimes, "Westmoreland County" or "the County"), as administrator of the Glebe Harbor-Cabin Point Sanitary District ("the District").

Lessor and Lessee sometimes will be referred to collectively as "the Parties."

The lease is effective on May 1, 2017, regardless of the date it is actually signed by the Parties.

## REASONS FOR THIS LEASE

- By order entered May 4, 2016 the Westmoreland County Circuit Court established a sanitary district known as the "Glebe Harbor-Cabin Point Sanitary District." A copy of the Court's order is attached as "Exhibit A."
- In accordance with the Court's May 4, 2016 order, Westmoreland County was granted specific powers and responsibilities pursuant to Virginia Code Section 21-118, *et seq.*
- In accordance with Virginia Code Section 21-118.4, Westmoreland County has decided to exercise the following specific powers that are or may be relevant to this lease:
  - To construct, reconstruct, maintain, alter, improve, add to and operate dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by Westmoreland County.

- To acquire, construct, maintain and operate, or to contract for such acquisition, construction, maintenance and operation, within such sanitary district, such community buildings, community centers, other recreational facilities and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by Westmoreland County.
- To acquire by gift, condemnation, purchase, lease or otherwise, and to maintain and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district.
- Glebe Harbor-Cabin Point is the fee owner of certain real estate, community buildings, a community center, other recreational facilities, and parking lots that Westmoreland County desires to lease in order to operate the Sanitary District pursuant to Virginia Code Section 21-118.4. For clarity and brevity, this real estate, and all improvements and other facilities located on them will sometimes be referred to in this Agreement as "the Property."
- Glebe Harbor-Cabin Point desires to lease the Property properly described above to Westmoreland County for purposes enumerated in the Court's order and the subsequent enabling resolution for the sole benefit of property owners within the Sanitary District.

#### MUTUAL PROMISES & LEASEHOLD GRANT

NOW, THEREFORE, in exchange for good and valuable consideration, including the promises and undertakings contained in this Lease, the Parties agree as follows:

1. *Leasing Agreement.* Glebe Harbor – Cabin Point hereby leases to Westmoreland County those common areas and recreational facilities it owns within the Glebe Harbor-Cabin Point Sanitary

District as shown of record, less and except certain reserved property described below. For clarity and brevity, leased areas will be referred to as "the Property."

2. *Property Improvements.* The Property includes the following improvements that are hereby leased to Westmoreland County:

- a. Clubhouse complex, including rotunda, lounge, game room, and kitchen together with items b) through g) that are located at or near the clubhouse complex;
- b. Swimming pool and wading pool and related men's and women's bathhouses, pump house, storage facility, and outbuildings;
- c. Picnic pavilion;
- d. Tennis courts;
- e. Basketball court;
- f. Playground and equipment;
- g. Parking lot located at the clubhouse;
- h. Boat ramps at Osprey Drive in Glebe Harbor and Boat Ramp Road in Cabin Point and the related parking areas;
- i. Cabin Point boat ramp bathhouse;
- j. Beaver Pond Nature Trail, adjacent to Beaver Pond Beach;
- k. Beaches, specifically Glebe Harbor Beach at North Glebe Drive, Cabin Point Beach at the end of Royal Way, Crystal Lane Beach in Cabin Point, and Beaver Pond Beach in Cabin Point.

3. *Assignment of Easement.* For the term of this lease, Glebe Harbor – Cabin Point hereby assigns all right title, interest and responsibility it may have in a certain deed of easement from David T. McElhaney and Sandra J. McElhaney, husband and wife, and Lawrence E. McHugh and dated September 3, 2003, a copy of which is attached to this lease as "Exhibit B" and will obtain a similar document specifically naming the Westmoreland County Board of Supervisors as an additional grantee of rights under this easement.
4. *Term.* The lease shall be for a period of ninety-nine years commencing on May 1, 2017 and expiring on April 30, 2116 or for so long as the District continues, whichever date is first. The lease shall automatically renew for an additional period of ninety-nine years under the same terms elsewhere described in this lease, unless Lessor gives notice that the lease will not be renewed. Any such notice shall be in writing and delivered not less than one year prior to expiration of the initial term.
5. *Rent.* The County shall pay rent for the entire Lease term in the amount of One Dollar (\$1.00), to be paid concurrently with the execution of this Lease.
6. *No County Claim to Fees from Reserved Use.* The GHCP shall retain as its sole property any fees, rentals or cost reimbursements or other payments which may be derived from social events and activities sponsored by the GHCP for property owners; private exclusive use events at the Clubhouse or the Picnic Pavilion by property owners; storage of boats, trailers, and RV's by property owners; and such other special event or private exclusive use fees as may be established from time to time by the GHCP.
7. *Use & Improvements.* Westmoreland County shall use the property only for Sanitary District purposes authorized by the Court's Order of May 4, 2016. The County may make improvements to the property following written consent of Glebe Harbor – Cabin Point but in no event shall Glebe Harbor – Cabin Point be responsible for reimbursing the cost of such improvements or other sums expended by Westmoreland

County. The Parties agree that the waiver of all but nominal rent constitutes sufficient consideration and that, as a result, Glebe Harbor – Cabin Point will not be unjustly enriched by a return of the property in improved condition at the conclusion of the lease. Neither GHCP nor property owners shall be obligated to repay the value of any improvements to the lease term.

The intent of the Parties is that the Property shall be for the sole benefit and use of the property owners within the Glebe Harbor-Cabin Point subdivisions who have paid Sanitary District assessments with the following exceptions:

- a. Boat ramps or other recreational facilities may be made available by GHCP with or without fee to non-owners in the event of a weather emergency;
- b. The Virginia Department of Game and Inland Fisheries; the Sheriff's Department of Westmoreland County, VA; and all other emergency personnel, law or regulatory enforcement personnel for the execution of their lawful purposes shall have access to all portions of the Property.

Otherwise, there shall be no use of the Property except by property owners who are current with payment of recreational user fees to the Sanitary District.

8. *Maintenance.* During the lease term, Westmoreland County shall be solely responsible for maintenance of the property and for installation of projects necessary to protect the property within its discretion in the discharge of its responsibilities under the Court's May 4, 2016 Order. In no event shall Glebe Harbor-Cabin Point be responsible for reimbursement or repayment of any such maintenance or protective expenses.

9. *Reserved Property.* The following common areas owned by GHCP are reserved to Lessor and are not rented under this Lease:

- a. Boat, trailer, and RV storage areas at the clubhouse complex on Glebe Harbor Drive;
- b. Boat, trailer, and RV storage areas at North Glebe Road adjacent to the Glebe Harbor Beach;
- c. Boat, trailer, and RV storage areas at the Cabin Point Boat Ramp.

All such areas will remain within the exclusive control of GHCP.

10. *Reserved Use.* Notwithstanding other Lease terms, GHCP also shall be entitled to use the following property under such terms as the County may reasonably designate, but in no event shall GHCP be required to pay rental charges, use fees or any other financial charge for such usage.

- a. Lessor retains the unlimited right to schedule and conduct social events and activities for residents of the Glebe Harbor and Cabin Point subdivisions on any portion of the Property. These events, may have a limited enrollment, and may be conducted with or without a fee. Revenues derived from such fees shall be retained by Lessor without limitation. GHCP may continue to maintain a valid Commonwealth of Virginia ABC license and may carry out ABC manager responsibilities related to at the clubhouse and clubhouse complex provided that these events do not conflict with reasonable use of the Property by other property owners of the District.
- b. Lessor shall have the right to operate a concession area at the property's swimming pool for non-alcoholic beverages and snacks. Revenue from such sales shall be the exclusive property of GHCP.
- c. Lessor retains the right to rent areas of the clubhouse area, and the picnic pavilion to property owners for private, exclusive use events provided

that the clubhouse or picnic pavilion have not previously been scheduled for regularly scheduled events or Lessor sponsored social events. Revenues derived from such leases shall be retained by Lessor without limitation.

- d. Lessor retains the right to rent boat, trailer, and RV storage spaces to property owners on a first come, first served basis. Revenues derived from such leases shall be retained by Lessor without limitation. Spaces not rented may be used for overflow parking for use of adjacent properties.
- e. Any revenues derived from the above activities shall be the exclusive property of Lessor.
- f. The County shall have no liability for any of Glebe Harbor-Cabin Point's activities or use reserved under this Section. GHCP shall indemnify and hold harmless Westmoreland County for any liabilities arising from such activities or uses and shall maintain a policy of liability insurance covering such activities and uses with minimum limits of One Million Dollars (\$1,000,000), naming Westmoreland County as an additional insured.

11. *Insurance.* At all times during the term of this lease, Westmoreland County shall maintain in effect a policy or policies of fire and casualty insurance with coverage limits equal to the replacement value of improvements to the property, whether now existing or added in the future. The County may delegate the responsibility of procuring such insurance to GHCP but GHCP shall be fully reimbursed for the cost of such coverage. Glebe Harbor-Cabin Point shall be listed as a named insured under all such policies. Such policy or policies shall insure against all commercially insurable risks including but not limited to fire, wind and flood damage, and risk of collapse or explosion.

GHCP has made monthly payments against insurance premiums for the current premium year. The cost of those monthly payments against premiums shall be reimbursed to GHCP by the County as soon as practicable.

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#### MISCELLANEOUS PROVISIONS

Captions and headings used in this Agreement are for convenience only and have no legal significance.

This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of law provisions

Provided that the surviving Agreement remains fair and equitable, if any portion of this Agreement is held to be invalid or unenforceable for any reason, the Agreement shall remain in full force and effect, disregarding any such unenforceable or invalid provision.

The Parties agree that the sole venue for enforcing this Lease Agreement shall be the Circuit Court for Westmoreland County, Virginia.

This Agreement may be amended from time to time but all amendments shall be in writing signed by the Parties. Any such amendment shall contain a specific reference to this Agreement and shall state how the Agreement has been modified. If it does not, it shall not be enforceable. The Agreement may not be modified orally or by other types of writing or by course of dealing

This Agreement sets forth the entire Agreement by the Parties relative to the lease of the Property. It supersedes any prior Agreements or understandings among the Parties. Each Party acknowledges and agrees that they have not relied on any representations, promises, or Agreements of any kind made to them in connection with their individual decisions to accept this Agreement, except those set forth in this Agreement.

Each Party acknowledges that each had the opportunity to be represented by counsel throughout the negotiation and execution of this Agreement and that this Agreement is the product of mutual input. It is agreed that no rule of construction shall apply against any Party or in favor of any Party. No uncertainty or ambiguity shall be interpreted against any one Party and in favor of the other.

This Agreement is executed in two counterparts, each of which is an original. In the event of litigation or alternative dispute resolution, an

authenticated copy of this executed agreement shall be admitted to evidence without further proof except as to the authenticity of the copy.

WITNESS OUR SIGNATURES AND SEALS EFFECTIVE MAY 1, 2017.

Signatures appear on separate pages.

This lease consists of 12 pages, including signatures.

SIGNATURE PAGE FOR WESTMORELAND COUNTY

WITNESS the signature and seal of Westmoreland County, Virginia, acting through the Chairman of its Board of Supervisors, on this 12<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2017.

WESTMORELAND COUNTY,  
VIRGINIA BOARD OF SUPERVISORS

By: Darryl E. Fisher  
Darryl E. Fisher  
Chairman

COMMONWEALTH OF VIRGINIA;

COUNTY OF WESTMORELAND: to wit

Personally appeared before me on the 12<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2017, Darryl E.

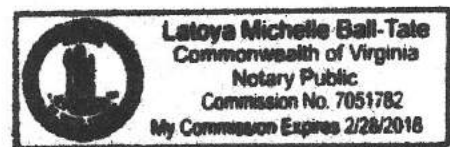
Fisher, who acknowledged that his signature on the foregoing Lease is the lawful and voluntary act of Westmoreland County, and that he has executed this document on behalf of Westmoreland County, Virginia in his capacity as Chairman of that County's Board of Supervisors.

Latoya Michelle Ball-Tate

Notary Public

Notary Registration Number: 7051782

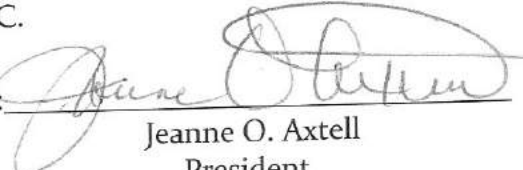
My commission expires: Feb. 28, 2018



SIGNATURE PAGE FOR  
GLEBE HARBOR-CABIN POINT PROPERTY OWNERS' ASSOCIATION, INC.

WITNESS the signature and seal of Glebe Harbor-Cabin Point Property  
Owners' Association, Inc., acting through its President, on this 12<sup>th</sup> <sup>June</sup> day of ~~May~~,  
2017.

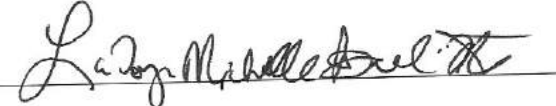
GLEBE HARBOR-CABIN POINT  
PROPERTY OWNERS' ASSOCIATION,  
INC.

By:   
Jeanne O. Axtell  
President

COMMONWEALTH OF VIRGINIA;

COUNTY OF WESTMORELAND: to wit

Personally appeared before me on the 12<sup>th</sup> day of <sup>June</sup> ~~May~~, 2017, Jeanne O.  
Axtell, who acknowledged that her signature on the foregoing Lease is the lawful  
and voluntary act of the Glebe Harbor-Cabin Point Property Owners' Association,  
Inc and that she has executed this document on behalf of that corporation in her  
capacity as its President.



Notary Public

Notary Registration Number: 7051782

My commission expires: Feb. 28, 2018

