

ORDINANCE NO. 7625-20

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN LEASE DATED THE 26TH DAY OF MAY, 2020, BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND CHRISTOPHER NEWPORT UNIVERSITY FOR THE RIGHT AND PRIVILEGE TO CONDUCT AN INSTRUCTIONAL SAILING PROGRAM.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Lease dated the 26th day of May, 2020, by and between the City of Newport News, Virginia, and Christopher Newport University for the right and privilege to conduct an instructional sailing program at Menchville Marina.
2. That a copy of the said Lease is attached hereto and made a part hereof.
3. That this ordinance shall be in effect on and after the date of its adoption, May 26, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON MAY 26, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

MENCHVILLE MARINA LEASE

This LEASE, made this 26th day of May, 2020, by and between the **CITY OF NEWPORT NEWS**, a Municipal Corporation of the Commonwealth of Virginia, hereinafter called “the City,” and **CHRISTOPHER NEWPORT UNIVERSITY**, hereinafter called “the Lessee.”

WITNESSETH: That in consideration of the rent, covenants and conditions herein contained, which the Lessee, its successors and assigns, expressly agrees to pay, do and perform, the City does grant by lease unto the Lessee the following described property, known as the Menchville Marina, and hereinafter called the “demised premises”, to-wit:

Parcel 3

All that certain lot, piece or parcel of land, consisting of 2.94± acres and identified as Parcel 3 on that certain plat attached hereto as Exhibit A, and including all improvements and ancillary structures located on said Parcel 3, and an easement to provide the right of ingress and egress to and over the boat ramp at the end of Menchville Road; said easement runs through the southwestern part of Parcel 1, to provide the Lessee and its invitees access to the waters of Deep Creek (hereinafter referred to as the “Easement Area”).

The initial term of this Lease shall be for a period of one (1) year, commencing on July 1, 2020 and expiring on June 30, 2021, unless sooner terminated as a result of abandonment of the demised premises by the Lessee or as otherwise provided herein. At the termination of the initial term of this Lease, and any renewal term, the Newport News City Manager (hereinafter referred to as City Manager), in her sole discretion, and after considering the criteria for renewal set forth hereafter, may renew this Lease at the request of the Lessee for successive additional one (1) year terms, but the total number of renewals shall not exceed four (4). In no event shall this Lease extend beyond June 30, 2025. The City Manager is authorized to renew this Lease based on the following criteria: (1) no delinquent rent payments are due, (2) the required maintenance of the demised premises is performed, and (3) the required insurance coverage is kept in place. The Lessee shall, no less than thirty (30) days prior to the termination of any one of the terms provided for herein, give notice in writing to the City Manager, or her authorized agent, of its request to renew; otherwise, the Lessee shall vacate the demised premises by the end of the said one year term. During any term, the City or the Lessee may cancel this Lease by giving written notice each to the other of cancellation at least six (6) months prior to the effective date of said cancellation.

The Lessee shall pay to the City for the use and occupancy of the demised premises rent at an initial annual rate of ONE DOLLAR (\$1.00) plus an amount equal to the cost to the City of insurance to cover the agreed activity on the property. Any additional activities or uses authorized in the future may require a renegotiation of the rental rate.

The annual payments are due and payable on execution of this Lease and at the time that any renewal thereof occurs. Failure to timely remit such rental payments to the City shall also be subject

to paragraph number 12 of this Lease.

From time-to-time during the initial term of this Lease, and during any renewal term, if the renewal option is exercised, the rent to be paid to the City and the insurance coverage required by paragraph number 13 shall be reviewed and renegotiated. The first renegotiation shall take place on or before July 1, 2021, and on or before July 1st (the "Renegotiation Date") annually thereafter. The insurance coverage required by paragraph number 13 of this Lease shall be reviewed at each renegotiation date, taking into consideration the use of the demised premises, the prevailing coverages for like uses within the insurance industry, the City's potential for exposure and the experience associated with the demised premises. If it is determined, at the sole discretion of the City, that the above considerations warrant an increase in insurance coverage, the Lessee shall forthwith provide such increased coverage.

In the event that changes in the rental payments or insurance coverage cannot be agreed upon within sixty (60) days of the renegotiation date, this Lease shall be cancelable by either party by giving the other party thirty (30) days notice in writing, at which time the demised premises shall be vacated by the Lessee. The Lessee shall continue to pay at the rental rate and perform all other obligations under this Lease until such time as the demised premises are vacated.

It is further covenanted and agreed between the parties hereto as follows:

1. Should the Lessee use the demised premises for any purpose other than for the purpose of conducting an instructional sailing program, then the City shall have the right and option to cancel this Lease and to collect all rentals due and unpaid.

2. The use of the demised premises shall be subject to all federal, state and local laws, as well as all regulations issued pursuant thereto.

3. The Lessee covenants and agrees that it will not use or employ the said demised premises or any part thereof for any purpose or in any manner which might be construed as a nuisance or contrary to the laws of the land.

4. Neither the whole nor any portion of the demised premises or any right thereunder shall be sublet without the written consent of the City first obtained. In the event the demised premises are sublet, the City reserves the right to renegotiate the terms of this Lease and to establish a new Lease with the Sublessee.

5. The Lessee agrees that this Lease is not transferable or assignable to any third person or entity. Any such transfer or assignment shall constitute cause for immediate termination of this Lease at the sole option of the City.

6. As additional consideration for this Lease, the Lessee agrees to maintain and keep in good repair all the buildings, mechanical equipment, improvements, and ancillary structures on

the demised premises, to maintain and mow the grass on all open areas of Parcel 3, as shown on Exhibit A, and to maintain and grade the parking area and the Easement Area as needed. The Lessee shall comply with all City ordinances in the repair, maintenance and grading of the improvements on the demised premises.

7. The Lessee agrees to an annual inspection of all buildings and structures on the demised premises by a City inspector.

8. No materials or supplies shall be stored in any area on the demised premises except in an enclosed building or behind a visual barrier approved by the City.

9. In no event and at no time shall the Lessee have the right to remove any improvements on the demised premises without the prior written approval of the City.

10. The City reserves the right of prior approval for installation of any improvement, structure or security fence on the demised premises.

11. No litter or debris shall be allowed to accumulate in open spaces on Parcel 3 and in the Easement Area. The Lessee shall mow the grass and keep the said open spaces free of weeds and brush. Uncontrolled growth of grass on the aforesaid open spaces is not allowed. The Lessee shall insure that no litter or debris is deposited into Deep Creek from the demised premises or the Easement Area. The Lessee shall insure compliance with this section by the Lessee's agents, servants, employees, invitees, guests and other persons utilizing the demised premises. If the Lessee has knowledge of litter, debris or obstacles to navigation adjacent to the demised premises, the Lessee shall remove the litter, debris, or obstacles from Deep Creek. If such is not possible, the Lessee shall notify the Newport News Department of Parks and Recreation of the litter, debris or obstacle in Deep Creek in order that arrangements may be made for its removal.

12. In the case of default or breach of any of the covenants or conditions herein contained to be performed by the Lessee, the City may cancel this Lease and shall have the right, at any time thereafter, to enter into and upon the said demised premises, or any part thereof, and the same again to have, repossess and enjoy as of its former estate. Prior to the exercise of its option to cancel this Lease pursuant to this paragraph, the City agrees to give written notice of such default or breach to the Lessee. If the Lessee cures the default or breach within a reasonable time, no basis for action pursuant to this paragraph shall lie. The time period within which the Lessee shall cure the default or breach shall in no case exceed sixty (60) days. Repeated defaults or breaches of this Lease or violations of law or regulations by the Lessee shall not be tolerated, and the Lessee agrees that the notice-to-cure provision of this paragraph may be, after thirty (30) days written notice, unilaterally withdrawn by the Newport News City Council if it finds that the provision has been abused. In the event this Lease is canceled pursuant to this paragraph, all unpaid rent shall become due and payable immediately.

13. The Lessee is an agency of the Commonwealth of Virginia and is self-insured

through the Risk Management Plan adopted and administered by the Division of Risk Management of the Treasury of the Commonwealth of Virginia. Lessee shall provide to the City a Certificate of Insurance to reflect that coverage. If, during the term of this lease, and any renewals thereof, this coverage should cease and no replacement coverage be provided or obtained, this lease shall terminate.

14. The Lessee shall make all provisions for utilities which are needed or required. The Lessee shall be responsible for the payment of all utility services consumed at the demised premises, including, but not limited to, electricity, gas, water and sewage. The Lessee shall provide a sufficient number and size of solid waste disposal containers and a plan for the weekly emptying of same so as to accommodate the waste generated by the use of the demised premises.

15. The City's Park Rangers and other designated City representatives shall have the right to enter onto the demised premises during reasonable business hours for the purpose of ensuring that the Lessee is complying with applicable laws and the terms of this Lease.

16. No pier nor any obstruction to navigation shall be constructed beyond the high water mark into the waters of Deep Creek without the written permission of the City Manager, or his authorized agent.

17. The handling and storage of all petroleum products shall comply with all federal, state and local regulations.

18. This Lease shall be governed by the laws of the Commonwealth of Virginia.

19. The failure of the City at any time to require performance by the Lessee of any provision hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

20. The demised premises shall be used only for the following activities and no other activities or uses are permitted without the prior written consent of the City:

- a. Conducting an instructional sailing program, and
- b. Parking of vehicles necessary for the sailing program as restricted to the demised premises.

21. The Lessee agrees not to conduct a fuel dispensing service or operation on the demised premises.

22. The Lessee, upon termination or cancellation of this Lease, having paid all the rents due hereunder and otherwise fulfilled the covenants of this Lease, shall remove from the demised premises personal property placed thereon by it and shall leave the demised premises clean and clear of all debris. Any improvements or property left on the demised premises after the termination of

this Lease, shall become the property of the City, free and clear of all cost and expense to it. The Lessee shall not remove the improvements built on the demised premises, which said improvements are the property of the City.

23. This Lease represents the entire agreement between the City and the Lessee and supersedes all prior negotiations, representations or agreements, either written or oral. This Lease may be amended only by written instrument signed by both the City and the Lessee.

IN WITNESS WHEREOF, the City of Newport News has caused this Lease to be executed by its City Manager, with its seal hereto affixed, duly attested by its City Clerk, both thereunto first duly authorized; and Christopher Newport University has caused this Lease to be executed by its Executive Vice President, thereunto first duly authorized.

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
City Manager

ATTEST:

By: _____
City Clerk

Approved as to form:

City Attorney

CHRISTOPHER NEWPORT UNIVERSITY

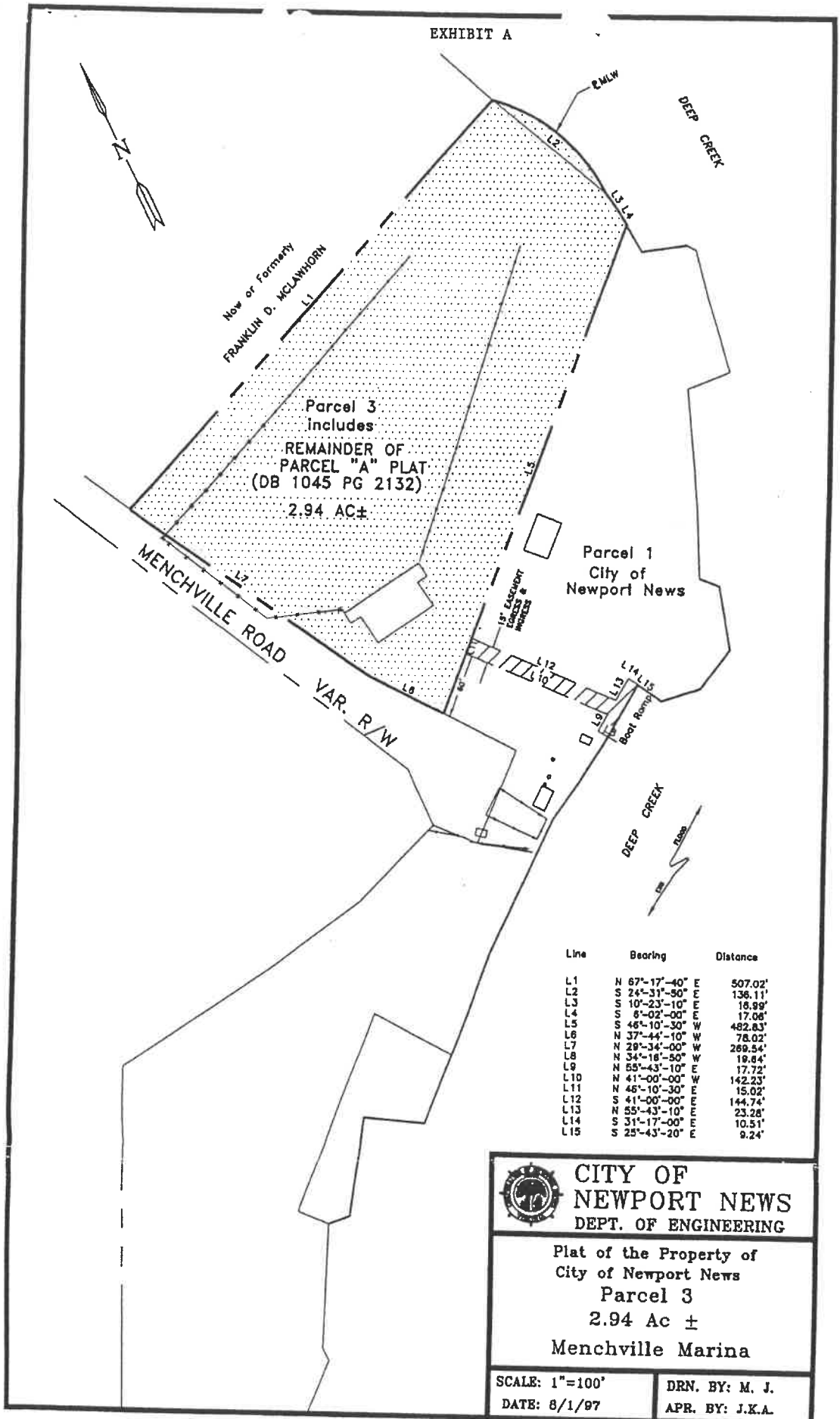
By: _____
William L. Brauer
Executive Vice President

Approved as to form by the Attorney General

By: _____
General Counsel

rag2548

EXHIBIT A



Now or Formerly
FRANKLIN D. MCCLAWHORN

Parcel 3
Includes
REMAINDER OF
PARCEL "A" PLAT
(DB 1045 PG 2132)
2.94 AC ±

Parcel 1
City of
Newport News

MENCHVILLE ROAD
VAR. R/W

Line	Bearing	Distance
L1	N 67°-17'-40" E	507.02'
L2	S 24°-31'-50" E	136.11'
L3	S 10°-23'-10" E	16.99'
L4	S 8°-02'-00" E	17.06'
L5	S 48°-10'-30" W	452.83'
L6	N 37°-44'-10" W	78.02'
L7	N 29°-34'-00" W	269.54'
L8	N 34°-18'-50" W	19.64'
L9	N 55°-43'-10" E	17.72'
L10	N 41°-00'-00" W	142.23'
L11	N 46°-10'-30" E	15.02'
L12	S 41°-00'-00" E	144.74'
L13	N 55°-43'-10" E	23.28'
L14	S 31°-17'-00" E	10.51'
L15	S 25°-43'-20" E	9.24'



**CITY OF
NEWPORT NEWS**
DEPT. OF ENGINEERING

Plat of the Property of
City of Newport News
Parcel 3
2.94 Ac ±
Menchville Marina

SCALE: 1"=100'
DATE: 8/1/97

DRN. BY: M. J.
APR. BY: J.K.A.