

ORDINANCE NO. 7641-20

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 BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND COMMUNITY THEATRE OF THE VIRGINIA PENINSULA, INCORPORATED, DATED THE 11TH DAY OF AUGUST, 2020, FOR A CINDER BLOCK STORAGE BUILDING LOCATED ON MUNICIPAL LANE.

NOW, THEREFORE, BE IT ORDAINED 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 by and between the City of Newport News, Virginia, and Community Theatre of the Virginia Peninsula, Incorporated, dated the 11th day of August, 2020, for a cinder block storage building located on Municipal Lane.

2. That a copy of the said Lease is attached hereto and made a part hereof.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON AUGUST 11, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

THIS LEASE, made this 11th day of August, 2020, by and between the **CITY OF NEWPORT NEWS, VIRGINIA**, a Municipal Corporation in the Commonwealth of Virginia, hereinafter called “Lessor,” and **COMMUNITY THEATRE OF THE VIRGINIA PENINSULA, INCORPORATED**, a Virginia corporation, hereinafter called “Lessee.”

WITNESSETH: That for and in consideration of the rent, promises and agreements herein contained, which Lessee expressly agrees to pay, do and perform, Lessor grants and leases to Lessee the following described property, to wit:

One cinder block storage building located on Municipal Lane in Newport News, Virginia (hereinafter the “leased premises”).

The term of this Lease shall be for one (1) year, commencing September 1, 2020, and ending August 31, 2021. The Lease may be renewed for up to four (4) additional successive one (1) year terms at the discretion of the City Manager of the City of Newport News.

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

1. Lessee shall pay to Lessor for the use and occupancy of the leased premises a rental payment sum of One Hundred Dollars (\$100.00).
2. Rental payment is due and payable, in advance, on or before the fifth (5th) day of September, 2020, and on the fifth (5th) day of September of any annual renewal period for each year the Lease is renewed. Failure to pay the rent on or before this fifth (5th) day of September of any year shall terminate this Lease, as of that date.
3. Should Lessee fail to use the leased premises for the hereinafter described activities for a period of sixty (60) consecutive days, then Lessor shall have the right and option to cancel this Lease.
4. Lessee shall use the leased premises only as a storage facility for property owned or

used by it in furtherance of the purposes of the Lessee, and as a storage facility for property owned or used by local community groups and organizations in furtherance of their purposes. The leased premises shall not be used in an unlawful manner or for an unlawful purpose.

5. Neither the whole nor any portion of the leased premises shall be assigned or sublet.

6. Lessor shall maintain the leased premises in its present structural condition, normal wear and tear, and depreciation and damage from causes beyond Lessor's control excepted. Lessee shall provide routine maintenance of the leased premises. Lessee shall keep the leased premises free and clear of litter and debris.

7. Lessee may not make any interior changes, alterations, additions and improvements to the leased premises.

8. Lessee shall make provision for utilities which are needed or required. Lessee shall be responsible for the payment of all utility services consumed at the leased premises, including, but not limited to, electricity, gas, water and sewage. Lessee shall provide a sufficient number and size of solid waste disposal containers to accommodate the waste generated by the use of the leased premises.

9. In the case of default or breach of any of the covenants and agreements herein contained to be performed by Lessee, Lessor reserves the right unto itself to cancel this Lease, and it shall have the right, at any time afterward to enter into and upon the said leased 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, Lessor agrees to give notice of such default or breach to Lessee. In the event Lessee cures the default or breach within a reasonable time, no basis for action pursuant to this paragraph will lie. The time period within which Lessee

must cure the default or breach shall in no instance exceed sixty (60) days, except that rent payments must be made by the fifth (5th) day of September. Repeated defaults, breaches and violations of law by Lessee will not be tolerated, and Lessee agrees that the notice-to-cure provision of this paragraph may be, after thirty (30) days written notice, unilaterally withdrawn by Lessor if it finds that the provision has been abused. In the event this Lease is canceled pursuant to this paragraph, all unpaid rents will become due and payable upon cancellation.

10. The failure of Lessor at any time to require performance by Lessee of any provision hereof, shall in no way affect the right of Lessor thereafter to enforce the same. Nor shall the waiver by Lessor 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.

11. Lessor reserves the right to enter onto the leased premises during reasonable business hours for the purpose of ensuring that Lessee has complied with applicable laws and the terms of this Lease.

12. In the event the leased premises is damaged by fire, accident, or casualty and the same can be repaired within ninety (90) days from the date of such fire, accident or casualty, the parties hereto agree that said leased premises shall be repaired and restored by Lessor to the approximate condition of said premises existing before any such aforesaid occurrence, and this Lease shall remain in full force and effect, provided, however, that the rent during the period of repair shall be reduced to an amount which, in Lessor's opinion, bears the same ratio to the rent provided for herein as the portion of the leased premises then available for use bears to the entire leased premises. Upon completion of repairs, the rent shall thereafter be paid as set forth in paragraph 1 above.

However, notwithstanding the above, Lessor shall be under no obligation to rebuild or repair

the leased premises in the event substantial damage (man-made or natural) is caused thereto. The determination of what constitutes substantial damage is to be made solely by Lessor.

In the event the leased premises cannot be repaired within the aforesaid time, or if the Lessor elects not to repair due to substantial damage, Lessor shall notify Lessee in writing of that determination and this Lease shall terminate as of the date of said notice. If this Lease is terminated pursuant to this paragraph, the Lessee shall receive a pro rata refund of prepaid rent.

13. Lessee shall indemnify, defend, protect and save harmless Lessor, and Lessor's officers, employees, agents, and volunteers, from and against all losses and claims of physical damages to property and bodily injury or death to any person or persons, which may arise out of, or be caused by, the use and maintenance of the leased premises by Lessee. In addition, Lessee agrees to obtain, and continuously keep in force, a liability insurance policy with a company qualified to do business in the Commonwealth of Virginia. The policy shall at least provide for the following coverages:

- a. Bodily injury or death to any person or persons \$500,000.00
- b. Physical damage to property \$100,000.00

Said policy shall provide that Lessor is added as an additional insured under the terms of the policy and shall first be approved by the Newport News City Attorney's office. Lessee shall obtain an additional endorsement of the policy requiring that the Lessor be given thirty (30) days advance notice of cancellation for any reason (ten (10) days for non-payment of premium). Occupation of the leased premises by Lessee or any approved construction on the leased premises shall not take place until certification of current insurance is on file with Lessor. Renewals of all such insurance during the term of this Lease shall be filed with and approved by the Newport News City Attorney. Failure

to keep the required insurance coverage continuously in force shall constitute an event of default of this Lease.

14. Lessee, at the termination of this Lease, having paid all rents due hereunder and otherwise fulfilled the covenants of this Lease, shall have the right, within thirty (30) days from the termination of this Lease, to remove from the leased premises all property belonging to Lessee, and shall leave the leased premises clean and clear of all debris. Any improvements or property left on said leased premises after thirty (30) days from the termination of this Lease, shall become the property of Lessor, free of all cost and expense to it.

15. Notwithstanding any provision herein to the contrary, either party may cancel this Lease upon thirty (30) days written notice to the other party.

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

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

IN WITNESS WHEREOF, the CITY OF NEWPORT NEWS, VIRGINIA and the COMMUNITY THEATRE OF THE VIRGINIA PENINSULA, INCORPORATED, have caused this Lease to be executed by their respective officers as of the date first above written.

CITY OF NEWPORT NEWS, VIRGINIA

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**COMMUNITY THEATRE OF THE
VIRGINIA PENINSULA,
INCORPORATED**

By: _____
President

ATTEST:

By: _____
Secretary

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