

**TOWN OF BOONSBORO
EUGENE C. SMITH COMMUNITY CENTER LEASE AGREEMENT**

This EUGENE C. SMITH COMMUNITY CENTER LEASE AGREEMENT (“Agreement”), is made and entered into on the ____ day of _____, 2017 by and between the Washington County Commission on Aging, Inc., a non-profit organization (“Organization”), and the Town of Boonsboro (“Town”).

WHEREAS, the Town has the Eugene C. Smith Community Center (“Community Center”) for the public enjoyment and recreation;

WHEREAS, the Town allows for nonprofit organizations to lease the Community Center for an extended period of time, based upon a first come, first serve basis; and

WHEREAS, the Organization has requested to lease the Community Center located at 37 Park Drive, Boonsboro, MD 21713, near Shafer Park, in order to operate a Congregate Site for the benefit of eligible older adults in Southern Washington County.

NOW, THEREFORE, in consideration of the promises and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the Town and Organization hereby agree as follows:

1. Term.

1.1. Length. This Agreement shall be for a term (the “term”) of one (1) year beginning the date this Lease is approved by the Town, (the “Commencement Date”) and terminating one (1) year after the Commencement Date (the “Termination Date”).

1.2. Renewal Terms. This Lease may be renewed by mutual agreement by the parties hereto for three (3) additional terms of three (3) years (each of which is hereinafter referred to as a “Renewal Term”) provided the Organization notifies the Town in writing, by at least ninety (90) days before the end of the then-current term, that the Organization desires to renew this Agreement at the end of such current-term, and the Town consents to such renewal in writing within sixty (60) days after receipt of Organization’s request to renew, in which event this Agreement shall be so renewed (the Original Term and, if this Lease is renewed for any Renewal Term or otherwise, the period of any such renewal being hereinafter referred to as “the Term”). Any such renewal shall be upon the terms and subject to the conditions which are set forth in the provisions of this Agreement.

2. Compensation.

2.1 Fee for Use. The Organization agrees to pay \$125 per month for the premises specified herein, to cover the costs of utilities, telephone and internet services (“Agreement Compensation”).

2.2 When Due and Payable. The Organization shall make the Agreement Compensation available to the Town no later than the fifteenth day of each month or shall make arrangements to pay in advance.

3. Use of Premises.

3.1 Premises. The Organization shall occupy and use the premises on the following reoccurring days excluding all major holidays: Monday, Wednesday and Friday from 9 a.m. to 2 p.m. The following identified premises will be accessible and utilized by the Organization during the aforementioned times: Main Community Space; Kitchen; Restrooms; and a secured locked space for supplies, fitness equipment and an office which the Town will provide to the Organization (“Premises”).

- 3.2 Alcohol Use. Alcoholic beverages are not permitted on the Premises unless the Mayor and Council of the Town approve.
- 3.3 Parking. Town will designate parking areas that shall be used for Organization participant parking.
- 3.4 Signage. The Town will provide signage for the Congregate Site which clearly designates the building for said use.
- 3.5 Banners. Town has regulations governing the display of temporary advertising banners, including sponsor banners. If Organization wishes to display banners on Town property prior approval must be obtained from the Town.
- 3.6 Facilities.
- 3.6.1 Restrooms. Town will provide supplies and materials for restrooms. Town will clean restrooms weekly and replenish supplies. Organization will immediately notify Town of any damage or breakage.
- 3.6.2 Pavilions. Town will provide pavilions for use during requested events pending availability at no charge to the Organization.
- 3.6.3 Internet, Phone, Utilities. The Town will provide all utilities, internet access and telephone service in the building. Telephone service will be accessible in the office space.
- 3.6.4 Food Service. The Organization will provide a food service at the premises. All aspects of food services including preparation, serving and clean-up will meet all applicable Health Department regulations for such service. It shall be the sole responsibility of the Organization to ensure compliance with the aforementioned regulations.
- 3.6.5 Other Improvements. The Organization will provide a hand sink for the Town to install in the kitchen. Pending available funds, the Organization may provide a stove, folding chairs and round tables which shall remain the property of the Organization upon termination of this Agreement. No improvements shall be made without the Town's prior written approval. Any request by the Organization to modify or improve the Premises shall be submitted for review to the Town. No permanent structure or equipment shall be erected in the Premises unless approved by the Town and dedicated for community use.
- 3.7 Maintenance.
- 3.7.1 Maintenance by Organization. The Organization shall maintain the entire Premises (exclusive of equipment owned by the Town or any user through the Town) in a neat and orderly condition, ordinary wear and tear excepted.
- 3.7.2 Maintenance by Town. The Town shall have in place and implement a pest control plan to ensure the Premises remains free of pests. Town further agrees to provide a deep clean of the Premises at least annually. Routine maintenance, including but not limited to, replacing light bulbs, filters, etc will be the responsibility of the Town.
- 3.7.3 Damage to Premises. Organization shall be responsible for any loss, injury or damage to the Premises, or any portion thereof, or contents being used which is caused, in whole or in part, by the negligence or intentional act of the Organization or its agents, employees, volunteers, participants or guests. In the event that any such damage occurs, the Organization shall promptly repair or replace the damaged property in a manner as determined by the Town and at the sole expense of the Organization.

3.7.4 Town Inspections. The Town and its agents shall be entitled to enter the Premises at all reasonable times (a) to inspect the Premises, (b) to make any alteration, improvement or repair to the Premises or, (c) for any other purpose relating to the operation or maintenance of the Premises, and (d) for fulfilling any other duties or obligations of the Town. Except in case of emergency, Town agrees to give Organization reasonable advance notice prior to entry upon any portion of the Premises used exclusively by the Organization.

3.8 Trash and Recycling. Organization is responsible for picking up all trash and litter on the Premises, wiping down tables and sweeping the Community Room floor of the Community Center after each use. Organization shall use the provided receptacles for all trash and recyclables. If additional trash and recyclables are accumulated but do not fit into the provided receptacles, the Organization is responsible for removing the excess trash and/or recyclables. Failure to remove excess trash and/or recyclables may result in the assessment of a maintenance fee from the Town.

4. Insurance and Indemnification.

4.1 Insurance to be Maintained by Organization. Unless specifically waived or covered by the Town, Organization shall maintain a policy of liability insurance with an insurance carrier approved by the Town in the amount of at least \$1,000,000.00 per occurrence to insure against liability for personal injury, death or property damage arising out of, or relating in any way to, either directly or indirectly, to the Organization's use and maintenance of the Premises, including the preparation and sale of food items, merchandise, and structures and facilities the User is responsible to construct and/or maintain. The Town shall be named as an additional insured on any such policy, and the Organization shall provide to the Town, as part of this signed Agreement, a certificate of insurance or other appropriate documentation to evidence such insurance coverage. Organization shall be solely responsible for obtaining any desired insurance coverage to insure against damage to Organization's personal property or other personal property not owned by the Town.

4.2 Insurance to be Maintained by Town. Town shall maintain insurance on buildings and structures on the Premises in the same manner and in similar amounts as it maintains on other similar property owned by the Town. Regardless of whether the Town does or does not maintain such insurance, the Town shall not be obligated to repair or replace any such building or structure or to incur any cost in excess of any existing insurance coverage.

4.3 Indemnification. Except for claims resulting from Town's gross negligence or willful misconduct, the Organization shall be responsible for, and shall defend, indemnify and hold harmless the Town and its members, officers, agents, and employees against and from, any and all liability or claim of liability resulting from or in any way arising out of the use of the Premises by the Organization, its agents, servants, volunteers, participants, or employees, which causes, directly or indirectly, any bodily injury, illness, death or other damage to any persons or any property, including, but not limited to the property of the Town.

5. Release. Organization shall be responsible for the care and maintenance of any of its personal property which it may use, place, maintain or store on the Premises. Town shall not be responsible for any loss, damage, or injury which may result from or in any way relate to Organization's use of the Premises, and Organization hereby releases Town from and against such liability. Organization shall be responsible for advising its employees, volunteers, and participants of the terms of this Release and indemnification provisions of Paragraph 4.

6. Default.

6.1 Definition. It shall be an event of default ("Event of Default") if the Organization fails (a) to pay any Agreement Compensation or other sum which it is obligated to pay by any provision of this Agreement,

when and as due and payable hereunder and without demand therefore, or (b) to perform any of its other obligations under the provisions of this Agreement.

6.2 Notice to Tenant; Grace Period. On the occurrence of an Event of Default the Town shall not exercise any right or remedy on account thereof which it holds under any provision of this Agreement or applicable law unless and until:

6.2.1 the Town has given written notice thereof to the Organization; and

6.2.2 the Organization has failed, (a) if such Event of Default consists of a failure to pay money, within fifteen (15) days after the Town gives such written notice to pay all of such money, or (b) if such Event of Default consists of something other than a failure to pay money, within thirty (30) days after the Town gives such written notice to cure such Event of Default (or, if such Event of Default is not reasonably curable within such period of thirty (30) days, to begin to cure such Event of Default within such thirty (30) day period and to diligently pursue such cure thereafter until it is fully cured).

6.2.3 Notwithstanding the foregoing, no such notice of default shall be required to be given, and (even if the Town gives such notice) the Organization shall be entitled to no such grace period, (i) in any emergency situation in which, in the Town's reasonable judgment, it is necessary for the Town to act to cure such Event of Default without giving such notice, or (ii) more than twice during any twelve (12) month period (regardless of whether the current Event of Default is the same as any previous Event of Default for which a notice was given).

6.3 Town's Rights on Event of Default.

6.3.1 On the occurrence of any Event of Default, the Town may (subject to the operation and effect of the provisions of subsection 6.2.);

6.3.1.1 terminate this Agreement by giving written notice of such termination to the Organization, which termination shall be effective as of the date of such notice or any later date therefore specified by the Town therein and upon such termination repossess the Premises in accordance with the requirements of applicable law; or

6.3.1.2 cure such Event of Default in any other manner; or

6.3.1.3 pursue any combination of such remedies and/or any other right of remedy available to the Town on account of such Event of Default under this Agreement and/or at law or in equity.

7. Notices. Any notice, demand, consent, approval, request or other communication or document to be provided hereunder to a party hereto shall be (a) given in writing, and (b) deemed to have been given (i) forty-eight (48) hours after being sent by certified or registered mail in the United States mails, postage prepaid, return receipt requested, to the following representatives:

Washington County Commission on Aging, Inc.
Attn.: Executive Director
535 East Franklin Street
Hagerstown, MD 21740

Town of Boonsboro
Attn: Town Manager
21 North Main Street
Boonsboro, MD 21713

8. Assignment. Organization may not assign this Agreement, or permit any other person or organization to utilize the Premises under the Authority of this Agreement, without the prior written approval from the Town.
9. Miscellaneous.
- 9.1 Complete Understanding. This Agreement represents the complete understanding between the parties hereto as to the subject matter hereof, and supersedes all prior written or oral negotiations, representations, warranties, statements or agreements between the parties hereto as to the same. No inducements, representations, understandings or agreements have been made or relied upon in the making of this Agreement, except those specifically set forth in the provisions of this Agreement. Neither party hereto has any right to rely on any other prior or contemporaneous representation made by anyone concerning this Agreement, which is not set forth herein.
- 9.2 Amendment. This Agreement may be amended by and only by an instrument executed and delivered by each party hereto.
- 9.3 Applicable Law. The provisions of this Agreement shall be governed by the laws of the State of Maryland and the parties hereto expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder after all administrative remedies, if any, have been exhausted.
- 9.4 Waiver. The Town shall not be deemed to have waived the exercise of any right, which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by the Town in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.
- 9.5 Severability. No determination by any court, governmental body or otherwise that any provision of this lease or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

IN WITNESS THEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

ATTEST:

TOWN OF BOONSBORO

By: _____(Seal)

Town Clerk

Town Manager

WITNESS:

ORGANIZATION

_____ (Seal)

Organization

Organization Head Contact Signature

Organization Head Contact & Title (Printed)