

BARNSTABLE COUNTY

In the Year Two Thousand and Eight

Ordinance 08-10

To authorize the County of Barnstable to execute a ground lease between the County and the Joint Venture between Cataumet School House Preservation Group, Inc. Bourne Historical Society, Inc., and the Bourne Society for Historic Preservation, Inc., for the premises at 892 County Road in Pocasset (Bourne), Massachusetts, for the purpose of operating a Thrift Shop.

BARNSTABLE COUNTY *hereby ordains:*

Section 1. Source of Authority and General Purposes

In accordance with Article II, Section 2-8, (d) (vii) of the Barnstable County Home Rule Charter, Barnstable County hereby enters into a ground lease for the property consisting of the former Doctor's Residence at 892 County Road, located in Bourne, Massachusetts. The purpose of this ground lease is to allow the Joint Venture between Cataumet School House Preservation Group, Inc. Bourne Historical Society, Inc., and the Bourne Society for Historic Preservation, Inc., to operate a Thrift Shop on County owned land and in accordance with the terms and conditions specified in this document.

Section 2. Effective Date

The Ground Lease Ordinance shall take effect upon passage of the ordinance by the Barnstable County Assembly of Delegates and execution by the Barnstable County Commissioners, and the Joint Venture.

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Section 4.

LEASE AGREEMENT BETWEEN BARNSTABLE COUNTY AND THE JOINT VENTURE BETWEEN CATAUMET SCHOOL HOUSE PRESERVATION GROUP, INC., BOURNE HISTORICAL SOCIETY, INC., AND THE BOURNE SOCIETY FOR HISTORIC PRESERVATION.

Indenture of Lease made as of the ___ day of _____, by and between BARNSTABLE COUNTY, through its Commissioners, (hereinafter referred to as "Landlord") and the Joint Venture between Cataumet School House Preservation Group, Inc., Bourne Historical Society, Inc., and the Bourne Society for Historic Preservation, Inc., having a place of business at Bourne, Massachusetts (hereinafter referred to as "Tenant").

WITNESSETH

PREMISES

1) Landlord, subject to the conditions herein below set forth, the premises located at 892 County Road, Pocasset, Barnstable County, Commonwealth of Massachusetts, described as follows: a building formerly know as a Doctor's Residence of Barnstable County Hospital situated in Bourne, (hereinafter collectively referred to as "Tenant".)

TERM

2. TO HAVE AND TO HOLD, the Premises for an original term of five (5) years, commencing on July 1, 2008 and extending to June 30, 2013 unless sooner terminated or extended as hereinafter provided. The Tenant shall have the right to extend said lease for an additional 5 years on the same terms and condition as set forth in this Lease. The Tenant shall notify the Landlord that it wishes to extend the term of the Lease on or before June 30, 2013. The tenant shall have the right to terminate this lease agreement at any time with ninety (90) days written notice to the Landlord.

RENT

3. Tenant agrees to pay Landlord as rent for the Premises the amount of One Dollar per year. Until further notice from Landlord all rent and other payments due hereunder to landlord shall be by check payable to "Barnstable County" and mailed to said payee c/o Barnstable County Commissioner, P.O. Box 427, Barnstable, MA 02630 on or before January 30 of each year.

LANDLORD'S WARRANTY / QUIET POSSESSION

4. (a) Landlord represents and warrants to Tenant that Landlord has the lawful right and authority to enter into this Lease for the entire term hereof.

(b) Landlord covenants and agrees that Tenant, upon performance of its obligations under this Lease, shall peaceably and quietly have, hold and enjoy the Premises throughout the original term of this Lease.

TENANT'S FIXTURES / ALTERATIONS

5. (a) Tenant may install in the Premises such fixtures (trade or otherwise) and equipment as Tenant deems desirable and all of said items shall remain Tenant's property and Tenant may remove, and / or replace, said fixtures and equipment, in the Premises, at any time and from time to time during the term or any Extension Period hereof. Landlord shall not mortgage, pledge or encumber said fixtures or equipment. Tenant shall make all repairs and replacement at Tenant's expense in connection in removal of any fixtures or equipment installed as provided in this paragraph.

HOLDING OVER

6. If Tenant holds over or remains in possession of Premises after expiration of the original term or any Extension Period of this Lease, without any new lease of said premises being entered into between the parties hereof, or any option herein contained being exercised by written notice, such holding over or continued possession shall create a tenancy at will only at the last monthly rental and upon the terms (other than length of term, or option for extension) herein specified, which may at any time be terminated by either party by one (1) month's written notice to the other party.

REPAIRS AND MAINTENANCE

7. (a) Landlord shall not have any obligation to make any repairs or alterations to the Premises or any part thereof, except as otherwise expressly provided in this Article. Throughout the original term of this Lease, Tenant covenants and agrees to maintain the Premises and all additions and improvements made upon them in such repair, order and condition as the same are in at the commencement of said term or may be put in by Landlord or Tenant during the continuance thereof, reasonable wear and tear, damage by fire or any other casualty, taking by eminent domain. Without limiting the generality of the foregoing, Tenant shall provide regular maintenance and repair to all heating, air conditioning, hot water and other equipment serving the Premises; provide janitorial and cleaning services; remove snow and ice from the parking area and walkways; sand, patch and re-stripe the parking area; repaint interior surfaces; and replace broken glass with glass of the same kind and quality. Tenant shall also be responsible for any structural repairs or capital improvements necessary to continue the use of the premises as authorized by this Lease.

(b) Structural repairs and replacements shall mean and include repairs and replacements to the roof and exterior walls of said building and to major items of equipment such as HVAC equipment and any other building systems.

DAMAGE OR DESTRUCTION

8. If the Premises shall be damaged or destroyed by fire or other cause, the Landlord shall, at its sole discretion, have the ability to choose to repair, replace or restore to the condition the premises were in immediately preceding such fire or other cause, or to terminate the lease agreement.

INSURANCE

9. (a) Landlord agrees: to insure the building and all fixtures, additions and improvements which are part of the Premises against damage by fire, and to keep them so insured, to the extent of the full replacement value.

(b) At commencement of the term of this Lease, Landlord will deliver to Tenant the Premises insurable as called for herein,; thereafter Tenant shall not violate or permit to be violated any of the conditions or provisions of any such policy, and Tenant shall perform and satisfy the requirements of the companies writing such policies so that at all time companies of good standing satisfactory to Landlord shall be willing to write and/or continue such insurance.

(c) Tenant at its own cost and expense shall also provide and maintain:

- (i) Building contents insurance for any and all Tenants belongings contained in the Premises; and
- (ii) Public liability insurance having a minimum per occurrence limit of \$1,000,000 against all claims which may be brought for bodily injury, death or damage to property of third persons; and
- (iii) Worker's Compensation Insurance or insurance required by similar employee benefit acts as well as insurance having a minimum per occurrence limit of \$1,000,000 against all claims which may be brought for personal injury or death of Tenant's employees.

TENANT'S COVENANTS

10. In addition to all other covenants and agreements of Tenant contained herein, Tenant hereby covenants with landlord that Tenant during the said term and for such further time as it shall hold the Premises or any part thereof will pay all charges for heat, water, gas, electricity, sewage, and all other utilities services used by Tenant upon the Premises; will save Landlord harmless from all loss and damage occasioned by the use of water in or escape of water from the Premises or by the bursting or cracking of the water pipes, including the sprinkler system, if any, except for such loss or damage as is caused by the negligence of Landlord, its agents, employees, servants, or contractors. At the expiration of said term will remove its goods and defects and those of all persons claiming under it and will peaceably yield up to Landlord the Premises and all additions and improvements made upon them (except those which Tenant is permitted to remove hereunder) and leave them clean and in such repair, order and condition as the same are in at the commencement of said term or may be put in by Landlord or Tenant during the continuance thereof, reasonable wear and tear and damage by fire or any other casualty or taking excepted; will not commit any nuisance on the Premises; will not overload the Premises; will not carry on any business, trade or occupation upon the Premises or make any use thereof which shall be unlawful or offensive contrary to any law or ordinance for the time being enforced; will not do any act or thing upon the premises which will make them uninsurable against fire or which is liable to increase the premium for fire insurance on the Premises over the normal premium at the time in question for the stipulated use of the Premises, and if such premiums are increased, tenant shall pay the amount of such increase; and will keep the premises equipped with all safety equipment required by law or ordinance, or

any order or regulation of any public authority because of the use made of the Premises; will make all repairs, alterations, and replacements so required; will procure any authorizations or licenses so required for Tenant's use or repair of the Premises; that Landlord or its agents may during the term during normal business hours and with Tenant's prior approval which approval Tenant agrees not to unreasonably withhold or delay (or at any time in the event of an emergency) enter to view the Premises, but Landlord will not be required to do so, except as otherwise expressly provided in this Lease; and Landlord may show Premises to others at mutually agreeable times during normal business hours within one-hundred eighty (180) days before expiration of the term (as the same may be extended), may affix to any suitable part of the exterior of the Premises a notice of reasonable size for letting or selling the Premises and keep the same as affixed without molestation by Tenant.

TENANT'S DEFAULT

11. If any sum or sums due as rent or additional rent as herein provided and set forth or any part thereof shall be unpaid for a period of fourteen (14) days after written notice of such default has been given by Landlord to tenant, or if Tenant shall violate or be in default in its observances or performance of any of its covenants herein contained, except default in the payment of base rent, and shall have failed to take and prosecute appropriate steps to remedy such breach or default within twenty (20) days after written notice of such breach or default has been given by landlord to Tenant, or if the estate hereby created shall be taken on execution or any other process of law and shall not be redeemed for twenty (20) days after Landlord shall have given written notice of such taking, or if Tenant be declared bankrupt or insolvent according to law, or if any assignment shall be made of its property for the benefit of creditor, then, and in each of the said cases (after the expiration of the aforesaid fourteen (24) day or twenty (20) day period if applicable), Landlord lawfully may (notwithstanding any waiver of any former breach of covenant or waiver of the benefit hereof or consent in a former instance) immediately or at any time thereafter while such default or other stipulation aforesaid continues and without further demand or notice enter into and upon the Premises or any part thereof in the name of the whole and repossess the same as of its former estate and expel Tenant and those claiming through or under it and remove its effects (forcibly if necessary) without being deemed guilty in any manner to trespass and without prejudice to any other remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and upon entry as aforesaid this Lease shall terminate.

USE AND OCCUPANCY / ADA

12. The premises may be used and occupied for general business purposes, general office purposes, warehousing and storage, and light manufacturing provided any such use is permitted under applicable Federal, state and municipal laws and regulations.

Notwithstanding the foregoing, the parties agree that the following provisions shall govern their respective obligations in connection with the Disabilities Act and/or any other governmental requirements relating to accessibility by handicapped, disabled or physically impaired persons (the Americans with Disabilities Act and such other governmental programs being hereinafter referred to as "ADA").

Landlord shall have no responsibility for any repairs or alterations to the premises that may be required by ADA. Landlord agrees that the Tenant shall also not be obligated to make

any repairs or alterations to the premises that may be required by ADA. If the Landlord elects to terminate this Lease for noncompliance of ADA requirements, then the Landlord may do so by sending written notice of such termination to Tenant. Such notice shall be mailed by certified mail, return receipt requested and specify the date of termination. Upon termination, all obligations of the parties hereunder shall cease, this Lease shall be null and void, and neither party shall have any further recourse hereunder.

SIGNS

13. Tenants shall have the right to install, maintain and replace, at its own cost and expense, after prior written consent of Landlord in each instance, such signs on the Premises and in common areas such as driveways, parking areas and sidewalks as it determines, provided the same shall be in compliance with all laws, orders, rules and regulations of all government authorities having jurisdiction thereof.

NOTICE

14. Every notice, approval, consent or other communication authorized or required by this Lease shall not be effective unless in writing and sent by United States registered or certified mail, return receipt requested, directed, if to Tenant to the address listed below; and if to Landlord at the address listed herein or such other address as either party may designate by notice from time to time.

To the Landlord
County Administrator
Barnstable County
Barnstable County Complex
Route 6A
Barnstable MA 02630
(508) 375-6643

To the Tenant
Michael A. Ryan
P. O. Box 1274
Pocasset, MA 02559
(508) 563-6124

WAIVER

15. One or more waivers of any covenant or condition by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same or any other covenant or condition, and the consent or approval by Landlord requiring the other party's consent or approval to or of any similar act. The failure of either party to seek redress for violation of, or to insist upon strict performance of, any term, covenant or condition in this Lease shall not prevent a similar subsequent act from constituting a default under this Lease.

INVALIDITY OF CERTAIN PROVISIONS

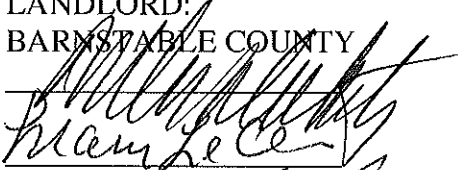
16. If any provision of this Lease shall be invalid or unenforceable, the remainder of the provisions of this Lease shall not be affected thereby and each and every provision of this Lease shall be enforceable to the fullest extent permissible by law.


INDEMNIFICATION

17. Tenant agree to indemnify the Landlord and defend the Landlord against, and to hold Landlord harmless from, any and all claims of whatever nature for injury or damage to persons or property in or about the Premises caused by its respective negligence or intentional conduct or by the negligence or intentional conduct of its respective employees, agents or contractors.

WITNESS the execution hereof under seal the day and year first written above.

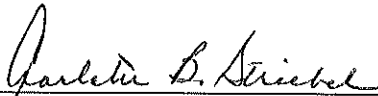
LANDLORD:
BARNSTABLE COUNTY







TENANT:

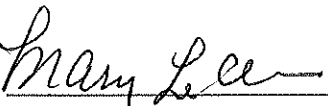
Adopted by the Assembly of Delegates on September 3, 2008.


Charlotte B. Striebel, Speaker
Assembly of Delegates

Approved by the Board of County Commissioners 09/10/08 at 10:30 a.m
Date Time


William Doherty


Lance Lambros


Mary LeClair