

**NORTH BEACH RECREATION CENTER ACCESS  
MEMORANDUM OF AGREEMENT  
BY AND BETWEEN  
THE TOWN OF NORTH BEACH  
AND  
THE COUNTY COMMISSIONERS OF CALVERT COUNTY**

**THIS MEMORANDUM OF AGREEMENT** (hereinafter referred to as “MOA”) entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of North Beach, a body corporate and politic (hereinafter referred to as “Town”), and the County Commissioners of Calvert County, Maryland, a body corporate and politic (hereinafter referred to as the “County”). Throughout this MOA, the Town and the County may also be referred to as a party or parties to this MOA.

**RECITALS**

**WHEREAS**, the Town is the owner of certain land and improvements located at 9021 Dayton Ave, North Beach, Maryland, 20714 known as North Beach Recreation Center (hereinafter known as “NBRC”); and

**WHEREAS**, the MOU dated June 5, 2012, between the Town, County, and Boys and Girls Clubs of Southern Maryland, Inc. (hereinafter known as “BGC”) expires January 16, 2021, and concludes shared use of NBRC; and

**WHEREAS**, the purpose and intent of this MOA is to memorialize the agreement of the parties hereto regarding the mutual agreement for the care and access control of NBRC for public access to the gymnasium from January 17, 2021 through June 11, 2021; and

**WHEREAS**, the County desires to provide Calvert County residents with access to the NBRC gymnasium for public use through this time period; and

**WHEREAS**, the Town and the County desire to enter into this MOA to establish terms and conditions.

**WITNESSETH**

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

1. The Town agrees and affirms that, as the owner of NBRC, it will:
  - a. Provide property and general liability insurance for the building and its contents per section 6 of this MOA, excluding the personal property of the County;

- b. Use commercially reasonable efforts to maintain in good condition, repair, inspect, or replace the exterior of the NBRC, appurtenances, including the HVAC system and the elevator(s), and grounds of the NBRC, other than those that are the responsibility of County, and to take precautions against fire at, vandalism of, burglary of and trespass to the NBRC. This includes, by means of illustration and not limitation, the exterior of the building, parking area, and its grounds, including landscaping, mowing, and snow removal, at all times of the year;
    - c. Provide water, sewer, and trash service at no cost to the County;
    - d. Issue operable keys to the NBRC to County staff; and
    - e. Serve as liaison between the County and BGC.
2. The County agrees and affirms that, as an occupant of NBRC, it will:
  - a. Provide custodial services to 7,260 square feet of the building and share in the custodial needs, maintenance, and up-keep of the gymnasium by contributing 50% of the cost of in-kind services;
  - b. Provide public access to the gymnasium and appropriate amenities, such as restrooms, pursuant to the schedule in Attachment A;
  - c. Pay 50% of the total electric utilities;
  - d. Maintain connectivity including phone service for County phone and data systems for the operation of the gymnasium;
  - e. Provide HVAC maintenance costing less than one thousand, five hundred dollars (\$1,500) per unit, per incident; and
  - f. Provide fire system maintenance.
3. All repairs and maintenance performed by the Town, its employees, agents, contractors, and subcontractors, or the County, its employees, agents, contractors, and subcontractors, shall be done in a workman-like, timely and reasonable manner so as to not hinder the schedule of each parties' activities to the greatest extent practicable.
4. The gymnasium and related amenities in NBRC may be used and occupied by the County, its employees, agents, invitees, guests, contractors, and subcontractors in accordance with Attachment A hereto during the term for classes, public access, and programming offered by the County.
5. The County, its employees, agents, contractors, and subcontractors shall not use or suffer or permit NBRC to be used for any purpose or use in violation of any law or ordinance or any regulation of any governmental authority or in any manner that will constitute any unreasonable annoyance to an occupant of NBRC, or for any extra hazardous purpose, or in any manner that will violate, suspend, void or serve to increase the premium rate or make inoperative any policy or policies of insurance at any time carried on any property, buildings or improvements of the NBRC or any part thereof.
6. Parties shall not be responsible for the purchase of Worker's Compensation insurance for the other parties' employees and shall not be liable for any accidents or injuries to any of the other parties' employees or invitees. Any claims for unemployment

compensation for employees involved in activities and programs sponsored by each party shall be the responsibility of the same party.

Parties shall maintain Worker's Compensation insurance in the statutory amount in accordance with the laws of Maryland, the state in which the work of the MOU is to be performed.

Parties shall maintain Employer Liability insurance with a minimum limit of \$100,000 for each occurrence to cover diseases and injuries excluded under the Worker's Compensation Act.

Prior to the commencement of this MOA, the County and the Town may be required to submit a certificate of insurance evidencing the Worker's Compensation and Employer Liability insurance in the amounts required above. The certificate of insurance will state that such insurance is in force and cannot be canceled or released except upon thirty (30) days prior notice to the parties.

7. The term of this MOA shall commence upon January 17, 2021, and shall terminate at the close of business on June 11, 2021.
8. RELATIONSHIP OF PARTIES: Both parties agree that nothing in this MOA shall be construed as creating an employment agreement, a partnership agreement, or a lease agreement, nor does this MOA create any joint-venture relationship between the Town and the County.
9. NON-DISCRIMINATION POLICY: The Town and the County do not discriminate on the basis of age, race, color, religion, sex (including pregnancy), sexual orientation, ancestry or national origin, familial status, marital status, genetic information, actual or perceived disability, or gender-related identity or expression in its programs and activities and provides equal access to other designated youth groups. The following persons have been designated to handle inquiries regarding the non-discrimination policies:

For Town:  
Director of Human Resources  
PO Box 99  
North Beach, MD 20714

For County:  
Director of Human Resources  
175 Main Street  
Prince Frederick, MD 20678  
410-535-1600

10. NOTICE: Any notice to be given under this MOA shall be in writing and shall be mailed to:

For County (3 copies):  
(1) Calvert County, County Administrator  
175 Main Street  
Prince Frederick, MD 20678

For Town:  
Town of North Beach, Mayor  
PO Box 99  
North Beach, MD 20714

(2) Calvert County, Director of Parks & Recreation  
175 Main Street  
Prince Frederick, MD 20678

(3) Calvert County, County Attorney  
175 Main Street  
Prince Frederick, MD 20678

Any notice or demand so sent shall be deemed to have been given or made on the date the same was deposited with the United States Postal Service with postage thereon fully prepaid.

11. SOVEREIGN IMMUNITY: By entering into this MOA, neither the Town nor the County and their respective "employees," as defined in the Local Government Tort Claims Act, §§5-301, *et seq.* of the *Courts and Judicial Proceedings Article*, waive sovereign immunity, and do not waive: any defenses; any limitations of liability as may be provided for by law; or any provision of the Local Government Tort Claims Act.
12. THIRD-PARTY BENEFICIARY: It is specifically agreed between the parties executing this MOA that it is not intended by any of the provisions of this MOA to create in the public or any member thereof, third-party beneficiary status in connection with the performance of the obligations herein without the written consent of the County and notwithstanding its concurrence in or approval of the award of any contract, subcontract or the solicitation thereof in fulfilling the obligations of the MOA.
13. NO INDIVIDUAL LIABILITY: No elected official, appointed official, employee, servant, agent, or law enforcement officer shall be held personally liable under this MOA and any extension or renewals thereof because of its enforcement or attempted enforcement provided they are acting within the course and scope of their employment or governmental duties and responsibilities.
14. SUFFICIENT APPROPRIATIONS: The County's financial obligations, if any, under this MOA are contingent upon sufficient appropriations and authorization being made by the County for the performance of this MOA. The County's decision as to whether sufficient appropriations are available shall be accepted by the other party or parties to this MOA and shall be final.
15. SEVERABILITY: In the event any portion of this MOA is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the County to sever only the invalid portion or provision, and that the remainder of the MOA shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the MOA, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the County in entering into this MOA.

16. **TERMINATION WITHOUT CAUSE:** Either party to this MOA may terminate the MOA without cause by given 30 days written notice to the other party. The effective date of termination pursuant to this clause shall be the 31st day following the date of the written termination notice. In the event of such termination, all contract fees and charges incurred through the effective date of the termination shall be payable in accordance with the terms of this MOA. In the event of such termination, neither party shall be liable for any damages, penalties, demobilization, or contract termination expenses of any nature. In the event of a conflict between this clause and any other clause of this MOA, this clause shall control.

17. **TERMINATION FOR CAUSE:** Violation of any material provision of this MOA shall entitle the non-breaching party to terminate this MOA immediately for cause. Examples of material breaches include but are not limited to the failure to obtain and maintain adequate insurance, the failure to secure NBRC, and the failure to maintain upkeep of NBRC. Notice of termination for cause shall be given in writing by the Mayor of the Town to the President of the County, or vice versa as the case may be.

18. **FORCE MAJEURE:** In the instance of events beyond the responsible control of either party, such as war, riots, fire, flood, hurricane, typhoon, earthquake, lightning, explosion, pandemic, or strikes, parties shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay.

19. **ENTIRE AGREEMENT:** The parties hereto agree that the above writing constitutes the entire agreement between them concerning this matter and that there are no understanding, promises, or arrangements binding either party hereto that have not been written herein. The parties further agree that this MOA can be amended only by a written agreement signed by the parties hereto.

20. **CHOICE OF LAW:** This MOA shall be governed by the internal laws of Maryland, without giving effect to its choice of law provisions, and any action brought by or between the parties shall vest jurisdiction and venue exclusively in the Courts located in Calvert County, Maryland.

**IN WITNESS WHEREOF**, the parties hereto have caused this MOA to be executed by a duly authorized representative by their hands and seals, intending to be so bound, as of the day and year first above written.

**ATTEST:**

\_\_\_\_\_  
Rachel M. Distel, Clerk

**BOARD OF COUNTY COMMISSIONERS OF  
CALVERT COUNTY, MARYLAND**

By: \_\_\_\_\_ (Seal)  
Earl F. Hance, President

**ATTEST:**

**Town of North Beach**

\_\_\_\_\_

By: \_\_\_\_\_ (Seal)  
Mike Benton, Mayor