

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2016 Legislative Session

Legislative Day No. 14

Resolution No. 94-2016

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO EXECUTE, ON BEHALF OF WICOMICO COUNTY, MARYLAND, A JOINT USE AGREEMENT WITH WICOMICO EQUESTRIAN LIMITED.

WHEREAS, pursuant to Section 22-1 of Chapter 22, entitled "County-owned property," paragraph E, and the Local Government Article, Section 10-212, of the Annotated Code of Maryland, the County Executive is authorized and empowered to lease County property in furtherance of public purposes; and

WHEREAS, the Wicomico Equestrian Limited, a Maryland corporation, would like to enter into a Joint Use Agreement for the use of the Winterplace Park Carriage House building and the Wicomico Equestrian Center to include the devon ring, grass rings, sand ring, PA system, office, roadway, main barn and the remaining grounds including the old barn; and

WHEREAS, the Joint Use Agreement is for a term of five (5) years, commencing January 1, 2016 and ending on December 31, 2020; and

WHEREAS, Wicomico Equestrian Limited shall pay rent at an annual rental rate of Seventeen Thousand Dollars (\$17,000); and

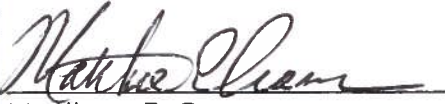
WHEREAS, the leased premises shall be used by Wicomico Equestrian Limited for the sole purpose of conducting Wicomico Equestrian Club events and approved rentals.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Wicomico County, Maryland that the County Executive be, and is hereby, authorized to execute, on behalf of Wicomico County, Maryland, a Joint Use Agreement, in substantially the form attached hereto as Exhibit A, with the Wicomico Equestrian Limited for a term of five (5) years, commencing January 1, 2016 and ending on December 31, 2020, at an annual rental rate of Seventeen Thousand Dollars (\$17,000).

Done at Salisbury, Maryland, this 19th day of July, 2016.

ATTEST:

COUNTY COUNCIL OF
WICOMICO COUNTY, MARYLAND



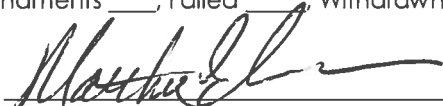
Matthew E. Creamer,
Council Administrator



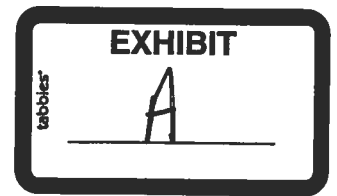
John T. Cannon,
Council President

CERTIFICATION

This Resolution was Adopted , Adopted with Amendments ____, Failed ____, Withdrawn ____ by the
County Council on July 19, 2016.

Certified by 
Matthew E. Creamer, Council Administrator

**JOINT USE AGREEMENT
WICOMICO EQUESTRIAN CLUB**



THIS JOINT USE AGREEMENT ("Agreement"), made this 16th day of May, 2016 by and between Wicomico County, Maryland, hereinafter designated "County" and the Wicomico Equestrian Limited, a Maryland corporation, herein after designated as "Licensee."

WHEREAS, the Licensee desires to use the Wicomico Equestrian Center at Winterplace Park for Club Events and Approved Rentals under the terms and conditions of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the County grants to the Licensee use of facilities at the Wicomico Equestrian Center located at 6742 Blue Ribbon Road, Salisbury, MD 21804 ("Premises"). Use of the Premises by and between the parties shall be as follows:

I. Premises

- A. County licenses unto Licensee the following County-owned property for the sole purpose of conducting Wicomico Equestrian Club Events and Approved Rentals as defined in Appendix B: the Wicomico Equestrian Center to include the Devon ring, grass rings, sand ring, PA system, office, roadway, main barn, and rest of the grounds including the old barn. Use of the Carriage House must be requested in writing and approved by the Wicomico County Director of Recreation, Parks & Tourism. Use of the Carriage House must be in accordance with the terms of the attached Appendix A for Special Conditions at the Carriage House.
- B. All Premises will be off-limits to Licensee for all uses as follows:
 - 1. For 10 days in the month of August for the Wicomico County Fair, the dates of which will be communicated to the Licensee by January 1 of each year.
 - 2. For additional dates where the Premises is required by the County for its use for County Special Events (including, but not limited to, parking for Pork in the Park and Delmarva Bike Week). Licensee will be given sixty (60) days notice prior to County Special Events.
- C. Subject to approval by the County, the Licensee may conduct additional Club Events (other than those listed in Appendix B) on the Premises but the Licensee will provide a list of event dates and times to the County for approval no later than March 1 of each year.
- D. The County reserves the right to enter upon and to have access to the Premises at any and all times on any matters connected with said Premises.

II. Term

- A. The term of this Agreement shall be five (5) years beginning January 1, 2016 and ending on December 31, 2020.

III. Fee schedule

- A. Licensee agrees to pay the County seventeen thousand dollars per year (\$17,000 per year). Annual payment should be submitted to the County no later than December 1 of each year. Reimbursable fees and expenses shall be invoiced to the Licensee on a monthly basis and payment shall be remitted to the County within 30 days of receipt of invoice as outlined in Section VI below.
- B. Licensee agrees that if the County is called upon to provide additional services to Licensee not covered in this Agreement, or if the County is subject to any charges or costs beyond those ordinarily incident to the rental, then Licensee will pay and reimburse the County for any and all such extra services, charges and costs in addition to the rent.

IV. Termination

- A. This Agreement may be terminated by mutual written consent from both parties. Additionally, the Agreement shall be terminated upon the expiration of the initial term or if renewed by both parties, then upon the expiration of the renewal term.
- B. Without prejudice to any other rights and remedies that may be available to the County, in the event of the breach by Licensee of one or more of the provisions of this Agreement, the County may refuse to allow Licensee to take possession of the Premises or may eject Licensee from the Premises. The County shall not be responsible to the Licensee for doing any or all of the things authorized by this paragraph.
- C. Should the Premises be destroyed or damaged by fire, or by the elements, mob, riot, war or civil commotion, or any part of the Premises be made impractical for use, by any cause, the County may, at its discretion, terminate and void this Agreement, in which event, the County shall return to Licensee a pro-rated portion of the annual payment made in accordance with the terms of this Agreement, and Licensee expressly waive any claim for damage or compensation should this Agreement be so terminated.

V. Insurance

- A. The Licensee hereby agrees to provide an insurance certificate evidencing public liability insurance with minimum limits of One Million Dollars (\$1,000,000) for individual and aggregate liability and Fifty Thousand Dollars (\$50,000) property damage. The certificate shall be provided to the County on an annual basis. Wicomico County must be named on the certificate of insurance as an additional insured.

VI. Maintenance

- A. As part of this Agreement, the County will perform routine maintenance on the Premises without additional charge to the Licensee. Maintenance performed will be consistent with County practices at all County-operated facilities.
- B. In addition, the County will perform the following tasks and will bill the Licensee for material costs as outlined below:

1. Apply fertilizer, pesticides and soil amendments as needed. Licensee will reimburse the County for all fertilizer, pesticides and soil amendments purchased for application at the site.
 2. Seed grass rings annually. Licensee will reimburse the County for seed purchased for application at the site.
 3. The County will continue to receive and pay the electric bill, but the Licensee will reimburse the County for electric costs within 30 days of being invoiced by the County.
 4. Assist the Licensee with setup for Club Events and Approved Rentals. Licensee shall complete a written maintenance request and submit to the Wicomico County Department of Recreation, Parks & Tourism no less than 30 days prior to any Club Event or Approved Rental dates. Set up includes mowing of grass, cleaning of stables, providing trash containers, moving judges stand if required and ensuring the audio system works. Set up does not, however, include setting up of horse jumps or any equestrian related tasks.
 5. Provide labor assistance and supplies for routine electrical, carpentry and plumbing issues at the site as needed. Licensee will reimburse the County for associated materials and costs.
 6. Provide labor assistance and supplies during the off-season for Premises upgrades and repairs as needed. Licensee will reimburse the County for associated materials and costs. Projects will be mutually agreed upon between the County and the Licensee.
- C. Major Premises repairs such as the replacement of the roof, fence rails, or additions to the structural integrity of the facilities, shall be the responsibility of the County.
- D. The Licensee shall abide by the following Premises and maintenance rules:
1. Licensee agrees that they shall not change, alter or add to the Premises without approval of the County. All buildings, structures, fixtures, facilities and utilities so placed in or upon or attached to the Premises by the Licensee shall become part of the complex and the sole property of the County. The Licensee may direct requests for alteration to the Premises to the Wicomico County Department of Recreation, Parks and Tourism.
 2. Licensee agrees not to bring onto the Premises any material or object which in the judgment of the County, is likely to endanger, damage, or injure any person or property on the Premises. The County can refuse to allow any such material or object to be brought onto the Premises and require its immediate removal if found.
 3. Licensee agrees to leave the Premises in the same conditions as existed on the date that possession commenced, normal wear and tear excepted. County will

inspect the Premises on an annual basis. Following the inspection, the County will invoice Licensee for any repairs, replacements or clean-up charges necessitated by Licensee's use of the Premises and the bill shall be due and payable within thirty days of mailing. Any dispute regarding the inspection and/or related charges should be directed to the Director of Recreation, Parks & Tourism for resolution.

4. No portion of the sidewalks, entries, passages, vestibules, halls, nor any other ways of access to public utilities of the Premises shall be obstructed, or caused to be obstructed, by Licensee or used for any purpose other than ingress and egress to and from the Premises. The doors, stairways or openings that reflect or admit light into any place in the building, including hallways, corridors and passageways, as well as radiators and house lighting attachments, shall in no way be obstructed by Licensee.
 5. Licensee shall always have an adult (over the age of twenty one), paid or volunteer, on site for each activity or special event, who shall be responsible for the conduct of the participants and spectators.
 6. Licensee shall obtain all permits and licenses, shall comply with all of the requirements and shall pay all taxes, fees and charges prescribed by Federal, State, County and any applicable laws, ordinances and regulations, in connection with Licensee's use of the Premises. This Agreement is executed with the understanding that Licensee will comply with all State and local laws.
 7. Licensee further agrees that Licensee and all agents, representatives, members and employees shall abide by the rules and regulations promulgated by the management of Wicomico County Department of Recreation, Parks and Tourism areas and that Licensee will pay for any or all damage which County may sustain as a result of any act or omission on the part of the Licensee, its agents, servants and employees.
- E. The Licensee will be responsible to collect its own revenue and pay for all of its own expenses, including the annual rent and reimbursable fees and expenses (outlined in Section VI above), associated with the Licensee's activities on the Premises. Responsibilities of the Licensee shall include:
1. Collection of all revenues including membership dues, stall fees, event entry fees, vendor fees and other fees associated with conducting the associated events of the club.
 2. Payment of all utilities, including but not limited to electricity, based on usage at the Premises.
 - a. The County will take a meter reading before and after the County Fair held in August. The Licensee shall not be responsible for electric costs accrued during this period and the associated cost shall be reduced accordingly on the monthly invoice.

3. Payment for irrigation parts, fertilizer, soil amendments, pesticides, seed, maintenance supplies, and other associated costs which will be applied by the County.

VII. Equipment and Storage

- A. Licensee is granted permission to use equipment stored at the Equestrian Center including jumps, flatbed trailers, PA system (including 30 watt paging horns, amplifier, commercial mixer), 3 point hitch disc, 1984 240 Massey-Ferguson 34HP tractor, and MK Martin track curry. Equipment is property of the County and can be used only for Licensee Club Events and Approved Rentals as part of this Agreement. Licensee shall not remove County property from the Premises.
- B. Any equipment purchased by the Licensee after execution of the Agreement may be stored on the Premises with advance approval from the Director of Recreation, Parks and Tourism.
 1. Upon the expiration of this Agreement, if Licensee does not remove from the Premises all property stored by Licensee within 5 days, then County may remove and store the property at Licensee's expense or cause the property to be sold.
 2. The Licensee must receive written permission from the Director of Recreation, Parks and Tourism to dispose of any equipment belonging to the County stored at the site.
- C. The County shall not be liable or responsible for any damage to the property of Licensee, or to any person bringing property onto the Premises. County shall not be responsible for the theft, loss or damage to Licensee' property or property belonging to anyone with whom Licensee may have contractual relations, as to the use or part use of the Premises.

VIII. Indemnification

- A. The County shall not be liable or responsible for any claims or causes of action arising from the acts of volunteers, employees and members of Licensee or for any claim arising from damage to the person or property of Licensee, or persons attending Licensee events by reason of the use thereof, by Licensee.
- B. Licensee acknowledges and agrees that neither the County nor its agents and employees shall be responsible for any expenses, losses, damages, claims, lawsuits or liabilities that are in any way caused by or result from the use of the County property authorized by this Agreement. Licensee further agrees it shall be responsible for any and all expenses of cost of defense, losses to, damages or claims made against the County or their agents and employees that are in any way caused by or result from the use of the County property under this Agreement.
- C. Licensee further accepts the site "AS IS" and releases, discharges, and waives the County from any and all rights of action, either legal or equitable, which they have or ever may have against the County by reason of use of the said site, excepting only any injury or

damage resulting from the willful acts or gross negligence of the County.

IX. Assignment

- A. Licensee shall not assign this Agreement or sublease the whole or any part of the Premises without the prior written permission of County. Requests to sublease the Premises must be made with a minimum of 30 days notice.
- B. It is understood and agreed that the relationship of the parties is strictly that of Licensee and Licensor and that the County has no ownership in the Licensee' enterprise and that this Agreement shall not be construed as a joint venture or partnership. The Licensee is not and shall not be deemed to be an agent or representative of the County.

X. Governing Law

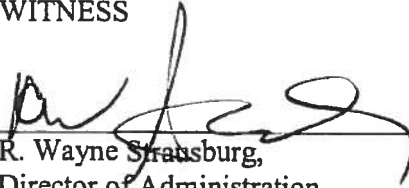
- A. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland and Wicomico County without regard to principles of conflicts of law.
- B. Any matters not herein expressly provided for shall be decided by the judgment of Wicomico County, Maryland and/or its representatives or employees or person acting in such capacity for performing such duties and such decisions shall be binding upon Licensee.

XI. Entire Agreement

- A. This Agreement constitutes the complete and exclusive statement of the Agreement between the parties relevant to the purpose described herein and supersedes all prior agreements or proposals, oral or written, and all other communication between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned the day and year first above written.

WITNESS

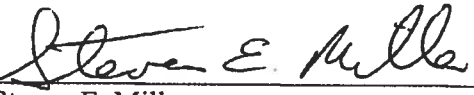


R. Wayne Strausburg,
Director of Administration


WICOMICO COUNTY, MARYLAND



Bob Culver
Wicomico County Executive



Steven E. Miller
Director Dept of Recreation, Parks & Tourism



Clifton B. Thaw III
President, Wicomico Equestrian Limited

APPENDIX A

Carriage House Special Conditions

The following conditions are required by the Wicomico County Public Works Department, Office of Fire Inspection:

1. During an event, attendance would be limited to 250 persons maximum.
2. Due to the lack of adequate exits: all exterior doors must be propped open throughout the duration of all events.
3. Parking for events must be approved by adjacent properties if parking will not be confined to county owned land surrounding the carriage house.
4. Portable toilets must be provided by Lessees per event.
5. No flammable decorations of any kind may be used.
6. The center section of the carriage house only may be used for events to allow adequate exit aisles for evacuation purposes.
7. Storage of any products is prohibited. Existing stored items, portable stalls and chair carts must be removed by the county.

APPENDIX B

Definitions of Club Events and Approved Rentals

Club Events – Annual equestrian events held at the Premises that are organized and executed directly by the Licensee, including:

- “Tack Exchange” – in January
- “Open Ride” – 3rd weekend in April
- “May Show” – 3rd weekend in May
- “Anniversary Show” – 4th weekend in June
- “Mid-Summer Show” – 4th weekend in July

Additional Club Events may be requested no later than March 1 of each year by the Licensee for advance approval of the Director of Recreation, Parks & Tourism.

Approved Rentals – Equestrian events held at the Premises that are organized and executed by an outside organization and facilitated by the Licensee through a sub-lease agreement. The “Sublease Rental Agreement Wicomico Equestrian Center at Winterplace Park” form must be completed by the outside organization and submitted to the County for approval.