

COPY OF LEASE BETWEEN THE
VICTORIA COUNTY HISTORICAL
SOCIETY
and the
COUNTY OF VICTORIA

signed December 20,2000

IN PURSUANCE of the Short Forms of Leases Act, R.S.O. 1990, c. S.11, as amended, between THE CORPORATION OF THE COUNTY OF VICTORIA, hereinafter called the "County", as Landlord, and THE VICTORIA COUNTY HISTORICAL SOCIETY, hereinafter called the "Society", as Tenant.

WHEREAS the County is a municipal corporation pursuant to the provisions of the Municipal Act, R.S.O. 1990, c. M.45, as amended;

AND WHEREAS the County is the registered owner of those lands and premises more particularly described on Schedule "A" attached hereto and generally called the "Old Jail", on Victoria Avenue North, in the Town of Lindsay, and in the County of Victoria;

AND WHEREAS the Society is a not for profit corporation by way of Letters Patent issued to its incorporators on the 3 day of August, 1976, under Part III of the Corporations Act, R.S.O. 1990, c. C.38, as amended.

AND WHEREAS the County has for many years leased these lands to Her Majesty The Queen as represented by the Minister of Government Services in and for the Province of Ontario, for the purpose of the operation of a provincial correctional facility;

AND WHEREAS the County has received notice that upon completion of the construction of the new mega-jail facility on County of Victoria Highway No. 36 the Province of Ontario will no longer have use of the Old Jail;

AND WHEREAS for some time now the Society has expressed to the County its interest in relocating to the site of the Old Jail and its courtyards the exhibits and displays associated with the Museum facility owned and operated by the Society and currently temporarily housed in a building owned by Her Majesty the Queen in Right of Ontario and municipally known as 322 Kent Street West, in the Town of Lindsay, in the County of Victoria;

AND WHEREAS the Society has made representations to the Council of the Corporation of the County of Victoria seeking permission to enter into a formal lease of the Old Jail;

AND WHEREAS the Council of the Corporation of the Town of Lindsay did by By-Law No. 2000-68 duly enacted on the 11th day of September, 2000, pursuant to the Ontario Heritage Act, R.S.O. 1990, c. O.18, s.29, designate the Old Jail a property to be of historic or architectural value or interest.

AND WHEREAS the Society is aware that any lease to be entered into by the County with respect to the Old Jail must be approved of by the Transition Board of the new City of Kawartha Lakes to come into being on January 1, 2001 pursuant to an Order of Professor Harry Kitchen made the 19th day of April, 2000.

IN CONSIDERATION of the sum of \$2.00 and other valuable consideration now paid by each party to the other the parties agree as follows:

1. In this indenture, the "Demised Area" shall mean the whole of the building referred to as the Old Jail situate upon the lands comprising Lot 13, North of Francis Street, in the Town of Lindsay, in the County of Victoria together with the courtyards immediately adjacent to that building and currently used in connection with the correctional facility now operated upon such lands.

2. (a) The Landlord hereby demises and leases the Demised Premises to the Tenant subject to the rights in the nature of easements set out in clause 2(2) hereof, for a term of twenty (20) years commencing January 1, 2002 or such earlier date as the parties may in writing agree upon, and expiring December 31, 2021, on the terms and conditions set out in this indenture.
- (b) The Landlord and any agency (whether governmental or otherwise) owning or operating a public utility as that term is defined in the Public Utilities Act, R.S.O. 1990, c. P.52, or the Public Utilities Corporations Act, R.S.O. 1990, c. P.53, and their respective successors and assigns shall have the right:
 - (i) to install, maintain, repair, replace, reconstruct, enlarge, inspect or test any pipes, cable, meters or other plant whatsoever on, under or adjacent to the Demised Area as part of, appurtenant to or in connection with any such public utility, and
 - (ii) by their respective officers, employees, agents and contractors, to enter upon the Demised Area, with or without all necessary or convenient gear and equipment, for the purposes set out in clause (b) (i) hereof.
3. The Tenant shall pay the Landlord rent consisting of a fixed annual portion of \$1.00, if demanded, payable on the 1st day of January in each and every year during the currency of this indenture.
4. (a) The Tenant covenants with the Landlord:
 - (i) to pay rent;
 - (ii) to pay all charges (including penalties and interest) for water, electricity and other utilities supplied to the Demised Area, directly to the supplier thereof in each case;
 - (iii) to pay all such taxes or rates, if any, applicable as a result of the occupation by the Tenant of the Demised Area;
 - (iv) not to make changes in surfacing, grade or landscaping, at or on the Demised Area, except in accordance with plans therefor which have been submitted to, and approved by, the County, such approval not to be unreasonably withheld, and to make any such changes expeditiously in a good and workerlike manner (including proper clean-up) to the satisfaction of the County;
 - (v) to keep the Demised Area in a clean and well-ordered condition, and not to permit any rubbish, refuse, debris

or other objectionable material to be stored, or to accumulate therein, all to the satisfaction of the County;

- (vi) to use the Demised Area only as a Heritage and Cultural Centre;
- (vii) not to assign or sublet or enter into an agreement with any other agency or corporation for the use of all or any portion of the Demised Area without leave of the County, which leave may be reasonably withheld;
- (viii) not to erect any signs, buildings or other non-landscaping structure on the Demised Area without the written consent of the County;
- (ix) to assume all responsibility for the paving, yard maintenance, routine building repair, upkeep and snow removal of the Demised Area;
- (x) to ensure that nothing is done or kept at or on the Demised Area which is or may be a nuisance, or which causes damage to or interference with normal usage of any adjoining property, provided that the use referred to in paragraph (v), and the vehicles, supplies and equipment necessarily incidental thereto shall not be deemed to be, in and of themselves, a nuisance;
- (xi) to take at its own expense all measures necessary to ensure to the County's satisfaction that the plant of or appurtenances to any municipal service or public utility now or in the future on, under or adjacent to the Demised Area, is adequately protected against damage, impairment, destruction or loss;
- (xii) not to store inflammable or explosive substances on the Demised Area;
- (xiii) to comply with all federal, provincial and municipal laws, by-laws, rules and regulations affecting the Demised Area, including the obtaining of all necessary permits and licences, and to save the Landlord harmless from any liability or cost suffered by it as a result of failure of the Tenant to do so;
- (xiv) upon termination of the tenancy, at its own risk and expense, to remove from the Demised Area within thirty (30) days, any fixtures and chattels belonging to it, with all damage, if any, caused by such removal made good by it, and to leave the Demised Area neat, clean, level and free of all

waste material, debris and rubbish,
all to the County's satisfaction, and

(xv) that upon failure by the Tenant to comply with any covenant(s) incumbent upon it under this indenture within seven (7) days after written notice requiring such compliance is given by the Landlord to the Tenant, the Landlord may enter the Demised Area and fulfil such covenant(s) at the sole expense of the Tenant, who shall forthwith upon being invoiced therefor reimburse the Landlord who in default of such reimbursement may collect same as rent owing and in arrears.

(b) The Tenant accepts the Demised Area in the condition existing at the date of the commencement of the Term and the Tenant shall be responsible for the cost of any grading, fencing or other alteration or improvements required in order to prepare the Demised Area for the purpose set out in paragraph (vi) of clause 4(a).

5. It is understood and agreed between the Landlord and the Tenant that the Heritage and Cultural Centre constructed on the lands herein shall be a Community Centre, and any person, persons or organization whatsoever shall be permitted entry to that Centre, subject to those reasonable rules and regulations as might be imposed by the Tenant. *

6. It is further understood and agreed between the Landlord and the Tenant that the Tenant will make available to the Landlord at such time or times, and upon reasonable advance notice having been given by the Landlord to the Tenant, such meeting space or spaces within the Demised Area as the Landlord may deem necessary or advisable for special events.

7. Except as may be otherwise agreed upon in writing, the Tenant covenants that the entrance to the Demised Area shall be from Victoria Avenue North, and the exit from the Demised Area shall be to Victoria Avenue North, and the Tenant shall cause proper signs in this regard to be erected. *

8. (a) The parties acknowledge and agree that the use of the Demised Area shall be mutually beneficial to both parties and both parties shall do all things necessary to co-operate in this regard.
- (b) Subject to occasional times of high usage events, both parties shall endeavour not to conduct special events requiring parking for a large number of cars at the same time.
- (c) Where both parties knowingly plan to conduct large events simultaneously, the parties shall secure alternative additional parking and to clearly and conspicuously post notice of the location of such alternative additional parking.

9. (a) If the Tenant or any assignee or subtenant makes an assignment for the benefit of creditors, or becomes insolvent or commits an act of bankruptcy as defined by the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, or if the leasehold interest created by this indenture is at any time seized or taken in execution or in attachment, or if the Tenant or any corporate assignee or subtenant is subjected to voluntary or compulsory liquidation or winding-up, or if the Demised Area becomes abandoned, then, at the option of the Landlord, the leasehold shall cease, the Term shall be at an end, the rent for the then next ensuing year shall immediately become due and payable and the Landlord may re-enter and take possession.
- (b) Notwithstanding any present or future Act of the Ontario Legislature, none of the Tenant's goods and chattels on the Demised Area shall at any time during the Term be exempt from levy by distress for rent in arrears, and the Tenant, having waived any such exemption, shall by this clause be estopped from setting up any such exemption in any proceedings between the parties.
- (c) This indenture makes provision for re-entry by the Landlord on non-payment of rent or non-performance of covenants.
10. (a) The Tenant shall at all times indemnify and save harmless the Landlord from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever (including those under or in connection with the Workplace Safety and Insurance Act, S.O. 1997, c.16, Sch. A, or any successor legislation), made or brought against, suffered by or imposed on the Landlord or its property in respect of any loss, damage or injury (including fatal injury) to any person or property (including, without restriction, employees, agents and property of the Landlord or of the Tenant) directly or indirectly arising out of, resulting from or sustained as a result of the Tenant's occupation or use of, or any operation in connection with, the Demised Area or any fixtures or chattels therein except to the extent attributable to the Landlord's negligence.
- (b) The Tenant shall, at all times during the currency of the Term and any renewal thereof, at its own expense maintain in force insurance coverage with respect to the Demised Area and its use and occupation thereof, and shall provide the Landlord with certificates of a policy or policies of an insurance company or companies to the Landlord for:
- (i) insurance against loss by such insurable hazards as the Landlord may from time to time reasonably request, and
- (ii) liability insurance for bodily injury,

death or property damage up to
\$10,000,000.00.

Every policy or policies of insurance maintained shall provide cross-liability coverage and waiver of subrogation, and the Landlord may require the Tenant to supply evidence thereof from time to time. Alternatively, the Landlord may require that it be named as an additional insured upon every such policy or policies.

- (c) The Tenant shall at all times indemnify and save harmless the Landlord from and against any and all claims, demands, losses, costs, charges, actions and other proceedings under the Construction Lien Act, R.S.O. 1990, c. C.30, in connection with any work done for the Tenant at or on the Demised Area, and shall at its own expense promptly see to the removal from the registered title to the Demised Area, of every claim for lien or certificate of action having to do with such work and in any event within fifteen (15) days of being notified in writing by the Landlord to do so, failing which the Landlord may see to such removal and recover the expense and all attendant costs from the Tenant as rent owing and in arrears.
- (d) The Landlord assumes no responsibility for damage by fire, theft or otherwise whatsoever, to the goods, chattels, fixtures and improvements of the Tenant or of any other person except to the extent caused by the negligence of the Landlord or any person(s) for whom the Landlord is at law responsible.
- (e) The provisions of this clause 10 will continue to apply, notwithstanding cessation of the tenancy created by this indenture, throughout the period(s) during which activities take place pursuant to paragraphs (xiii) and (xiv) of clause 4(a) of the indenture.

11. If, at the expiration of the Term, the Tenant remains in possession with the consent of the Landlord but without any further written agreement, a tenancy from year to year shall not be created by implication of law or otherwise, but the Tenant shall be deemed to be a monthly tenant only at a rental payable monthly in advance at the rate payable at the expiration of the Term or renewal and otherwise upon and subject to the terms and conditions contained in this indenture.

- 12. (a) Subject to clause 2(b) of this indenture, the Landlord covenants with the Tenant for quiet enjoyment.
- (b) The Landlord shall make reasonable efforts to complete any exercise by the Landlord of its rights under clause 2(b) of this indenture, expeditiously, and upon such completion shall restore the Demised Area substantially to its condition immediately prior to such exercise.
- 13. (a) Any notice pursuant to any of the provisions of this indenture shall be deemed to have been

properly given if delivered in person, or mailed by prepaid registered post addressed:

- (i) in the case of notice to the Landlord to:
26 Francis Street, P.O. Box 9000, Lindsay,
Ontario, K9V 5R9
- (ii) in the case of notice to the Tenant to:
50 Victoria Avenue North, Lindsay,
Ontario, K9V 4G3

or to such other address as either party may notify the other of, and in the case of mailing as aforesaid, such notice shall be deemed to have been received by the addressee, in the absence of a major interruption in postal service affecting the handling or delivery thereof, on the fourth business day, excluding Saturdays, next following the date of mailing.

- (b) Where under this indenture certain approval authority has been reserved to the County, such authority may be exercised by the County's Chief Administrative Officer or his or her designate. The authority of the chief Administrative Officer shall not be deemed to be exhausted by any individual exercise thereof, and in the matters for which he or she is to be responsible under this indenture, the Chief Administrative Officer shall be the sole judge whose opinion and exercise of discretion shall not be subject to review in any manner whatsoever except as expressly otherwise indicated in this indenture.
14. (a) All sums, for rent or otherwise, payable to the Landlord under this indenture shall bear interest commencing the fifteenth day next following the falling due thereof, at the then current rate of interest charged to the Landlord by its bankers until the actual date of payment.
- (b) The Tenant shall pay to the Landlord all the Landlord's legal costs, on a solicitor and client basis, of all actions or other proceedings in which the Landlord participates in connection with, or arising out of the obligations of the Tenant under this indenture or arising out of the Tenant's occupation of the Demised Area, except to the extent that the Landlord is not successful therein.
15. (a) No condonation, excusing or overlooking by the Landlord of any default, breach or non-observance of any of the Tenant's obligations under this indenture at any time or times shall affect the Landlord's remedies or rights with respect to any subsequent (even if by way of continuation) default, breach or non-observance.
- (b) No waiver shall be inferred from or implied by anything done or omitted by the Landlord.
 - (c) Any written waiver by the Landlord shall have effect only in accordance with its express terms.

- (d) All rights and remedies of the Landlord under this indenture shall be cumulative and not alternative.
- 16. (a) The termination of the Term by expiry or otherwise shall not affect the liability of either party to this indenture to the other with respect to any obligation under this indenture which has accrued up to the date of such termination but not been properly satisfied or discharged.
- (b) The Tenant acknowledges that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this indenture other than as set out in this indenture, which constitutes the entire agreement between the parties concerning the Demised Area and which may be modified only by further written agreement under seal.
- (c) The provisions of this indenture shall be binding upon, and enure to the benefit of, the parties and their respective successors and (where applicable), permitted assigns.

17. The Landlord acknowledges and consents in principle to the intention of the Tenant in its conversion of the Demised Area into a Heritage and Cultural Centre to restore certain of the original 1800's attributes of the interior for which there will be restoration and exhibit construction undertakings, including parking. The Tenant has obtained a cost estimate of \$800,000.00.

The Landlord and the Tenant covenant and agree that in the event that the Tenant is unable on or before January 1, 2002 to secure the funding necessary to complete its intended undertakings, the Tenant shall be relieved and released from all obligations under this indenture.

The Landlord acknowledges and agrees that the Tenant may make application to the Landlord's successor for an extension in the date to secure funding to January 1, 2002.

18. The Tenant acknowledges that as of January 1, 2001, the County will no longer be in existence by reason of the Order of Professor Harry Kitchen dated the 19th day of April, 2000.

The Landlord and the Tenant covenant and agree that this indenture is subject to the approval of the Transition Board of the City of Kawartha Lakes and that it shall not become final and binding upon the Landlord until approved of by the said Transition Board.

Notwithstanding that the Transition Board for the City of Kawartha Lakes may have approved the execution of this indenture, the Landlord shall be relieved and released from all obligations under this indenture in the event that the Municipal Council of the new City shall, prior to January 1, 2002, give notice in writing to the Tenant of such Council having decided upon an alternative municipal use for the Old Jail building.

19. The Landlord and the Tenant acknowledge that the Demised Area, or certain portions of it, have been designated by By-Law No. 2000-68 enacted by the Council of The Corporation of the Town of Lindsay on the 11th day of September, 2000, as being a building of historic or architectural value or interest. It is the intention of the Landlord to support, encourage and facilitate the conservation, protection and preservation of those portions of the Demised Area so designated pursuant to section 29 of the Ontario Heritage Act, R.S.O. 1990, c. O.18, as well as other non-designated portions of the Demised Area.

The Landlord and the Tenant both desire to conserve the aesthetic and scenic character and condition of the Demised Area and the present historical, architectural, aesthetic and scenic character and condition of the exterior and interior of the Old Jail. To this end, the Landlord and the Tenant desire that there be established a Committee, involving representatives of both of the parties, to oversee the preparation of the drawings illustrating the architectural and engineering renovations and restoration of the Old Jail building.

Notwithstanding the creation and operation of such Committee, the final approving authority remains the Landlord.

In witness whereof the parties have affixed their corporate seals attested to by the hands of their officers in that behalf duly authorized.

THE CORPORATION OF THE
COUNTY OF VICTORIA

Per: 

John Macklem - Warden

Per: 

George Brown - Clerk

THE VICTORIA COUNTY HISTORICAL
SOCIETY

Per: 

Lorraine Petzold - President

Per: 

- Secretary

Schedule "A"

Lot 13, North of Francis Street,
Town of Lindsay,
County of Victoria

