

# CITY COUNCIL

## READ FILE COVER SHEET

Subject: **Ordinance 1121 concerning Authorizing a Lease Agreement with the Chesapeake Heritage Conservancy for the Skipjack Martha Lewis (Public Hearing)**

Date: **9/6/2023**

**Notice:** Any comments made after 5:00 p.m. on the Thursday before the Council Meeting will not be seen in the agenda packet.

- Purpose:
- FYI
  - Read and Comment as Needed**
  - Action Required by September 18, 2023**
  - In Confidential File Drawer

Approve:

Johnny Boker  Yes  No  No Comment

Comment: \_\_\_\_\_

Casi Boyer  Yes  No  No Comment

Comment: \_\_\_\_\_

Vicki Jones  Yes  No  No Comment

Comment: \_\_\_\_\_

Jim Ringsaker  Yes  No  No Comment

Comment: \_\_\_\_\_

Jason Robertson  Yes  No  No Comment

Comment: \_\_\_\_\_

Tammy Lynn Schneegas  Yes  No  No Comment

Comment: \_\_\_\_\_

Note: N/A

CITY COUNCIL  
OF  
HAVRE DE GRACE, MARYLAND

ORDINANCE NO. 1121

Introduced by \_\_\_\_\_ Council Member Schneegas \_\_\_\_\_

**AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE, MARYLAND, ADOPTED PURSUANT TO THE AUTHORITY OF ARTICLE XI-E OF THE MARYLAND CONSTITUTION, THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AND SECTIONS 33, 34 AND 36 OF THE HAVRE DE GRACE CITY CHARTER TO APPROVE A DOCK LEASE BETWEEN THE CITY AND CHESAPEAKE HERITAGE CONSERVANCY, INC. FOR USE OF THE HUTCHINS PARK PIER**

On: September 5, 2023

at: 7:00 p.m.

Ordinance introduced, read first time, ordered posted and public hearing scheduled.

**PUBLIC HEARING**

A Public Hearing is scheduled for September 18, 2023 at 7:00 p.m.

EXPLANATION

Underlining indicates matter added to existing law.

**[Bold Brackets]** indicate matter deleted from existing law.

Amendments proposed prior to final adoption will be noted on a separate page with line references or by handwritten changes on the draft legislation.

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32 **WHEREAS**, the mission of the Chesapeake Heritage Conservancy, Inc. is to promote and  
33 preserve historic Chesapeake Bay watercraft and to educate the public in the heritage of the  
34 Chesapeake Bay; and

35 **WHEREAS**, the City of Havre de Grace and the Chesapeake Heritage Conservancy have a long  
36 history and relationship of more than 25 years; and

37 **WHEREAS**, the Skipjack Martha Lewis, owned and operated by the Chesapeake Heritage  
38 Conservancy, Inc., was, for many years, the unofficial ambassador for Havre de Grace; and

39 **WHEREAS**, the Skipjack Martha Lewis was built in 1955 by Bronza Parks for Captain James  
40 Lewis, who named the boat after his mother; and

41 **WHEREAS**, the Martha Lewis has gone under extensive renovations project since 2016, and will  
42 soon be ready to return to the waters of the Chesapeake Bay, to carry on its mission; and

43 **WHEREAS**, the Skip Jack Martha Lewis will return to Havre de Grace for the latter part of the  
44 2023 boating season and the entire 2024 boating season.

45 **NOW THEREFORE**, it is determined, decided, and ordained by the City Council that it is in the  
46 best interest of the citizens of Havre de Grace for the Mayor to offer to the Chesapeake Heritage  
47 Conservancy, Inc. a dock lease (substantially in the form attached hereto as Exhibit A) based on  
48 the following terms:

- 49 a. The Mayor and City Council of Havre de Grace shall offer a lease to the Chesapeake  
50 Heritage Conservancy Inc., for dockage space and electric at the Hutchings Park pier for  
51 the 2023 and 2024 boating seasons.
- 52 b. The Mayor and City Council of Havre de Grace shall provide dockage, water and electricity  
53 to the Chesapeake Heritage Conservancy Inc., for both the 2023 and 2024 boating seasons  
54 at no cost.
- 55 c. The Chesapeake Heritage Conservancy Inc. shall provide an educational cruise opportunity  
56 that includes 6 dates that will be offered to up to 12 Havre de Grace residents.
- 57 d. Upon expiration of this agreement, any future agreements shall be at the established slip  
58 rates for the Hutchins Park pier.

59 **ADOPTED** by the Mayor and City Council of Havre de Grace, Maryland this 5<sup>th</sup> day of September  
60 5, 2023.

61 **ATTEST:** MAYOR AND CITY COUNCIL  
62 OF HAVRE DE GRACE

65 Stephen J. Gamatoria	William T. Martin
66 Director of Administration	Mayor

67

68 Introduced/First Reading: 9/5/2023

69 Public Hearing:

70 Second Reading/Adopted:

71 Effective Date:

**EXHIBIT A**

LEASE AGREEMENT

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This LEASE AGREEMENT (“Lease” or “Agreement”) is effective this \_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”), between **THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE**, a Maryland municipal corporation, (“City” or “Lessor”), and **CHESAPEAKE HERITAGE CONSERVANCY, INC.** a Maryland company (“Company” or “Lessee”).

WHEREAS, the City is the owner of certain real property, including the associated pier, pilings, moorings, and riparian rights, and other related improvements located within Hutchins Park and along the shoreline at the foot of Congress Avenue in the City, as more particularly described herein (“Pier”); and

WHEREAS, the Lessee is the owner and operator of a historic skipjack sailboat named MARTHA LEWIS (“Boat”) and wants to dock the Boat at the Pier where it will be used for commercial purposes; and

WHEREAS, the City seeks to promote safety, health, good will and the economy within its boundaries and the Lease will allow the Pier to be used for the City’s general purposes and aid in education and charity within the City;

NOW THEREFORE, the parties agree as follows:

1. TERM. This Lease shall be effective for a term of two boating seasons to include calendar years 2023 and 2024 and shall commence on the effective Date of this Agreement. Further renewals may only be made by written agreement of the parties, at the normal fee rate as described in Chapter 70 of the City Code. In the event the Lease is not renewed by the end of 2024, the vessel shall vacate the slip by December 31, 2024.

2. DOCK FEE. The parties agree that the dock fee, electric and water usage will be waived for the 2023 and 2024 calendar. As consideration for the waiver of the dock fee, the Lessee agrees to provide an educational cruise opportunity free of charge for up to 12 Havre de Grace residents per cruise on six (6) different dates, on a first come, first served basis.

3. TERMS OF USE.

A. Lessee agrees that it may use only that portion of the City’s property granted by the City under this Lease and no other portion.

B. The permitted use is personal to the Lessee and no other person or entity.

C. The permitted use may not be assigned, sublet, or transferred in any manner by the Lessee. This Lease is not subject to an assignment for the benefit of creditors.

D. The permitted use is subject to the Lessee observing and obeying all rules, ordinances, requirements, regulations, orders or directives made by the City through its proper officers, directors or agents. Such rules and regulations shall include, without limitation, those

39 relating to signage, noise ordinance, or the necessity of acquiring any permits, including any  
40 permits from the Harford County Liquor Control Board. In addition, Lessee agrees to abide by all  
41 applicable federal, state or local dock procedures, rules, and regulations, including, without  
42 limitation: federal, state, and county laws relating to marine safety, communication, sanitation,  
43 pollution and navigation (such as the Inland Navigational Rules Act of 1980, Rules and  
44 Regulations of the Coast Guard, Maryland Department of Natural Resources, and Maryland  
45 Department of the Environment).

46 E. The permitted use only applies to the Pier and this Lease does not apply to any  
47 other boat slip, mooring, dock or pier, unless it is a temporary situation to accommodate emergency  
48 conditions or repair to the Pier.

49 F. Improvements

50 1. Any improvements to the Pier must be approved in writing by the Marina  
51 Manager and the Planning Department.

52 2. Any improvements necessary will be paid in full by the Lessee.

53 3. Any improvements required will be completed by a contractor approved by  
54 the Marina Manager.

55 a) Submittal of a design will be required, to include all specifications,  
56 maintenance requirements and estimated costs.

57 b) Upon termination of this agreement for any reason, the City will decide  
58 whether to keep the improvements or require the Lessee to remove and  
59 properly dispose of the improvement (s).

60 G. Prior to mooring the vessel in the City owned slip, the Lessee must provide the  
61 City of Havre de Grace the following documentation: (a) a Certificate of Good Standing from the  
62 State of Maryland; (b) Current Maryland Boaters Registration and Title (See Section 13); (c)  
63 Current Insurance Certificate (See Section 9); (d) US Coast Guard Vessel Certification; and (e) a  
64 captain's license if required by the State or other regulatory authority.

65 4. INDEMNITY. The Lessee shall indemnify and save harmless the City and its  
66 employees and agents from all claims and demands suits, actions, loss, damages, recoveries,  
67 judgments, costs or expenses in any injury, death, loss or damage related to the Lessee's use of  
68 City property or breach of this Lease Agreement.

69 5. RESTORATION. The Lessee is responsible for all costs or expenses to restore the  
70 City's property after termination of the use under this Lease.

71 6. MAINTENANCE. The Lessee shall maintain any facility or object in, above, or on the  
72 City's property and related to the use in a manner that is clean, workmanlike, in good repair and  
73 safe.

74 7. PERMITTED USE. The temporary permitted use allowed by this Lease is the  
75 following: the docking, maintenance and operation of the Boat, only at or about the dock located  
76 at Hutchins Park, which does not interfere with the docking, mooring, or operation of emergency  
77 vehicles.

78           8.    BOAT MAINTENANCE. No heavy boat maintenance, such as major engine repair,  
79 shall be permitted at the Pier. The City reserves the right in its sole discretion to determine what  
80 type of maintenance and repair shall be permitted.

81           9.    INSURANCE. Lessee shall keep in full force and effect and provide to the City  
82 insurance policies and certificates, which provide protection and indemnity coverage of no less  
83 than Three Million Dollars (\$3,000,000.00) for personal injury and for property damage to the City  
84 Pier. The City shall appear as an additional insured on any policy of insurance for your operations.  
85 The Lessee shall also provide proof of workers' compensation coverage. Failure to maintain  
86 insurance as set forth herein will result in immediate termination of this Lease.

87           10. SPECIAL EVENTS AND PROMOTIONS. The Lessee agrees to cooperate with  
88 promotional and special events that may occur throughout the City, including those that occur in  
89 or near Hutchins Park. For special events in the City, additional landing sites may be permitted but  
90 only with prior written permission of the City. Lessee agrees to permit the City to photograph or  
91 otherwise produce a likeness of the Boat for publication or promotional purposes and shall permit  
92 the erection of signs and other promotional displays on or near the Pier promoting seasonal events  
93 authorized by the City.

94           11. UTILITIES. Lessee will not be responsible for utilities for the 2023-2024 calendar  
95 years. In the event the City receives utility bills that are unreasonably high, the City may, without  
96 notice, temporarily shut off utilities as may be necessary to access the need for repairs and/or use.

97           12. PARKING. This Lease does not include any parking areas as a matter of right. The  
98 privilege granted to the Lessee's patrons to use City parking lots is solely as an accommodation to  
99 the Lessee, and may be restricted by the City at any time without notice.

100           13. BOAT TITLE. As a condition of this Agreement, Lessee shall provide the City with  
101 proof of title and length of Boat. Failure to provide proof of title will result in immediate  
102 termination of this Lease.

103           14. CONDITION OF DOCKING AND ADJACENT FACILITIES. Lessee acknowledges  
104 that it has inspected the Pier and adjacent facilities and is satisfied that the Pier is adequate for safe  
105 mooring of the boat. The Lessee is accepting the Pier in "as is" condition. The City shall designate  
106 the location of loading ramps. Lessee shall not alter the Pier or bulkhead without written  
107 permission of the City.

108           15. RESPONSIBILITIES REGARDING SAFETY AND DAMAGE.

109           A.    This contract is not a bailment of the Boat but a Lease to use City dock space.  
110 Such space is used at the sole risk to the Lessee and no additional responsibilities are assumed by  
111 the City by entering into this Agreement. The City shall not be liable for the care of the protection  
112 of the Boat, including the gear, equipment, and contents, or for any loss or damage of whatever  
113 kind or matter to the Boat, contents, gear or equipment. The City shall make available temporary  
114 dockage inside the City Yacht Basin during significant impending weather events, such as extreme  
115 dam releases where 16 gates or more will be opened; high wind conditions that are greater than 60  
116 mph sustained.

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118           B     Lessee represents and warrants that the Boat is in a seaworthy condition and will  
119 be maintained in a seaworthy condition at all times while the Boat is kept at the Pier. Should the  
120 City discover the Boat is in peril, Lessee agrees to pay to the City as an additional dock fee, all  
121 charges for labor and materials incurred or expenses paid by the City for the Boat in connection  
122 with correcting this situation, provided however, the City has no obligation to render aid or  
123 assistance of the Boat under any circumstances.

124           C.     Upon execution of this Lease, the Lessee shall provide the City with the phone  
125 number for the Lessee and the Lessee’s designated agent for contact in the event of emergencies.

126           D.     The City is not responsible for losses or damages to the Boat in any way. The  
127 Lessee is fully responsible for protection of the Boat from hurricanes, high water, winds, and other  
128 natural occurrences. The Lessee is fully responsible for damage to structures, pilings docks, piers,  
129 or moorings and any and all other property or persona at the Pier. In the event of an emergency,  
130 the City reserves the right but not the obligation to move the Boat to other mooring places. It is  
131 expected that if Lessee keeps its Boat at the Pier during the hurricane season, Lessee will have  
132 made arrangements for the safe mooring of the Boat on the approach of a storm. In the event of a  
133 tropical storm or hurricane, the City reserves the right, but not the obligation to evacuate the Boat  
134 at the Lessee’s expense and risk.

135           E.     The City reserves the right, but not the obligation, to expend funds to repair items  
136 of loss or damage for which the Lessee remains responsible under this Agreement, and shall be  
137 entitled to full reimbursement from the Lessee.

138           16.    TAXES. Lessee agrees to pay when due all appropriate federal, state and taxes,  
139 including the admissions and amusement tax, if applicable.

140           17.    LIEN. The City shall have the right to assert a lien against the Boat in the event of a  
141 failure to pay the Dock Fee should one become due, or any applicable City taxes when due. In  
142 addition, to the extent the City has incurred any expenses under this Agreement which have not  
143 been reimbursed by Lessee the City has a right to assert a lien against the Boat for such amounts  
144 not reimbursed.

145           18.    DEFAULT. Upon the Lessee’s failure to comply with this Agreement, the City shall  
146 have the right to terminate the Lease immediately.

147           19.    RIGHT TO RE-ENTER. Upon a Lessee’s failure to pay the Dock Fee, or rectify a  
148 dangerous condition, or upon failure to repair damage to the Pier caused by Lessee or the Boat,  
149 the City reserves the right to lawfully re-enter the Pier and take possession by removing the Boat  
150 from the Pier. Lessee shall be responsible for all costs incurred in such removal and City reserves  
151 the right to assert a lien in the event such costs are unpaid.

152           20.    ENTIRE AGREEMENT; AMENDMENT. It is understood and agreed by the parties  
153 that this Lease shall constitute the entire agreement between them with respect to the Pier and  
154 businesses conducted in conjunction therewith and no verbal statements extrinsic to this Lease  
155 shall have any force or effect. No amendment or modification of the terms of this Lease shall be  
156 effective until duly approved by the City by resolution at a City Council meeting.

157

158 21. WAIVER. The Lessee agrees that the City’s failure to enforce any of the terms herein  
159 shall not constitute a waiver.

160 22. TIME. Time is of the essence.

161 23. VENUE, JURISDICITON, CHOICE OF LAW. This is a Maryland contract and the  
162 Courts of Harford County are the sole venue of any dispute. The laws of Maryland shall apply.

163 24. SEVERABILITY. If any portion of this Lease shall be declared invalid, or  
164 unenforceable by a court of competent jurisdiction, the remainder of the Lease shall continue in  
165 full force and effect.

166 25. CONDITIONS: The City agrees to the following conditions:

167 A. Sign Board, Feather Flags, Kiosk and Rack Cards - The Lessee may include a  
168 temporary “sandwich board” or “feather sign” type signage at the intersection of Market Street  
169 and Congress Avenue. Sign design and precise locations shall be approved by the Director of  
170 Administration, and may require approval by the City Council.

171 B. Rack cards are welcome and may be placed at City Hall and the Visitors Center.  
172 Advertisements may be placed at the City’s kiosks - copies must be provided to the Director of  
173 Administration for approval and placement.

174 C. The Lessee may transport trash generated from passengers to the dumpsters at  
175 Tydings Park for disposal.

176 D. The City shall permit the Lessee to place a commercial Ice Vault (similar to what  
177 is at the Yacht Basin) in the area of the Hutchins Park Bathrooms. The City will absorb the cost  
178 of the electricity.

179 E. Security Cameras - The City has no immediate plans to install security cameras  
180 in Hutchins Park. Should the Lessee desire to install security cameras, the Lessee shall approach  
181 the Director of Administration with a Security Camera location and installation plan.

182 F. Access to Special Events at Hutchins Park - The City will make EVERY effort to  
183 insure the MARTHA LEWIS has total and complete access to the dock during any event. As  
184 discussed, issues arose during those times when events at Hutchins Park were not hosted by the  
185 City. Both the City and the Lessee will need to coordinate during those dates; one possible solution  
186 could be the distribution of an electronic ticket or paper ticket the Martha Lewis patron could  
187 display during such events.

188 G. Lighting at Dock - The City will maintain adequate lighting in the area of the  
189 Hutchins Park pier.

190 26. NOTICES. All notices and other communications hereunder shall be in writing and  
191 shall be deemed to have been duly given if actually delivered to the named person or if mailed,  
192 with a copy by email, to:

193



194 TO THE CITY: The Director of Administration  
195 City Hall  
196 711 Pennington Ave  
197 Havre de Grace, MD 21078  
198 [steveg@havredegracemd.com](mailto:steveg@havredegracemd.com)  
199

201 TO THE LESSEE: CHESAPEAKE HERITAGE CONSERVANCY, INC  
202 114 Spears Hill Road  
203 Elkton, MD 21921  
204

205 27. SURRENDER OF HUTCHINS PARK SLIP. Upon expiration or termination of this  
206 Lease for any reason, Lessee shall surrender the quiet and peaceful possession of the Pier, in as  
207 good order and condition as when received, natural wear and tear excluded as may be determined  
208 by the City it its sole discretion.

209 28. NO RESTRICTIONS ON CITY POWERS. Nothing herein shall be construed to limit  
210 the power of the City to pass any ordinance, resolution or other regulation generally applicable  
211 within the City limits relating to the health, safety, and welfare of the citizens of Havre de Grace.  
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214 WITNESS/ATTEST: MAYOR AND CITY COUNCIL OF  
215 HAVRE DE GRACE  
216

217 \_\_\_\_\_  
218 Stephen J. Gamatoria  
219 Director of Administration  
220

\_\_\_\_\_   
By: William T. Martin  
Mayor

221  
222 WITNESS/ATTEST: CHESAPEAKE HERITAGE  
223 CONSERVANCY, INC  
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225 \_\_\_\_\_  
226 \_\_\_\_\_  
227 (signature)  
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By: \_\_\_\_\_  
(print name)

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231 APPROVED FOR LEGAL SUFFICIENCY:  
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233 \_\_\_\_\_  
234  
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236 April C. Ishak, Esquire  
237 City Attorney  
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239 STATE OF MARYLAND, COUNTY OF HARFORD:

240  
241 I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
242 before me, the subscriber, a Notary Public of the State and County aforesaid, 2023, personally  
243 appeared William T. Martin, Mayor of the City of Havre de Grace, who acknowledged that, being  
244 authorized to do so, he executed this Lease Agreement on behalf of the Mayor and City Council  
245 of Havre de Grace as Mayor for the purposes stated therein.

246  
247 As WITNESS my hand and Notarial Seal.

248  
249 \_\_\_\_\_  
250 Notary Public  
251  
252 My commission expires: \_\_\_\_\_  
253  
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258 STATE OF MARYLAND, COUNTY OF HARFORD:

259  
260 I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2023 before  
261 me, the subscriber, a Notary Public of the State and County aforesaid, 2023, personally  
262 appeared \_\_\_\_\_, who acknowledged that, being authorized to do  
263 so, he/she executed this Lease Agreement on behalf of Chesapeake Heritage Conservancy Inc. for  
264 the purposes stated therein.

265  
266 As WITNESS my hand and Notarial Seal.

267  
268 \_\_\_\_\_  
269 Notary Public  
270  
271 My commission expires: \_\_\_\_\_