

Mayor and Council

85th Special Session, Work Session, and Executive Session

March 1, 2016

Agenda

*"A diverse, business-friendly, and sustainable community with clean, safe and strong neighborhoods."
"Providing the most efficient and highest-quality services as the municipal location of choice for all customers."*

"Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible." - *Francis of Assisi*

7:00 AM STATE OF THE CITY - Hosted by the Hagerstown/Washington County Chamber of Commerce - Hager Hall, 901 Dual Highway, Hagerstown, Maryland

EXECUTIVE SESSION

3:30 PM 1. Executive Session

4:00 PM SPECIAL SESSION

1. Introduction of Ordinance - Amend Chapter 117, Recycling and Refuse Collection, of the City Code
2. Introduction of Ordinance: Amend Chapter 64-8, Property Maintenance Code, Section 202, of the City Code
3. Introduction of Ordinance: Amend Chapter 64-8, Property Maintenance Code, Section 307, of the City Code
4. Approval of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with the Housing Authority of Hagerstown, Maryland (Hagerstown Cultural Trail)
5. Approval of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with BMB Associates, Inc. (Hagerstown Cultural Trail)
6. Approval of an Ordinance: Acceptance of Quit Claim Deed from Antietam Paper Building, LLC (Hagerstown Cultural Trail)
7. Approval of an Ordinance: Execution of a Donation Agreement with Herald-Mail Company (Hagerstown Cultural Trail)

4:00 PM WORK SESSION

- 4:15 PM** 1. Western Maryland Blues Fest Artwork Reveal - 2016 - *Gaela Shoop, Community Events Coordinator*
- 4:30 PM** 2. Action Report: Update on Implementation of the Community's City Center Plan- *Jill Frick, Director of Department of Community and Economic Development, and Kathleen Maher, Director of Planning and Code Administration*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

6:30 PM STATE OF THE CITY Presentation - Hosted by the City of Hagerstown - Washington County Free Library, 100 S. Potomac Street, Hagerstown, Maryland

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

STATE OF THE CITY - Hosted by the Hagerstown/Washington County Chamber of Commerce - Hager Hall, 901 Dual Highway, Hagerstown, Maryland

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Executive Session

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Introduction of Ordinance - Amend Chapter 117, Recycling and Refuse Collection, of the City Code

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MOTION_Chapter_117.doc

Description

Intro Ordinance:
Amend Chapter 117

Trash_Code_Ch117_Ordinance_and_Enactment_Ordinance_2.23.16.pdf

Enactment Ordinance
- Chapter 117 Amend

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 1, 2016

TOPIC: Introduction of Ordinance: Amend Chapter 117, Recycling and Refuse Collection, of the City Code

Charter Amendment

Code Amendment

Ordinance

X

Resolution

Other

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to amend Chapter 117, Recycling and Refuse Collection, of the Code of the City of Hagerstown. These amendments modify the provisions regarding storage and set out of recycling and refuse in order to provide additional protections for our neighborhoods and downtown from blight and nuisance conditions. Changes include:

1. requiring outdoor storage of recycling and refuse in receptacles and containers with sealing lids,
2. requiring set out of recycling and refuse in the downtown area in receptacles and containers with sealing lids,
3. requiring properties with four or more dwelling units to designate one storage area for recycling and refuse receptacles and containers, and
4. requiring storage of recycling and refuse receptacles and containers out of front yards, front porches, public right-of-way, and out of view of S. Prospect Street unless special circumstances exist to warrant alternative locations.

A policy on acceptable special circumstances for alternative locations for storage of recycling and refuse receptacles and containers shall be approved by the Mayor and City Council under separate motion and prior to the effective date of this ordinance.

DATE OF INTRODUCTION: 03/01/16

DATE OF ADOPTION: 03/22/16

EFFECTIVE DATE: 04/22/16

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN,
CHAPTER 117, THEREOF ENTITLED
RECYCLING AND REFUSE COLLECTION
TO AMEND REQUIREMENTS FOR STORAGE OF REFUSE
AND TO REQUIRE USE OF RECEPTACLES OR CONTAINERS
IN THE DOWNTOWN DISTRICT**

RECITALS

WHEREAS, the City of Hagerstown regulates recycling and refuse collection within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote the health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and Council have a responsibility to reduce blight and promote an aesthetically pleasing atmosphere within the City; and

WHEREAS, it has come to the attention of the Mayor and Council that the current recycling and refuse regulations are not adequately meeting the needs of the City of Hagerstown; and

WHEREAS, City staff has made the Mayor and Council aware of some of the blighting conditions that have occurred, specifically in the Downtown District; and

WHEREAS, the Mayor and Council recognize that the different geographical neighborhoods of the City require different regulations regarding recycling and refuse disposal, due in part to: differing population densities; differing architectural, structural and topographical limitations; and different uses, character and zoning restrictions of neighborhoods; and

WHEREAS, the Mayor and Council find that the Downtown District (as defined in the amendments) has a unique makeup of residential, business, and historical use, such that it requires unique handling of recycling and refuse disposal; and

WHEREAS, upon the investigation and recommendation of City staff, the Mayor and Council find it in the best interests of the citizens to amend the regulation of the collection of recycling and refuse within the City of Hagerstown as hereafter described;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. Chapter 117 of the Code of the City of Hagerstown, Section 117-2 Definitions, thereof, be and is hereby amended to add definitions for Downtown District, Enclosure, Refuse Bag, and Storage Area and to modify the definition of Receptacle or Collection Container as follows:

Downtown District

For the purposes of this chapter, the “downtown district” shall be defined as those properties located within Zone F of the City’s Trash Collection Program.

Enclosure

Any structure used to house refuse or recycling containers.

Receptacle or Collection Container

Any steel, plastic, aluminum, or galvanized receptacle or bin manufactures for the purpose of storing residential recycling or refuse that allows for easy lifting with two handles and capacity of not more than 35 gallons or weighing more than 50 pounds when filled with refuse or recycling. City-issued bins or totes shall be used when applicable and totes are exempt from the maximum capacity restriction of 35 gallons. All receptacles or containers shall have lids that tightly fit as designed by the manufacture.

Refuse Bags

A secured, leakproof plastic bags, manufactured for the purpose of securing household refuse, of sufficient strength to hold its contents without tearing or allowing the contents to spill, leak or otherwise escape from the bag.

Storage Area

A confined space or area reserved for storing refuse and/or recycling receptacles or containers on a property.

3. Chapter 117 of the Code of the City of Hagerstown, Section 117-5 Service fee payment; property owner responsibility, thereof, is hereby amended to read as follows:

(See Attached)

4. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction:
Date of Passage:
Effective Date:

PREPARED BY
SALVATORE & BOYER, LLC,
CITY ATTORNEY

CHAPTER 117, Recycling and Refuse Collection

117-5 Service fee payment; property owner responsibility.

A. Recycling and refuse service fee. Consistent with City policy, all property owners of improved residential property within the City shall subscribe to recycling and refuse collection and disposal service, and shall be subject to the levy of a recycling and refuse service fee as further set out pursuant to this chapter. It shall be the responsibility of the property owner of a residential dwelling unit to pay or cause to be paid to the City, the recycling and refuse service fee incurred by each separate residential unit(s) for the benefits offered or received by such dwelling unit for refuse collection and recycling collection. Failure to pay the recycling and refuse service fee shall be considered a violation of this chapter and may be collected as provided for further herein, or as otherwise provided for by the laws of the State of Maryland.

B. Receptacles, Containers, and Bags.

- (1) The City of Hagerstown will provide residential properties throughout the city with recycling containers.
- (2) It shall be the duty of the residential property owner(s) and tenant(s) to provide approved receptacles or containers (as defined herein) to contain all refuse generated from residences in accordance with the provisions herein.
- (3) All refuse bags shall be stored indoors or in receptacles or containers.

C. Refuse and Recycling Storage. It shall further be the duty of the residential property owner(s) and their tenant(s) to ensure that receptacles for recycling and refuse are stored in accordance with this chapter (until the appropriate set out time for collection) and consistent with the following conditions:

- (1) Refuse and recycling stored on the exterior of the property shall be in an approved receptacle or container.
- (2) Owners or residents of properties located in the South Prospect Street Historic District shall store containers out of public view or shielded from public view of South Prospect Street, unless an exception is approved per Mayor and City Council policy on Special Circumstances for Storage of Refuse and Recycling Containers. When requested by property owners and residents, the Mayor and City Council may approve other neighborhoods for similar public view restrictions on storage of containers and receptacles between collection dates.
- (3) Every occupant of a structure shall not store receptacles or containers on front yards as defined in Chapter 140, front porches, or public ways.

Exceptions:

- a. In zero setback areas, properties with no side yard;
- b. Receptacles or containers in an approved enclosure;
- c. Mayor and City Council policy on Special Circumstances for Storage of Refuse and Recycling Containers

- (4) Properties with four or more residential units shall have one designated storage area for refuse and recycling containers between collection days in accordance with this Chapter.

D. Set Out Time; Placement of Materials for Collection; Abatement Fees

(1) Set out time and placement of materials for collection.

- a. No earlier than 4:00 p.m. on the eve of the day on which the contractor shall collect recycling or refuse on their street in the City, it shall be the duty of the residential property owners and their tenants to place their recycling or refuse in the public way in front of their premises as close as possible to the curb, or collection point designated by the City Engineer, so as to be of easy access to the contractor.
- b. In the Downtown District, refuse and recycling must be set out for collection in receptacles or containers. In all other areas, refuse bags may be set out for collection consistent with the provisions of this section.
- c. Placement of these materials shall not block the free passage (minimum 36" width) of pedestrians on the public sidewalk.
- d. All such receptacles or containers shall be removed as soon as possible after the collection and, in no instance, shall they be permitted to remain curbside after 7:00pm on the day of collection.
- e. Any persons placing garbage and/or household refuse containers out for collection prior to 4:00 p.m. on the eve of the collection, or at any time not consistent with the scheduled collection date, or the owner of any property upon which such a violation exists shall be guilty of a municipal infraction and subject to a fine of Two Hundred Dollars (\$200.00).

- (2) Abatement Fee.** In addition to the penalty hereinabove enumerated, the City may abate a condition where garbage and/or household refuse bags, containers, or receptacles have been placed out for collection prior to 4:00pm on the eve of, or at any time not consistent with the schedule collection date, and may charge a reasonable abatement fee as from time to time established by the Council for the removal and disposal thereof. Said abatement fee shall be billed to the property owner as a separate and distinct charge from the service fee and if unpaid for thirty (30) days shall constitute a lien against the property.

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Introduction of Ordinance: Amend Chapter 64-8, Property Maintenance Code, Section 202, of the City Code

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

MOTION_Chapter_64__PMC__Sec_202.doc

Introduction
of Ordinance:
Amend
Chapter 64-8,
Sec. 202

Property_Maintenance_Code_Ordinance_and_Enactment_Ordinance_2.23.16.pdf

Enactment
Ordinance:
Amend
Chapter 64-8,
Sec 202

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 1, 2016

TOPIC: **Introduction of Ordinance: Amend Chapter 64-8, Property
Maintenance Code, Section 202, of the City Code**

Charter Amendment

Code Amendment

Ordinance

X

Resolution

Other

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to amend Chapter 64-8, Property Maintenance Code, Section 202, General Definitions, of the Code of the City of Hagerstown. These amendments modify the definition of “Approved Receptacle and Container (Refuse Cans)” to be consistent with the definition in Chapter 117, Recycling and Refuse Collection. The amendment to both chapters of the code regarding recycling and refuse storage and set out are intended to provide additional protections for our neighborhoods and downtown from blight and nuisance conditions.

DATE OF INTRODUCTION: 03/01/16

DATE OF ADOPTION: 03/22/16

EFFECTIVE DATE: 04/22/16

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE
PROPERTY MAINTENANCE CODE OF THE CITY OF HAGERSTOWN,
SECTION 202 THEREOF ENTITLED
GENERAL DEFINITIONS
TO AMEND THE DEFINITIONS REGARDING
REFUSE STORAGE**

RECITALS

WHEREAS, the City of Hagerstown regulates recycling and refuse collection within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote the health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and Council have a responsibility to reduce blight and promote an aesthetically pleasing atmosphere within the City; and

WHEREAS, it has come to the attention of the Mayor and Council that the current recycling and refuse regulations are not adequately meeting the needs of the City of Hagerstown; and

WHEREAS, City staff has made the Mayor and Council aware of some of the blighting conditions that have occurred, specifically in the Downtown District; and

WHEREAS, Mayor and Council are responsible for ensuring that the Property Maintenance Code is consistent with the Code of the City of Hagerstown, Chapter 117; and

WHEREAS, upon the investigation and recommendation of City staff, the Mayor and Council find it in the best interests of the citizens to amend the regulations regarding the storage of refuse and recycling within the City of Hagerstown as hereafter described;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. Section 202 of the Property Maintenance Code of the City of Hagerstown, General Definitions, thereof, be and is hereby amended to add a definition for Enclosure and to modify the definition of Approved Receptacle or Container (Refuse Cans) as follows:

Approved Receptacle or Container (Refuse Cans). Any steel, plastic, aluminum, or galvanized receptacle or bin manufactures for the purpose of storing residential recycling or refuse that allows for easy lifting with two handles and capacity of not more than 35 gallons or weighing more than 50 pounds when filled with refuse or recycling. City-issued bins or totes shall be used when applicable and totes are exempt from the maximum capacity restriction of 35 gallons. All receptacles or containers shall have lids that tightly fit as designed by the manufacture.

Enclosure. Any structure used to house refuse or recycling containers.

3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction:
Date of Passage:
Effective Date:

PREPARED BY
SALVATORE & BOYER, LLC,
CITY ATTORNEY

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Introduction of Ordinance: Amend Chapter 64-8, Property Maintenance Code, Section 307, of the City Code

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MOTION_Chapter_64__PMC__Sec_307.doc

Description

Introduction
of
Ordinance:
Amend
Chapter 64-
8, Sec 307
Enactment
Ordinance:
Amend
Chapter 64-
8, Sec 307

Property_Maintenance_Code_Ordinance_and_Enactment_Ordinance_Part_2_2.23.16.pdf

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 1, 2016

**TOPIC: Introduction of Ordinance: Amend Chapter 64-8, Property
Maintenance Code, Section 307, of the City Code**

Charter Amendment

Code Amendment

Ordinance

X

Resolution

Other

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to amend Chapter 64-8, Property Maintenance Code, Section 307, Rubbish and Garbage, of the Code of the City of Hagerstown. These amendments modify several subsections regarding disposal of rubbish and garbage and regarding receptacles and containers to be consistent with the provisions in Chapter 117, Recycling and Refuse Collection. The amendment to both chapters of the code regarding recycling and refuse storage and set out are intended to provide additional protections for our neighborhoods and downtown from blight and nuisance conditions.

DATE OF INTRODUCTION: 03/01/16

DATE OF ADOPTION: 03/22/16

EFFECTIVE DATE: 04/22/16

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE
PROPERTY MAINTENANCE CODE OF THE CITY OF HAGERSTOWN,
SECTION 307 THEREOF ENTITLED
RUBBISH AND GARBAGE
TO AMEND THE DEFINITIONS REGARDING
REFUSE STORAGE**

RECITALS

WHEREAS, the City of Hagerstown regulates recycling and refuse collection within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote the health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and Council have a responsibility to reduce blight and promote an aesthetically pleasing atmosphere within the City; and

WHEREAS, it has come to the attention of the Mayor and Council that the current recycling and refuse regulations are not adequately meeting the needs of the City of Hagerstown; and

WHEREAS, City staff has made the Mayor and Council aware of some of the blighting conditions that have occurred, specifically in the Downtown District; and

WHEREAS, Mayor and Council are responsible for ensuring that the Property Maintenance Code is consistent with the Code of the City of Hagerstown, Chapter 117; and

WHEREAS, upon the investigation and recommendation of City staff, the Mayor and Council find it in the best interests of the citizens to amend the regulations regarding the storage of refuse and recycling within the City of Hagerstown as hereafter described;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. Section 307 of the Property Maintenance Code of the City of Hagerstown, Rubbish and Garbage, Sections 307.2, 307.3, 307.3.1, and 307.3.2, thereof, is hereby amended to read as follows:

Sec. 307.2. Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in an approved receptacle or container.

Sec. 307.3. Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved receptacles or containers.

Sec. 307.3.1. Receptacles and Containers. The operator of every establishment producing non-residential garbage shall provide, and at all times cause to be utilized, approved receptacles or containers or dumpsters for the storage of such materials until removed from the premises for disposal. If receptacles, containers, or dumpsters are not located within an enclosure, at no time shall garbage be stacked beside or on top of receptacles, containers, or dumpsters.

Sec. 307.3.2. Receptacle and Container placement. Every occupant and owner of a structure shall store residential garbage receptacles and containers consistent with the requirements of Chapter 117, Recycling and Refuse Collection.

3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction:
Date of Passage:
Effective Date:

PREPARED BY
SALVATORE & BOYER, LLC,
CITY ATTORNEY

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with the Housing Authority of Hagerstown, Maryland (Hagerstown Cultural Trail)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

motion.hha_approval.2016.pdf

Description

APPROVAL OF
ORDINANCE: EXECUTION
OF A DEED OF
EASEMENT AND
MAINTENANCE
AGREEMENT WITH THE
HOUSING AUTHORITY OF
HAGERSTOWN,
MARYLAND

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 1, 2016

TOPIC: **Approval of Ordinance: Execution of a Deed of Easement and Maintenance Agreement with the Housing Authority of Hagerstown, Maryland**

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move for the approval of an Ordinance authorizing the execution of a Deed of Easement and Maintenance Agreement between the City of Hagerstown and the Housing Authority of the City of Hagerstown, Maryland for use of a portion of the Housing Authority property in connection with the construction and maintenance of the Hagerstown Cultural Trail.

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2016
Effective Date: April 1, 2016

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEED OF EASEMENT
AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF HAGERSTOWN AND
THE HOUSING AUTHORITY OF THE CITY OF HAGERSTOWN, MARYLAND FOR
USE OF A PORTION OF THE HOUSING AUTHORITY PROPERTY IN CONNECTION
WITH THE CONSTRUCTION AND MAINTENANCE OF THE
HAGERSTOWN CULTURAL TRAIL**

RECITALS

WHEREAS, the City of Hagerstown, Maryland is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City intends to construct and maintain a public walking trail within its corporate limits to be known as the Hagerstown Cultural Trail; and

WHEREAS, the proposed route of the Hagerstown Cultural Trail runs upon property owned by The Housing Authority of Hagerstown, Maryland; and

WHEREAS, the Housing Authority has generously offered to grant the City a perpetual easement over a portion of its property for the construction and maintenance of the Hagerstown Cultural Trail; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to enter into the Deed of Easement and Maintenance Agreement;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the Mayor be and is hereby authorized to execute and deliver the Deed of Easement and Maintenance Agreement between the City and the Housing Authority of the City of Hagerstown, Maryland, a copy of which is attached hereto and incorporated herein by reference and to act as signatory on behalf of the City on any documentation necessary to effectuate the purpose of this ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2016
Effective Date: April 1, 2016

PREPARED BY:
SALVATORE & BOYER
CITY ATTORNEY

DEED OF EASEMENT
AND
MAINTENANCE AGREEMENT

THIS DEED OF EASEMENT AND MAINTENANCE AGREEMENT is made this 17th day of February, 2016, by The Housing Authority of the City of Hagerstown, Maryland (hereinafter sometimes referred as "HHA" or "Grantor") and THE CITY OF HAGERSTOWN, a Maryland municipal corporation (hereinafter sometimes referred to as "City" or "Grantee").

WITNESSETH: That for NO MONETARY CONSIDERATION, but for the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the said Grantor does hereby grant and convey unto Grantee, its successors and assigns, a non-exclusive, perpetual easement (the "Easement") over and across a parcel of land situate in Hagerstown, Washington County, Maryland, being shown on that certain Easement Plat prepared by the City of Hagerstown Department of Parks and Engineering dated January 8, 2016, said Easement Plat being attached hereto and incorporated herein as Exhibit A, the perpetual Easement being further described thereon as Easement Areas "A", "B" and "C", together with a temporary construction Easement described thereon as Easement Area "D".

BEING a portion of the property described in a Deed dated May 20, 1996 and recorded among the Land Records of Washington County in Liber 1272, folio 326 from BMB Associates, Inc. to the Grantor herein.

The Easement is granted for purposes of the construction and maintenance of a public walking trail by the Grantee. Grantee and the general public shall have full and free use of the easement for the purposes herein named, subject to the conditions hereof.

TO HAVE AND TO HOLD the right and privilege of the Easement hereby granted to the use and benefit of the within Grantee, for so long as the property is used as a public walking trail and is properly maintained by Grantee. Upon the abandonment of the public walking trail by Grantee this Easement shall terminate.

And Grantors do hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such other and further assurances as may be requisite.

It is understood and agreed that the Easement is granted under and subject to the following terms and conditions:

1. The Easement is non-exclusive, it being specifically acknowledged that Grantor owns other properties that abut the Easement Areas and that Grantor shall retain access to and use of the Easement Areas so long as not in conflict with Grantee's use of said Easement for an approximately ten foot (10') wide public walking trail as contemplated herein (hereinafter also referred to as "public walking trail", "walking trail" or "trail").
2. Grantor reserves the right, in its absolute and sole discretion to relocate the Easement Areas at Grantor's sole expense, including the cost and expense actually incurred by Grantee in relocating all connecting portions of the public walking trail located on adjacent properties as reasonably necessitated by the Grantor's relocation. Grantor and Grantee agree to deliver

to the other party documents, including, but not limited to a new Deed of Easement and Maintenance Agreement and exhibit(s) showing the abandonment and relocation, which are necessary or desirable to abandon and relocate the Easement Areas. Should Grantee determine to abandon or relocate the walking trail, it shall restore the property to its original condition at Grantee's sole cost and expense.

3. Except as otherwise provided in this Agreement, Grantee shall not directly or through others make a fill or excavation of earth so as to cause a change in contour or inundate the land with water within the Easement Areas or Grantor's adjacent properties. Furthermore, Grantee shall not construct permanent structures or plant trees over the Geothermal well locations on Grantor's property. However, it is understood that:

- (a) Grantee shall be permitted to construct and maintain a public walking trail within the Easement Area substantially in accordance with Exhibit A and may control access to the Easement Area as it would any public park under its control. The foregoing notwithstanding, Grantee shall control access to prevent public access to the property not included in the Easement. Grantee shall install appropriate signage to prevent unauthorized parking on Grantor's property;
- (b) With input from Grantor, Grantee shall be permitted to construct (i) the public walking trail with an impervious surface of pavers or other similar material over the ten foot (10') wide walking trail portion of the Easement Area, shown on Exhibit A as Proposed Multi-Use Path/10' Ingress/Egress Easement Area "A", and (ii) a Rock Garden and Sculpture Park shown on Exhibit A as Easement Area "C", all at Grantee's sole cost and discretion. Grantee shall keep a sufficient amount of replacement pavers in inventory to ensure that any replacement pavers will be identical to the pavers used in the initial installation of the walking trail;
- (c) Grantee shall be permitted to erect and maintain certain utilities within Easement Area "B", including conduits and hand boxes for lighting and security cameras. Grantee shall be required to maintain said items. With input from Grantor, Grantee shall ensure that there are a minimum of two (2) camera poles with at least three (3) security cameras erected within the Easement Area, and that the entire Easement Area is covered by the security cameras to the reasonable satisfaction of Grantor;
- (d) Grantee shall, subject to Grantor's approval, which shall not be unreasonably withheld, be permitted to remove, relocate, erect and install trees, shrubbery, landscaping, plant beds, artwork, decorative lighting, benches, fencing, signs, pet waste station and trash receptacles and other similar improvements within Easement Areas "A", "B" and "C". Grantor shall have representation on the public walking trail committee of Grantee in order to accommodate Grantor's input in all decision making processes. Unless otherwise noted herein, all of said items shall be maintained by Grantee; and
- (e) Grantor reserves the right to perform maintenance in the Easement Areas in the event that Grantee fails to do so. Grantor also reserves the right to perform maintenance to its Geothermal Wells. Grantee acknowledges that some of the Geothermal Wells are located under the proposed public walking trail. Grantee shall locate trail amenities to accommodate maintenance of the Geothermal Wells by Grantor and will assist Grantor with replacement of brick pavers.

- (f) Grantee shall maintain Easement Areas "A" and "C" in compliance with HUD inspection guidelines and will promptly cure any deficiencies at its sole cost upon request of Grantor. If Grantee fails to cure any such deficiency in a timely manner, Grantor may take corrective action, the cost of which will be the obligation of Grantee.

In the event Grantor corrects or performs maintenance on any condition constituting a violation of this Deed of Easement and Maintenance Agreement, Grantee shall promptly reimburse Grantor's reasonable costs of doing so.

4. Grantee shall be solely responsible for the construction, repair and maintenance of the walking trail, and may utilize the full extent of Easement Areas "A", "B", "C" and "D" for such purpose including, but not limited to paving and surface work of the trail, and erection, repair or replacement of any artwork, fixtures, landscaping and improvements located within the Easement Areas. The Temporary Construction Easement Area "D" shall automatically terminate upon completion of the walking trail between Antietam Street and City Park, except for periodic, temporary mural repair or replacement as necessary, subject to Grantor's approval which shall not be unreasonably withheld. Grantee shall not begin construction on property represented by this Easement until it has obtained Easements, Deeds or other form of site control for the entire walking trail from Antietam Street to City Park.

5. Grantee shall perform routine maintenance upon all benches, lighting, artwork, fencing, signage or other similar improvements (the "structures") located within Easement Areas "A", "B" and "C", and upon the impervious surface of the trail, to include snow and ice removal as appropriate to the surface condition.

6. Grantee shall have the right to trim, cut, replace or remove trees, shrubbery, landscaping, plant beds, structures, or other improvements or obstructions within the Easement Areas from time to time, subject to Grantor's approval, which will not be unreasonably withheld.

7. Grantee shall be responsible for controlling access to and use of the public walking trail and shall provide adequate security and security camera monitoring for the Easement Area and Grantor's property at trail access locations. Grantee's responsibility for controlling access shall be performed in a manner that does not interfere with the use by HHA residents, guests, employees, and contractors. Grantor reserves the right to construct matching decorative fencing in and adjacent to the Easement Areas in order to control unanticipated access to Grantor's property by users of the public walking trail.

8. Grantor shall be responsible for mowing and lawn maintenance within Easement Areas "B" and "D" up to the paved surface of the walking trail. Grantee shall be responsible for mowing and lawn maintenance in the Easement Areas "A" and "C".

9. Grantee shall indemnify and hold Grantor, C.W. Brooks, LLC, Maryland Department of Housing and Community Development (MDHCD), and the United States Department of Housing and Urban Development (HUD) harmless from and against any claim, loss, damage or suit arising as a result of the construction, maintenance and operation of, and failure to adequately control access to the public walking trail hereunder contemplated, including Easement Area "C", except if such claim, loss, damage or suit arises solely as a result of the negligence of the Grantor, its agents servants or employees. Grantor shall not be responsible

for any negligence of its residents. Grantee shall maintain a policy of liability insurance in a commercially reasonable amount covering the Easement Areas. Said policy shall name the Grantor as an additional insured and Grantee shall provide Grantor with an Additional Insured Certificate prior to commencement of construction and at reasonable intervals thereafter.

10. This Deed of Easement and Maintenance Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. In the event that the portion of the walking trail as depicted on the Attached Exhibit A is not completed by July 1, 2017, this Deed of Easement and Maintenance Agreement shall terminate and the property shall revert back to Grantor in its original condition.

IN WITNESS WHEREOF, the parties herein have set their hands and seals as of the date first written above.

ATTEST:



ATTEST:

City Clerk

The Housing Authority of the
City of Hagerstown, Maryland

 (SEAL)

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

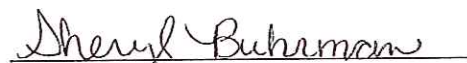
David S. Gysberts, Mayor (SEAL)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 17th day of February, 2016, before me, a Notary Public in and for the State and County aforesaid, personally appeared Joanne Ballenger known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing instrument to be his act and deed on behalf of The Housing Authority of the City of Hagerstown, Maryland, and did further certify that he is authorized to execute this Agreement on its behalf, and that the consideration indicated is true and correct.

WITNESS my hand and Official Notarial Seal.

My Commission expires: 01/05/2019


Notary Public

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2016, before me, a Notary Public in and for the State and County aforesaid, personally appeared David S. Gysberts, Mayor of the City of Hagerstown, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing instrument to be his act and deed on behalf of the Mayor and Council of the City of Hagerstown, Maryland, and did certify that he is authorized to execute this Agreement on its behalf, and that the consideration indicated is true and correct.

WITNESS my hand and Official Notarial Seal.

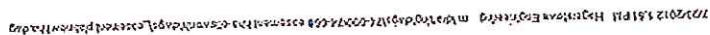
Notary Public

My Commission expires: _____

I certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland, but that the undersigned did not perform a title search, title examination or make any certification as to title.

Mark K. Boyer

MAIL TO:
City of Hagerstown
City Hall
1 E. Franklin Street
Hagerstown, MD 21740



MISC Plat. 1

<p>Easement Plat Showing Easements Through the Lands of The Metropolitan Housing Authority 45 West 12th Street, New York, New York and BLUE ARCADE, to VACUOUS, (THERE WAS NO SUBDIVISION OF LOTS A5A RESULT OF THIS PLAT)</p>	<p>CITY OF HAGERSTOWN, MARYLAND DEPARTMENT OF PARKS & ENGINEERING.</p>	<p>SECTION DIST. NO. 21, W.C. TAX MAP No. 312 WASHINGTON COUNTY, MARYLAND.</p>	<p>Return By: DATE 1/24/2004 Scale: 1" = 40' Drawn By: DATE 1/24/2004 Drawn: 1/24/2004 Checked By: DATE 1/24/2004 Checked: 1/24/2004</p>
<p>Sheet No.</p>	<p>CITY DRAWING NUMBER</p>	<p>74-688-01</p>	<p>1 of 2</p>

THE CONTRACTOR SHALL SAWCUT TO A MINIMUM DEPTH OF 4" IN NEXT STRAIGHT LINES TO FIELD STAKES LAYOUT PROVIDED BY THE CITY ENGINEER, PRIOR TO ANY EXCAVATION OR REMOVAL OF EXISTING ITEMS. SAWCUTTING SHALL BE INCIDENTAL TO THE REMOVAL OR REMEDIATION OF ANY ITEMS. PROTECT ALL REMAINING PAVEMENT AND CURB EDGES DURING CONSTRUCTION.

THE CONTRACTOR SHALL MAINTAIN VEHICULAR AND PEDESTRIAN ACCESS TO ALL COMMERCIAL AND RESIDENTIAL BUILDINGS ALONG THE PROJECT CONSTRUCTION AS MUCH AS PRACTICAL AT ALL TIMES. CONCRETE ENTRANCE PLACEMENT AT PROPERTIES WITH A SINGLE DRIVEWAY SHALL BE DIVIDED IN TWO EQUAL PARTS, EACH HALF INDICATED AND RESULT TO COMPLETION BEFORE THE OTHER PART BEGINS. IF A PROPERTY HAS TWO OR MORE DRIVEWAYS, EACH DRIVEWAY SHALL BE CONTINUED AT ALL TIMES OR SCHEDULED IN COOPERATION WITH THE PROPERTY OWNER.

ELI LILLY AND COMPANY, INC.
N.D.
P. 0011 P. 0012

SEE SHEET NO. 01-203-C4 FOR CONTINUATION

Customer Information, Inc.
P.O. Box 1000
New York, N.Y. 10001

PAISINE BUKANO

100

PLATELINE SHEET No. 04/203-06

CITY OF HAGERSTOWN, MARYLAND
DEPARTMENT OF
PARKS AND ENGINEERING

LOCATION: 1122 MULTNOME STREET
VAN BUREN
CITY/TOWN/ST: 11
COUNTY: CO. ELECTION DISTRICT: 64-0011

NAME	TRAIL CONSTRUCTION	
	ANTHETAN STREET TO CITY PARK	
	SITE PLAN	
SCALE	1" = 50'	DATE

CHARGE BY	WJL	DATE	10/10/2018
CURRENCY	ALL PAID	DATE	10/10/2018
PRINT DATE	=	DATE	=

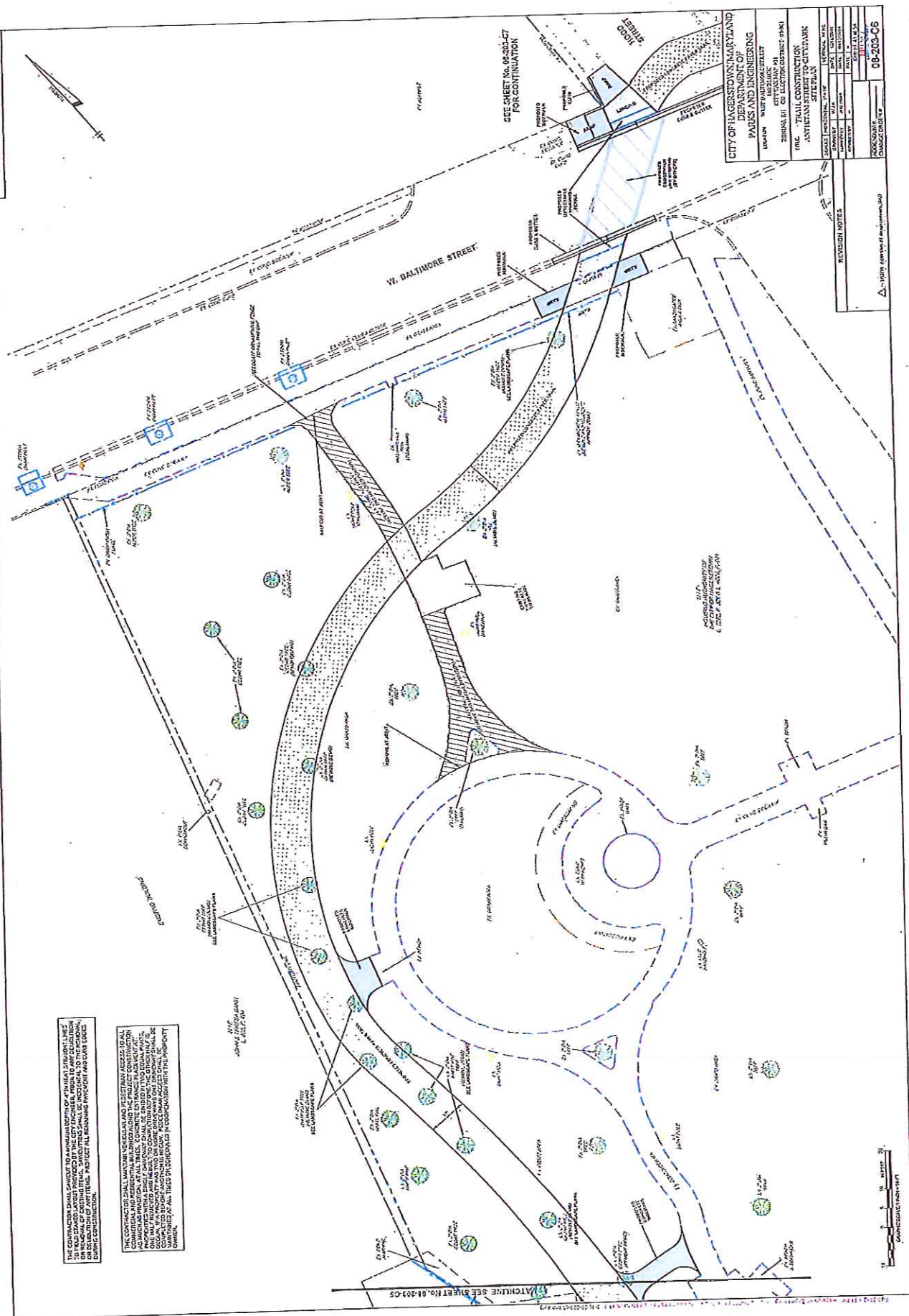
Page 1 of 1

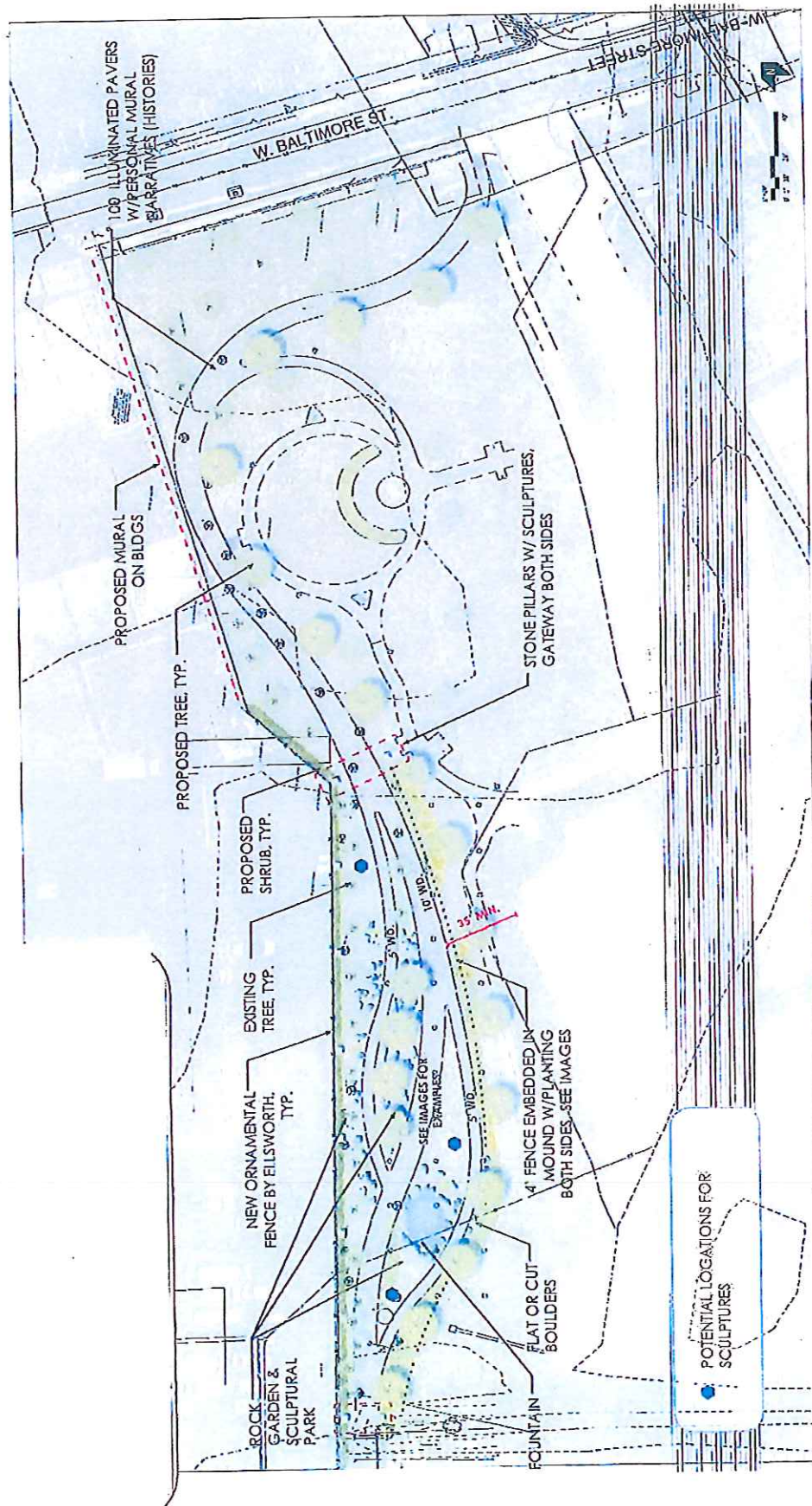
ADULT NAME # _____	08-203-C5
CHANGE ORDER # _____	

REVISION NOTES

Δ . 503790.pdf (document) designations. CA]







MAHAN RYKIEL
LANDSCAPE ARCHITECTURE
DESIGN & PLANNING

HAGERSTOWN A&E TRAIL - ALTERNATE

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Execution of a Deed of Easement and Maintenance Agreement with BMB Associates, Inc. (Hagerstown Cultural Trail)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

motion.bmb_approval.2016.pdf

Description

APPROVAL OF
ORDINANCE: EXECUTION
OF A DEED OF
EASEMENT AND
MAINTENANCE
AGREEMENT WITH BMB
ASSOCIATES, INC.

REQUIRED MOTION
MAYOR & CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: March 1, 2016

TOPIC: Approval of Ordinance: Execution of a Deed of Easement and Maintenance Agreement with BMB Associates, Inc.

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move for the approval of an Ordinance authorizing the execution of a Deed of Easement and Maintenance Agreement between the City of Hagerstown and BMB Associates, Inc. for use of a portion of its property in connection with the construction and maintenance of the Hagerstown Cultural Trail.

Date of Introduction: February 23, 2016

Date of Passage: March 1, 2106

Effective Date: April 1, 2016

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DEED OF EASEMENT
AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF HAGERSTOWN AND
BMB ASSOCIATES, INC. FOR USE OF A PORTION OF ITS PROPERTY IN
CONNECTION WITH THE CONSTRUCTION AND MAINTENANCE OF THE
HAGERSTOWN CULTURAL TRAIL**

RECITALS

WHEREAS, the City of Hagerstown, Maryland is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City intends to construct and maintain a public walking trail within its corporate limits to be known as the Hagerstown Cultural Trail; and

WHEREAS, the proposed route of the Hagerstown Cultural Trail runs upon property owned by BMB Associates, Inc.; and

WHEREAS, BMB Associates, Inc. has generously offered to grant the City a perpetual easement over a portion of its property for the construction and maintenance of the Hagerstown Cultural Trail; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to enter into the Deed of Easement and Maintenance Agreement;

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the Mayor be and is hereby authorized to execute and deliver the Deed of Easement and Maintenance Agreement between the City and BMB Associates, Inc., a copy of which is attached hereto and incorporated herein by reference and to act as signatory on behalf of the City on any documentation necessary to effectuate the purpose of this ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2016
Effective Date: April 1, 2016

PREPARED BY:
SALVATORE & BOYER
CITY ATTORNEY

DEED OF EASEMENT
AND
MAINTENANCE AGREEMENT

THIS DEED OF EASEMENT AND MAINTENANCE AGREEMENT is made this _____ day of _____, 2015, by BMB Associates, Inc. a Maryland Corporation (hereinafter sometimes referred as "BMB" or "Grantor") and THE CITY OF HAGERSTOWN, a Maryland municipal corporation (hereinafter sometimes referred to as "City" or "Grantee").

WITNESSETH: That for NO MONETARY CONSIDERATION, but for the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the said Grantor does hereby grant and convey unto Grantee, its successors and assigns, a non-exclusive, perpetual easement (the "Easement") over and across (1) a twenty foot (20') wide strip or parcel of land described as Easement Area "E" and (2) a ten foot (10') wide strip or parcel of land described as Easement Area "D", both situate in Hagerstown, Washington County, Maryland, being shown on that certain Easement Plat prepared by the City of Hagerstown Department of Parks and Engineering dated March 13, 2015, said Easement Plat being attached hereto and incorporated herein as Exhibit A.

BEING a portion of the property described in a Deed dated May 20, 1996 and recorded among the Land Records of Washington County in Liber 1272, folio 323 from The Housing Authority of the City of Hagerstown, Maryland to the Grantor herein.

The Easement is granted for purposes of the construction and maintenance of a public walking trail by the Grantee. Grantee and the general public shall have full and free use of the easement for the purposes herein named, subject to the conditions hereof.

TO HAVE AND TO HOLD the right and privilege of the Easement hereby granted to the use and benefit of the within Grantee forever.

And Grantors do hereby covenant that they will warrant specially the property hereby conveyed and that they will execute such other and further assurances as may be requisite.

It is understood and agreed that the Easement is granted under and subject to the following terms and conditions:

1. The Easement is non-exclusive, it being specifically acknowledged that Grantor owns other properties that abut the Easement Area and that Grantor shall retain access to and use of the Easement Area so long as not in conflict Grantee's use of said Easement for an approximately ten foot (10') wide public walking trail as contemplated herein, to be known as the A & E Walking Trail (hereinafter also referred to as "public walking trail" or "trail").
2. Grantor reserves the right to relocate Easement Areas "D" and "E" at Grantor's sole expense, including the cost and expense of relocating all portions of the public walking trail located on adjacent properties as reasonably necessitated by the Grantor's relocation. Grantor and Grantees agree to deliver to the other party documents, including, but not limited to a new Deed of Easement and Maintenance Agreement and exhibit(s) showing the

abandonment and relocation, which are necessary or desirable to abandon and relocate the Easement Areas.

3. Except as otherwise provided in this Agreement, Grantee shall not directly or through others make a fill or excavation of earth so as to cause a change in contour or inundate the land with water within the Easement Area. However, it is understood that:

- (a) Grantee shall be permitted to construct and maintain a public walking trail substantially in accordance with the attached Exhibit A and may control access to the Easement Area as it would any public park under its control;
- (b) Grantee shall be permitted to construct the public walking trail with an impervious surface of pavers or other similar material over the ten foot (10') wide A & E Walking Trail portion shown as Easement Area "D" on the attached Exhibit A, at Grantee's sole cost and discretion;
- (c) Grantee shall be permitted to erect and maintain certain utilities within Easement Area "E", including conduits and hand boxes for lighting and security cameras; and
- (d) Grantee shall be permitted to erect and install trees, shrubbery, landscaping, plant beds, artwork, decorative lighting, benches, fencing, signs and other similar improvements within Easement Area "E".

In the event Grantor corrects any condition constituting a violation of this paragraph, Grantee shall promptly reimburse Grantor's reasonable costs of doing so.

4. Grantee shall be solely responsible for the construction, repair and maintenance of the A & E Walking Trail, and may utilize the full extent of Easement Area "E" for such purpose including, but not limited to, paving and surface work of the trail, and erection, repair or replacement of any artwork, fixtures, landscaping and improvements located within Easement Area "E".

5. Grantee shall perform routine maintenance upon all benches, lighting, artwork, fencing, signage or other similar improvements (the "structures") located within Easement Area "E", and upon the impervious surface of the trail, to include snow and ice removal as appropriate to the surface condition.

6. Grantee shall have the right to trim, cut, replace or remove trees, shrubbery, landscaping, plant beds, structures, or other improvements or obstructions within Easement Area "E" from time to time, within Grantee's sole discretion.

7. Grantee shall be responsible for controlling access to and use of the public walking trail, shall provide adequate security and security camera monitoring for Easement Area "E".

8. Grantor shall be responsible for mowing, plant bed and other routine maintenance within Easement Area "E" up to the paved surface of the trail, excluding any structures located in the Easement Area.

9. Grantee shall indemnify and hold Grantor harmless from and against any claim, loss, damage or suit arising as a result of the construction, maintenance and operation of the public walking trail hereunder contemplated, except if such claim, loss, damage or suit arises as a result of the negligence of the Grantor, its agents servants or employees.

10. This Deed of Easement and Maintenance Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties herein have set their hands and seals as of the date first written above.

ATTEST:

Christal J. Mawer

ATTEST:

City Clerk

BMB Associates, Inc.

John T. Mawer (SEAL)

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

David S. Gysberts, Mayor (SEAL)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 4th day of December, 2015, before me, a Notary Public in and for the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing instrument to be his act and deed on behalf of BMB Associates, Inc., and did further certify that he is authorized to execute this Agreement on its behalf, and that the consideration indicated is true and correct.

WITNESS my hand and Official Notarial Seal.

Christal J. Mawer
Notary Public

My Commission expires: 6/5/16

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2015, before me, a Notary Public in and for the State and County aforesaid, personally appeared David S. Gysberts, Mayor of the City of Hagerstown, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged the foregoing instrument to be his act and deed on behalf of the Mayor and Council of the City of Hagerstown, Maryland, and did certify that he is authorized to execute this Agreement on its behalf, and that the consideration indicated is true and correct.

WITNESS my hand and Official Notarial Seal.

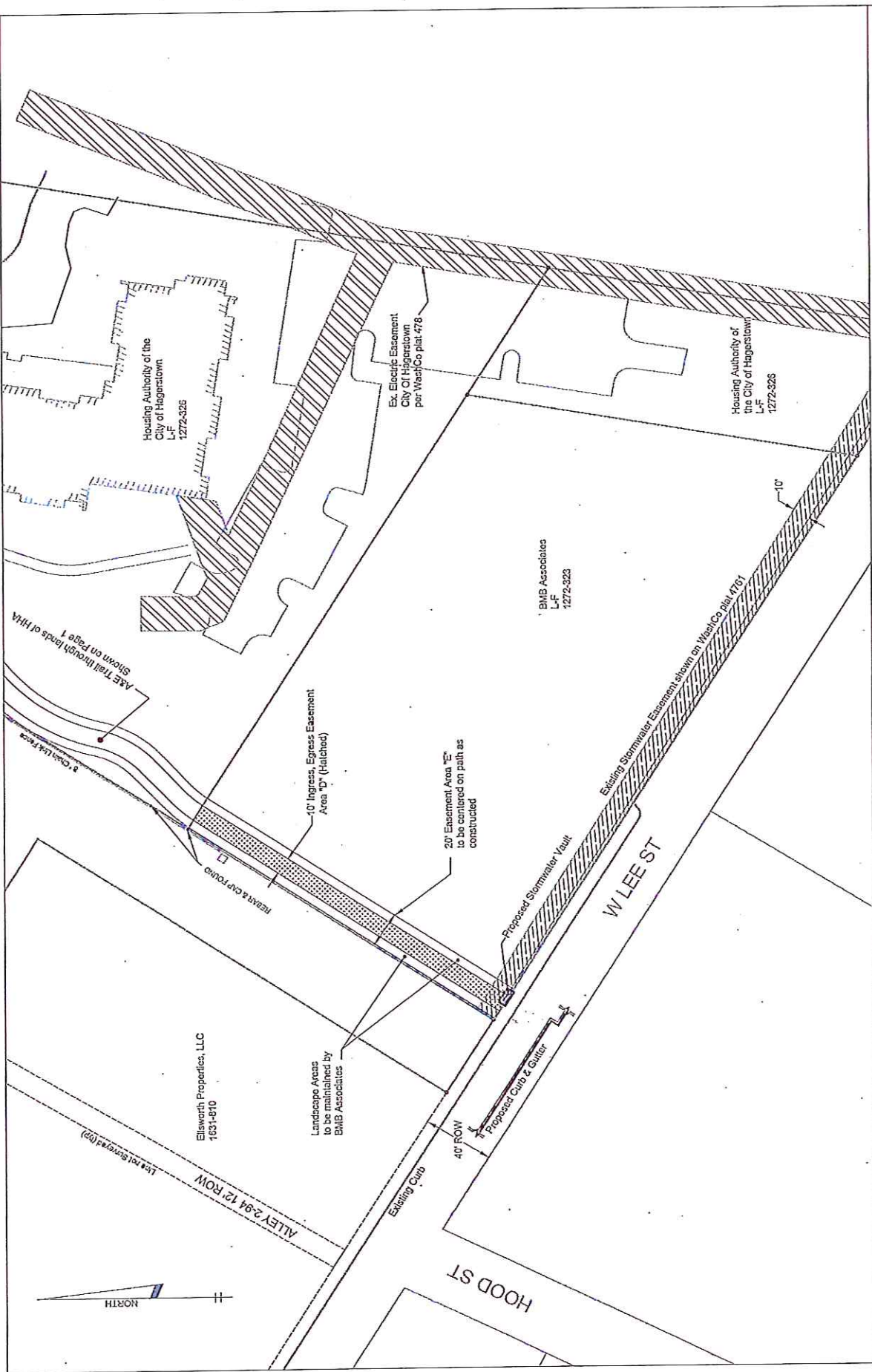
Notary Public

My Commission expires: _____

I certify that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland, but that the undersigned did not perform a title search, title examination or make any certification as to title.

Mark K. Boyer

MAIL TO:
City of Hagerstown
City Hall
1 E. Franklin Street
Hagerstown, MD 21740



PRELIMINARY

Easement Plat Lands of The Hagerstown Housing Authority 43 West Baltimore St, Hagerstown, Maryland and BMB Associates, 16 West Lee St.	
CITY OF HAGERSTOWN, MARYLAND DEPARTMENT OF PARKS & ENGINEERING	
ELECTION DIST. No. 21, W.C. TAX MAP No. 312 WASHINGTON COUNTY, MARYLAND	
Survey by: JMS Date: 12/15/11	Scale: 1" = 40'
Survey by: JMS Date: 12/15/11	City/Town Map: 31
SHEET No.	CITY DRAWING NUMBER
2 of 3	74-668-02

Wash Co Plat # _____

2015-XXXX



CITY OF HAGERSTOWN, MARYLAND

Department of Parks & Engineering

Agreement between City of Hagerstown and Ellsworth Properties, LLC for permission to complete work associated with the A&E trail project on West Lee Street in Hagerstown, Md. The City will need to enter the property and perform work adjacent to the completed Trail.

The purpose of this agreement is for Ellsworth Properties, LLC to grant permission to the City of Hagerstown and/or its contractors to enter upon their property located at 89 Lee Street Hagerstown, Md. with the following conditions:

1. The City of Hagerstown and/or its contractors will work in the entrance to 87/89 West Lee Street. This will include all related activities to remove and reconstruct a portion of the parking lot and entrance to the property to achieve proper water drainage. The contractor will repair any damage he might cause.
2. Work at this location is expected to begin sometime between January 1, 2016 and June 30, 2016 and be completed in about 20 working days
3. There will be no compensation paid to Ellsworth Properties, LLC for permission of entry onto their property but Ellsworth Properties, LLC will not incur any expense to complete the work described above.

We, the undersigned, do hereby concur with these conditions.

For the Ellsworth Properties, LLC property:

John Barr
John Barr

12-4-15

Date

Witness: Christal J. Mower

For the City of Hagerstown:

Date



CITY OF HAGERSTOWN, MARYLAND

Department of Parks & Engineering

Agreement between City of Hagerstown and Master Aluminum Products, Inc. for permission to complete work associated with the A&E trail project on West Lee Street in Hagerstown, Md. The City will need to enter the property and perform work adjacent to the completed Trail.

The purpose of this agreement is for Master Aluminum Products, Inc. to grant permission to the City of Hagerstown and/or its contractors to enter upon their property located at 87 Lee Street Hagerstown, Md. with the following conditions:

1. The City of Hagerstown and/or its contractors will work in the entrance to 87/89 West Lee Street. This will include all related activities to remove and reconstruct a portion of the parking lot and entrance to the property to achieve proper water drainage. The contractor will repair any damage he might cause.
2. Work at this location is expected to begin sometime between January 1, 2016 and June 30, 2016 and be completed in about 20 working days
3. There will be no compensation paid to Master Aluminum Products, Inc. for permission of entry onto their property but Master Aluminum Products, Inc. will not incur any expense to complete the work described above.

We, the undersigned, do hereby concur with these conditions.

For the Master Aluminum Products, Inc. property:

John Barr

John Barr

12-4-15

Date

Witness: Christal J. Mowers

For the City of Hagerstown:

Date

City Hall • One East Franklin Street • Hagerstown, MD 21740-4817

301/739/8577 Ext. 125

FAX 301/733/2214

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Acceptance of Quit Claim Deed from Antietam Paper Building, LLC
(Hagerstown Cultural Trail)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

motion.antietam_paper_approval.2016.pdf

Description

APPROVAL OF
ORDINANCE:
ACCEPTANCE OF QUIT
CLAIM DEED FROM
ANTIETAM PAPER
BUILDING, LLC

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 1, 2016

TOPIC: Approval of Ordinance: Acceptance of Quit Claim Deed from Antietam Paper Building, LLC

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move for the approval of an Ordinance authorizing the acceptance of a Quit Claim Deed from Antietam Paper Building, LLC for 0.05 acres of land for use in the construction and maintenance of the Hagerstown Cultural Trail.

Date of Introduction: February 23, 2016

Date of Passage: March 1, 2106

Effective Date: April 1, 2016

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A QUIT CLAIM DEED
FROM ANTIETAM PAPER BUILDING, LLC FOR 0.05 ACRES OF LAND FOR USE IN
THE CONSTRUCTION AND MAINTENANCE OF THE
HAGERSTOWN CULTURAL TRAIL**

RECITALS

WHEREAS, the City of Hagerstown, Maryland is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City intends to construct and maintain a public walking trail within its corporate limits to be known as the Hagerstown Cultural Trail; and

WHEREAS, the proposed route of the Hagerstown Cultural Trail runs adjacent to the property of Antietam Paper Building, LLC; and

WHEREAS, an approximately 0.05 acre parcel upon which the proposed trail route will be located is of unknown or uncertain ownership due to its omission from the deeds of both adjoining parcels; and

WHEREAS, Antietam Paper Company, LLC, as an adjoining property to the aforesaid 0.05 acre parcel has generously agreed to quit claim to the City any interest it may have in the 0.05 acres of land, retaining certain rights of easement to itself for access to the building located upon its property; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to accept this quit claim of real property and to take title thereto.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the Mayor and Council hereby approve and authorize the acceptance of a Quit Claim Deed for 0.05 acres of land from Antietam Paper Building, LLC for use in the construction and maintenance of the Hagerstown Cultural Trail.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2016
Effective Date: April 1, 2016

PREPARED BY:
SALVATORE & BOYER
CITY ATTORNEY

THIS QUIT CLAIM DEED, is made on this day of , 2016, by Antietam Paper Building, LLC, a Maryland limited liability company, Grantor, of Washington County, Maryland.

WITNESSETH: That for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which is hereby acknowledged, the said Grantor, does hereby grant, convey, release, quit claim and surrender unto The City of Hagerstown, a Maryland municipal corporation, Grantee, its assigns and successors all right title, interest, claim or demand of whatever kind or nature to all the following parcel or tract of land, being more particularly described as follows:

All the following described lot or tract of land, together with the improvements thereon, situate on the South side of West Antietam Street in Hagerstown, Washington County, Maryland, said lot fronting on said Antietam Street about 12 feet 1 inch, and extending back approximately the same width about 186 feet 7 inches, being bounded on the east by the property of the Grantor known as 37 West Antietam Street and obtained by the Grantor by deed dated January 25, 2006 and recorded at Liber 2913, folio 147 among the land records of Washington County, and said lot being bounded on the west by the property of The Herald Mail Company, Inc., consisting of 0.05 acres of land, more or less. Said lot is more particularly depicted as Parcel B on the Detail of Property Transfer, attached hereto as Exhibit A, the said lot being a lot of disputed or unknown ownership.

Together with the rights, ways, alleys, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

The above described property is conveyed subject to any and all rights of way, easements, restrictions, conditions and reservations of record.

This conveyance is made on the express consideration that the property conveyed shall be used as and remain a public walking trail, public park or used for passive recreation purposes, to be enjoyed by the public generally. To the extent permitted by Maryland law, failure on the part of the Grantee to use or maintain the property for such purpose will cause the property conveyed herein to revert to and re-vest in Grantor, its successors or assigns, as fully and completely as if this instrument had not been executed. If Grantee shall abandon or relocate the public walking trail Grantee shall be solely responsible for the cost and expense to restore the property to its original condition.

Saving and excepting therefrom an Easement for the benefit of the Grantor, its successors and assigns for vehicular ingress and egress from the south side of Parcel B to its existing loading docks, and pedestrian ingress and egress to the stairway and building entrance as more fully depicted on the attached Exhibit A.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)

WITNESS my hand and seal.

WITNESS:

GRANTOR
Antietam Paper Building, LLC

By: _____ (SEAL)
_____, Member

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2016, before me, the subscriber, a Notary Public in and for the State and County aforesaid; personally appeared _____, known to me to be the person whose name is subscribed to the foregoing Deed, and who acknowledged that he executed the same on behalf of Antietam Paper Building, LLC with full authority to do so, for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

My Comm. Expires:

Notary Public

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Mark K. Boyer, Attorney

Mail to: The City of Hagerstown
City Hall
1 E. Franklin Street
Hagerstown, MD 21740

THE HERALD MAIL CO
100 SUMMIT AVE
L-F 704-26

Concrete Retaining Wall

Existing Hagerstown Light
Department Easement

Proposed
Plaza Area

Parcel B

0.05 acres M/L
(this parcel is located within
the Historic District)

Proposed Driveway

Downtown Historic District

DOCK

DOCK

DOCK

DOCK

DOCK

Line Table					
E1	N57°27' 12"W	8.00'	P1	N57° 27' 12"W	11.50'
E2	N32°24' 39"E	162.12'	P2	N32° 13' 54"E	186.54'
E3	S56°54' 15"E	8.00'	P3	S57° 47' 38"E	12.08'
E4	S32°24' 38"W	162.05'	P4	S32° 24' 38"W	186.61'

Ingress, egress easement
area (cross-hatched) to
benefit Antietam Paper
Building, LLC

Antietam Paper
Building, LLC

EXHIBIT "A"

Downtown Historic District

Detail of Property Transfer
Lands of The Herald Mail Co.
100 Summit Avenue, Hagerstown, Maryland
and Antietam Paper Building, LLC,
37 West Antietam Street, Hagerstown, MD

CITY OF HAGERSTOWN, MARYLAND
DEPARTMENT OF
PARKS & ENGINEERING
ELECTION DIST. No. 21, W.C. TAX MAP No. 312
WASHINGTON COUNTY, MARYLAND

Drawn By: JNS Date: 3/9/2015
Survey By: JNS Date: 12/1/2015
City Unique ID: xxxxxxxx
Scale: 1" = 20'

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Approval of an Ordinance: Execution of a Donation Agreement with Herald-Mail Company
(Hagerstown Cultural Trail)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

motion.herald_mail_approval.2016.pdf

Description

APPROVAL OF
ORDINANCE: EXECUTION
OF A DONATION
AGREEMENT WITH
HERALD-MAIL COMPANY

REQUIRED MOTION
MAYOR & CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: March 1, 2016

TOPIC: Approval of Ordinance: Execution of a Donation Agreement with Herald-Mail Company

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u> X </u>
Resolution	_____
Other	_____

MOTION: I hereby move for the approval of an Ordinance authorizing the execution of a Donation Agreement between the City of Hagerstown and the Herald-Mail Company and the acceptance of the donation of .764 acres of land from the Herald-Mail Company for use in the construction and maintenance of the Hagerstown Cultural Trail.

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2106
Effective Date: April 1, 2016

CITY OF HAGERSTOWN, MARYLAND

AN ORDINANCE AUTHORIZING THE EXECUTION OF A DONATION AGREEMENT BETWEEN THE CITY OF HAGERSTOWN AND THE HERALD-MAIL COMPANY AND THE ACCEPTANCE OF THE DONATION OF .764 ACRES OF LAND FROM THE HERALD-MAIL COMPANY FOR USE IN THE CONSTRUCTION AND MAINTENANCE OF THE HAGERSTOWN CULTURAL TRAIL

RECITALS

WHEREAS, the City of Hagerstown, Maryland is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City intends to construct and maintain a public walking trail within its corporate limits to be known as the Hagerstown Cultural Trail; and

WHEREAS, the proposed route of the Hagerstown Cultural Trail runs adjacent to and upon property owned by the Herald-Mail Company, Inc.; and

WHEREAS, the Herald-Mail Company has generously offered to donate .764 acres of land to the City, along with certain easements and the quit claim of land, for use in the construction and maintenance of the Hagerstown Cultural Trail; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to accept this offer of real property and to take title thereto.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. That the Mayor and Council hereby approve and authorize the acceptance of .764 acres of land from the Herald-Mail Company, Inc. pursuant to the terms of the attached Donation Agreement, for use in the construction and maintenance of the Hagerstown Cultural Trail.
2. That the Mayor be and is hereby authorized to execute and deliver the Donation Agreement to the Herald-Mail Company, Inc., a copy of which is attached hereto and incorporated herein by reference and to act as signatory on behalf of the City on any documentation necessary to effectuate the acceptance of the donation of the subject property.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction: February 23, 2016
Date of Passage: March 1, 2016
Effective Date: April 1, 2016

PREPARED BY:
SALVATORE & BOYER
CITY ATTORNEY

DONATION AGREEMENT

This DONATION AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 2016 (the "Effective Date"), by and between THE HERALD-MAIL COMPANY, a Maryland corporation ("Donor"), and THE CITY OF HAGERSTOWN, a Maryland Municipal corporation ("Donee"), upon the following terms and conditions:

RECITALS:

A. Donor desires to donate to Donee, and Donee desires to accept the donation of, the parcels of land more particularly described in Exhibit A attached hereto and incorporated herein (the "Real Estate"), which Real Estate shall be conveyed on the terms and conditions set forth herein.

B. The Real Estate shall be used by Donee as a part of the walking trail from the City Center Arts & Entertainment District to City Park (the "Project").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and of the benefits to be derived herefrom, receipt of which is acknowledged, and intending to be legally bound hereby, Donee and Donor hereby agree as follows:

1. **Donation of Real Estate.** Upon the terms and subject to the satisfaction or waiver of the conditions hereinafter set forth, Donor shall donate to Donee, and Donee shall accept from Donor, the Real Estate.

2. **Title and Real Estate Condition.**

A. *Title to Real Estate.*

(i) At Closing, Donor shall convey the Real Estate to Donee by deed of gift (the "Deed") subject to (a) all easements, rights-of-way, rights, duties, obligations, covenants, conditions, restrictions, limitations and agreements of record; (b) the Use Restriction (as hereafter defined) (c) current real estate taxes not delinquent; (d) public highways and rights-of-way; (e) all matters that would be shown by an accurate survey and inspection of the Real Estate; and (f) the provisions of all applicable zoning laws (collectively, the "Permitted Exceptions"). The Deed shall be in the form attached hereto as Exhibit B and shall include the grant of a utility easement to the Donee and the reservation of a maintenance easement to Donor, all as more particularly described therein.

(ii) Donee may obtain, at its sole cost and expense, a title commitment or other evidence of title. Should Donee's title review reveal title defects, which in Donee's opinion render title to the Real Estate unmarketable, Donee may, at its sole cost and expense, take whatever steps it deems reasonably necessary to clear or otherwise satisfactorily resolve any such title defect. Donor shall provide commercially reasonable assistance to Donee in any such efforts to make title marketable; provided, however, Donor shall not be required to expend any money or incur any expense in connection therewith. If in Donee's sole judgment, any such title defect cannot be cured by reasonable effort, Donee may terminate this agreement with no further obligation of either party hereunder.

(iii) The Real Estate shall be conveyed to Donee subject to a covenant (the "Use Restriction") running with the land, for the maximum period permitted by applicable law, and binding upon Donee and its successors and assigns, and subject to a right of reverter benefiting Donee in the event of a violation of thereof, that the Real Estate shall be used only for public park and passive recreation purposes in connection with the Project, and Donee shall not, without the prior written consent of Donor, or any successor in title, construct any buildings, structures or other improvements thereon or thereto except (a) a walking/jogging/bicycling and arts trail, (b) benches, decorative lighting, artwork, fencing, trail-related signs, trees, shrubbery, landscaping, plant beds, trash receptacles, and other related park amenities, and (c) certain storm drains, utilities, including conduits and hand boxes for lighting, security cameras, and electrical and crosswalk utilities, all as shown on Exhibit C attached hereto and incorporated herein.

B. "AS-IS" Donation.

(i) The Real Estate shall be conveyed to Donee "as-is where-is" and Donee acknowledges and agrees that Donor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to (a) the value, nature, quality or condition of the Real Estate, including, without limitation, the water, soil and geology, (b) the income to be derived from the Real Estate, (c) the suitability of the Real Estate for any and all activities and uses which Donee may conduct thereon, (d) the compliance of or by the Real Estate or its operation with any laws, rules, ordinances or regulations of any applicable government authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Real Estate, (f) the manner or quality of the construction or materials, if any, incorporated into the Real Estate, (g) the manner, quality, state or repair or lack of repair of the Real Estate, or (h) any other matter with respect to the Real Estate. Donor has not made, does not make and specifically disclaims any other representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including, the disposal or existence, in or on the Real Estate, of any hazardous materials.

(ii) This Section 2.B shall be set forth in the Deed and shall survive closing and the execution and delivery of the Deed by Donor to Donee.

C. *Quit Claim Deed*. Donor further agrees to transfer to Donee, and Donee agrees to accept, subject to all of the terms and conditions set forth herein, all of Donor's interest, if any, in and to that property consisting of approximately 0.05 acres, as described in the Quit Claim Deed, the form of which is attached hereto as Exhibit D (the "Quit Claim Deed").

3. **Closing**. Closing of the transactions contemplated by this Agreement ("Closing") shall be held, and delivery of all items to be made at the Closing under the terms of this Agreement shall occur, at a place mutually acceptable to Donor and Donee, on a date which is not later than sixty (60) days from the Effective Date (the "Outside Date"). The date set for Closing by mutual agreement of Donee and Donor shall be deemed the "Closing Date." Notwithstanding anything in this Section 3 to the contrary, the Closing Date may be extended by mutual written agreement of Donor and Donee.

4. **Closing Deliverables**.

A. *Donor's Closing Deliverables.* At Closing, Donor shall execute, as applicable, and deliver to Donee (i) the Deed and Quit Claim Deed; (ii) a certification of non-foreign status with respect to Donor as required by Section 1445 of the Internal Revenue Code; and (iii) certified copies of the resolutions duly adopted by Donor authorizing the execution, delivery and performance of this Agreement and each of the other agreements contemplated hereby.

B. *Donee's Closing Deliverables.* At Closing, Donee shall execute, as applicable and deliver to Donor (i) certified copies of an ordinance duly adopted by Donee authorizing the execution, delivery and performance of this Agreement and each of the other agreements contemplated hereby; (ii) a counterpart of the Deed; (iii) any document reasonably required by Donor to allow Donor to claim any deduction on its federal or state tax returns relating to the donation of the Real Estate to Donee, including, without limitation, Internal Revenue Service Form 8283; and (iv) satisfactory evidence that any necessary subdivision or similar approval has been obtained by Donee ("**Subdivision Approval**").

5. **Conditions to Obligations to Close.**

A. *Conditions to Obligation to Close.* Each party's obligation to consummate the transactions contemplated herein is conditioned upon the other party making its closing deliveries as provided in Section 4 and the other party's having performed all agreements, undertakings and obligations in all material respects and complied in all material respects with all conditions required by this Agreement to be performed and/or complied with by such other party prior to the Closing.

B. *Failure of Conditions to Obligation to Close.* In the event that any of the conditions to a party's condition to close have not been fulfilled on the Outside Date, such party shall have the right, in addition to its rights and remedies under Section 6 to (i) terminate this Agreement by giving written notice to the other party, whereupon both parties shall thereafter be relieved of further liability hereunder, except to the extent survival is expressly provided herein, or (ii) waive such condition in writing and proceed to Closing.

6. **Default; Remedies.** If either party fails to perform its obligations hereunder, the other party shall have the right to terminate this Agreement, which shall be such party's sole remedy at law or in equity.

7. **Real Estate Taxes; Closing Costs.**

A. *Real Estate Taxes.* Donee assumes and agrees to pay all assessments of public improvements becoming a lien after Closing and all installments of real estate taxes due and payable thereafter. Donor hereby notifies the Donee that the Real Estate may be subject to the Agricultural Transfer Tax as set forth in the Tax Property Article, §13-301, et seq., of the Annotated Code of Maryland, and such tax, if applicable, shall be paid by the Donee upon the recordation of the Deed.

B. *Closing Costs.* Donee shall be responsible for the costs of (i) any title insurance, any survey, any Phase I Environmental Assessment or other due diligence that it undertakes with respect to the Real Estate, (ii) the Subdivision Approval (provided Donor shall reasonably cooperate in connection with the Subdivision Approval), and (iii) the recording of the Deed. Donor and Donee shall pay, respectively, the fees and expenses of their own attorneys in connection with negotiation and settlement of this Agreement.

C. *Survival.* The terms of this Section 7 shall survive Closing and the delivery of the Deed.

8. **Miscellaneous.**

A. *Governing Law; Jurisdiction.* This Agreement shall be construed, performed and enforced in accordance with, and governed by, the laws of the State of Maryland (without giving effect to the principles of conflicts of laws thereof).

B. *Integration; Survival.* This Agreement contains the entire understanding among the parties hereto with respect to the transactions contemplated hereby and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to such transactions. All exhibits hereto and any documents and instruments delivered pursuant to any provision hereof are expressly made a part of this Agreement as fully as though completely set forth herein.

C. *Amendment.* This Agreement may be modified or amended only by the written agreement of Donor and Donee.

D. *Waiver.* Except as expressly provided otherwise in this Agreement, (i) no failure by Donor or Donee to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition, (ii) any waiver of any covenant, agreement, term or condition of this Agreement shall be enforceable only if in writing, and (iii) no waiver, except as both parties agree in writing, shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach.

E. *Counterparts.* This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement binding on all the parties notwithstanding that all the parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto, and upon receipt of the signature of the other party hereto as provided in the following sentence. The parties agree that this Agreement may be transmitted between them by facsimile machine or e-mail transmission. The parties intend that faxed signatures or e-mail transmission of .pdf signatures constitute original signatures and that a faxed copy or a .pdf copy of the Agreement containing the signatures (original, faxed or e-mailed by .pdf) of all the parties is binding on the parties.

F. *Notices.* All notices hereunder shall be deemed to have been duly given on the date of delivery if delivered in person, by facsimile during regular business hours on a business day (otherwise receipt shall be deemed to have occurred on the next succeeding business day), or the following business day after being sent by overnight delivery by a nationally recognized overnight delivery service such as UPS or Federal Express, addressed as follows:

To Donor:
THE HERALD-MAIL COMPANY
100 Summit Avenue
Hagerstown, MD 21740

To Donee:
THE CITY OF HAGERSTOWN
1 E. Franklin Street
Hagerstown, MD 21740

or to such other address as shall be furnished in writing by either party to the other.

G. *Successors Bound.* The provisions of this Agreement shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and permitted assigns.

H. *No Third-Party Beneficiaries.* The parties do not intend for any other Person to be, and no such other Person shall be, a third-party beneficiary.

I. *Time.* Time is of the essence in this Agreement. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is not a business day, in which case the period shall be deemed to run until the end of the next day which is a business day. For all purposes of this Agreement, a "business day" means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized or required to close under the laws of the State of Maryland.

J. *Incorporation of Recitals, Exhibits and Schedules.* All recitals, exhibits, and schedules to this Agreement are incorporated herein by reference.

K. *Captions.* The captions of the various sections and paragraphs of this Agreement have been inserted only for the purpose of convenience; such captions are not a part of this Agreement and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

L. *Assignment.* Neither party shall voluntarily or by operation of law assign or transfer any right, interest or obligation hereunder without the other party's express prior written consent, which consent may be given or withheld in such party's sole and absolute discretion.

M. *Severability.* If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

N. *Recordation.* Neither party shall record this Agreement or a memorandum or other notice thereof in any public office without the express written consent of the other party, which consent may be given or withheld in such party's sole and absolute discretion. A breach of this covenant shall constitute a material default by such party under this Agreement.

O. *Prevailing Party.* In the event a suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court, arbitrator or mediator may adjudge reasonable as such party's costs and attorney's fees, including such costs and fees as are incurred in any trial, on any appeal, in any bankruptcy proceeding (including the adjudication of issues peculiar to bankruptcy law) and in any petition for review. The provisions of this Section 8(O) shall survive Closing or any termination of this Agreement. The term "prevailing party" as used in this Agreement shall include, but not be limited to, a party who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, mediation, settlement, judgment or otherwise, unless the terms of such compromise, mediation or settlement expressly address such costs and fees.

P. *Tax Documents.* Donee agrees to execute and/or deliver to Donor any documents or forms reasonably necessary to document Donor's charitable contribution of the Real Estate for income tax purposes; *provided, however*, that Donee makes no representation or warranty as to the fair market

value of the Real Estate or the deductibility of Donor's charitable contribution. This Section 8(P) shall survive Closing.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the Effective Date.

THE CITY OF HAGERSTOWN

THE HERALD-MAIL COMPANY

By: _____
(Signature)

By: _____
(Signature)

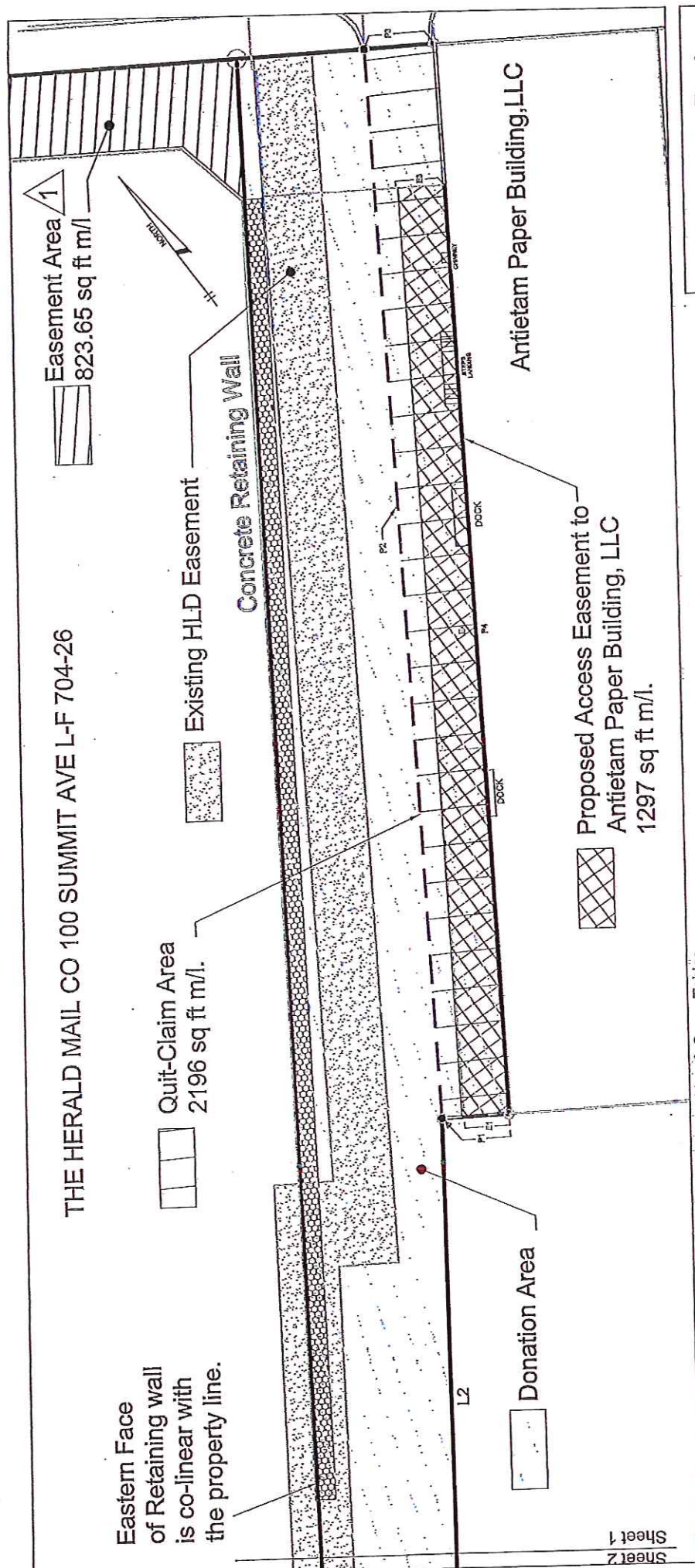
David S. Gysberts
(Printed Name)

(Printed Name)

Its: Mayor
(Title)
"Donee"

Its: _____
(Title)
"Donor"

EXHIBIT A
DESCRIPTION OF REAL ESTATE



Detail of Property Transfer
 Lands of The Herald Mail Co.
 100 Summit Avenue, Hagerstown, Maryland
 and Antietam Paper Building, LLC,
 37 West Antietam Street, Hagerstown, MD

CITY OF HAGERSTOWN, MARYLAND
 DEPARTMENT OF
 PARKS & ENGINEERING
 ELECTION DIST. NO. 21, W.C. TAX MAP NO. 312
 WASHINGTON COUNTY, MARYLAND

Drawn By: JNS Date: 12/26/2018
 Survey By: JNS Date: 12/12/2015 City Unique ID: xxxxxxxx
 Scale: 1" = 20' City Tax Map 31

Line & Curve Tables

Curve #	Length	Radius	Chord Length	Chord Bearing
C1	113.21	5671.830	113.21	S03 00 30"W

Curve Table				
Curve #	Length	Radius	Chord Length	Chord Bearing
C1	113.21	5671.830	113.21	S03 00 30W

Line #	Length	Direction	L10	L11	L12	L13	L14	L15	L16	L17	L18	L19
L1	186.54	S32° 13' 54"W	L10	L11	L12	L13	L14	L15	L16	L17	L18	L19
L2	103.24	S34° 22' 40"W	L11	L12	L13	L14	L15	L16	L17	L18	L19	
L3	119.59	S33° 11' 23"W	L12	L13	L14	L15	L16	L17	L18	L19		
L4	210.44	S09° 12' 51"W	L13	L14	L15	L16	L17	L18	L19			
L5	155.14	S03° 53' 55"W	L14	L15	L16	L17	L18	L19				
L6	33.78	N72° 02' 57"W	L15	L16	L17	L18	L19					
L7	12.47	N45° 43' 57"W	L16	L17	L18	L19						
L8	73.14	N21° 55' 29"W	L17	L18	L19							
L9	21.34	N55° 35' 32"W	L18	L19								
			L19									

EXHIBIT "A"
 Sheet 1 of 3

Existing HLD Easement

Donation Area

New Line of Subdivision

Sheet 1
Sheet 2

Line & Curve Tables

E1	N57°27'12"W	5.00'	P1	N57°27'12"W	11.50'
E2	N32°24'39"E	162.12'	P2	N33°13'54"E	186.54'
E3	S55°54'15"E	8.00'	P3	S57°47'35"E	12.08'
E4	S32°24'38"W	162.05'	P4	S32°24'38"W	186.61'

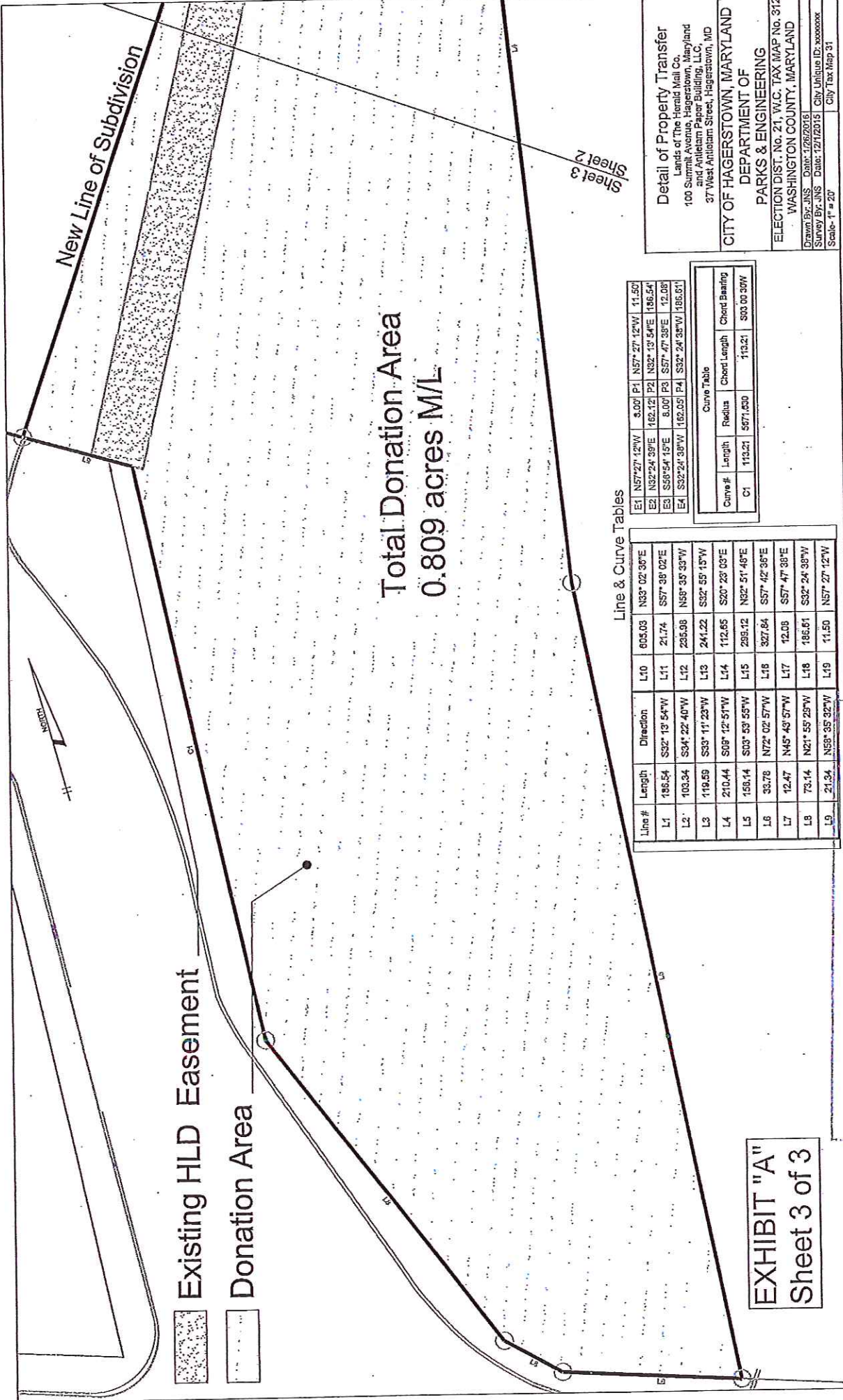
Curve Table			
Curve #	Length	Radius	Chord Bearing
C1	113.21	5671.530	113.21 S03°00'30"W

Line #	Length	Direction	L10	N33°02'35"E
L1	186.54	S32°13'54"W	L11	S57°38'02"E
L2	103.34	S34°22'40"W	L12	235.98 N58°35'33"W
L3	119.59	S33°11'23"W	L13	241.22 S32°55'15"W
L4	210.44	S09°12'51"W	L14	112.65 S20°23'03"E
L5	156.14	S03°53'55"W	L15	250.12 N32°51'49"E
L6	33.78	N72°02'57"W	L16	327.84 S57°42'38"E
L7	12.47	N45°43'57"W	L17	12.08 S57°47'35"E
L8	73.14	N21°55'29"W	L18	186.61 S32°24'38"W
L9	21.34	N58°35'32"W	L19	11.50 N57°27'12"W

EXHIBIT "A"
Sheet 2 of 3

Sheet 3
Sheet 2

Detail of Property Transfer	
Lands of The Herald Mail Co.	
100 Summit Avenue, Hagerstown, Maryland	
and Antietam Paper Buildings, LLC,	
37 West Antietam Street, Hagerstown, MD	
CITY OF HAGERSTOWN, MARYLAND	
DEPARTMENT OF	
PARKS & ENGINEERING	
ELECTION DIST. No. 21, W.C. TAX MAP No. 312	
WASHINGTON COUNTY, MARYLAND	
Drawn By: JNS	Date: 1/12/2018
Survey By: JNS	Date: 12/1/2015
Scale: 1" = 20'	City Tax Map 31



Total Donation Area
0.809 acres M/L

Line & Curve Tables

E1	N57°27'12"W	3.00'	P1	N57°27'12"W	11.50'
E2	N32°24'39"E	162.12'	P2	N32°13'54"E	186.54'
E3	S50°54'15"E	8.00'	P3	S57°47'38"E	12.08'
E4	S32°24'38"W	162.05'	P4	S32°24'38"W	186.51'

Curve Table				
Curve #	Length	Radius	Chord Length	Chord Bearing
C1	113.21	5671.630	113.21	S03°00'30"W

Line #	Length	Direction	L10	L11	L12	L13	L14	L15	L16	L17	L18	L19
L1	186.54	S32°13'54"W	21.74	21.74	295.98	241.22	112.65	295.12	327.64	12.08	186.51	11.50
L2	103.34	S34°22'40"W										
L3	119.59	S33°11'23"W										
L4	210.44	S08°12'57"W										
L5	158.14	S03°53'55"W										
L6	33.78	N72°02'57"W										
L7	12.47	N45°43'57"W										
L8	73.14	N21°55'25"W										
L9	21.34	N58°35'32"W										

EXHIBIT "A"
Sheet 3 of 3

Detail of Property Transfer
Lands of The Herald Mail Co.
100 Summit Avenue, Hagerstown, Maryland
and Antileam Paper Building, LLC,
37 West Antileam Street, Hagerstown, MD

CITY OF HAGERSTOWN, MARYLAND
DEPARTMENT OF
PARKS & ENGINEERING
ELECTION DIST. NO. 21 W.C. TAX MAP NO. 312
WASHINGTON COUNTY, MARYLAND

Drawn By: JNS Date: 12/26/2016
Survey By: JNS Date: 12/12/2015
Scale: 1" = 20'

City Tax Map 31

EXHIBIT B
FORM OF DEED

NO CONSIDERATION DEED

THIS DEED, made this ____ day of _____, 2016, by The Herald Mail Company, Inc., a Maryland corporation of Washington County, Maryland, hereinafter called the Grantor.

WITNESSETH: That for NO MONETARY CONSIDERATION, but for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the consideration hereinafter recited, the said Grantor, does hereby grant and convey unto The City of Hagerstown, a Maryland municipal corporation, Grantee, all that tract or parcel of land together with all rights, and appurtenances thereunto belonging or in anywise appertaining, situate in Hagerstown, Washington County, Maryland, consisting of 0.764 acres of land, more or less, and more particularly described, depicted and designated as Parcel A on the attached drawing number 74-667-01 of the Department of parks and Engineering of the City of Hagerstown, dated March 9, 2015, said drawing being incorporated herein as Exhibit A.

Together with a permanent Easement over and upon 823.65 square feet of land, more or less for the benefit of the Grantee for the erection, use, maintenance, repair and replacement of electrical and crosswalk utilities, artwork and park amenities, as and where depicted as Easement Area 1 on the aforesaid attached Exhibit A, together with an Easement for reasonable ingress, egress and access thereto for such purposes.

Saving and excepting therefrom a permanent Easement over and upon 680 square feet of land, more or less for the benefit of the Grantor for the use, maintenance, repair, and replacement of Grantor's existing concrete retaining wall, as and where depicted as Easement Area 2 on the aforesaid attached Exhibit A, together with an Easement for reasonable ingress, egress and access thereto for such purposes.

Being part of the same property which was conveyed unto the Grantor herein by Washington County Railroad Company, by Deed dated May 13, 1996 and recorded among the Land Records of Washington County, Maryland in Liber 614, folio 480.

Subject to any and all conditions, restrictions, streets, reservations, easements and rights of way of record.

This conveyance is made on the express consideration that the property conveyed shall be used as and remain forever a public walking trail, public park or used for passive recreation purposes, to be enjoyed for such purposes by the public generally. To the extent permitted by Maryland law, failure on the part of the Grantee to use or properly maintain the property for such purpose will cause the property conveyed herein to revert to and re-vest in Grantor, its successors or assigns, as fully and completely as if this instrument had not been executed.

The Real Estate herein conveyed to Grantee is conveyed "as-is where-is" and Grantee acknowledges and agrees that Grantor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to (a) the value, nature, quality or condition of the Real Estate, including, without limitation, the water, soil and geology, (b) the income to be derived from the Real Estate, (c) the suitability of the Real Estate for any and all activities and uses which Grantee may conduct thereon, (d) the compliance of or by the Real Estate or its operation with any laws, rules, ordinances or regulations of any applicable government authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Real Estate, (f) the manner or quality of the construction or materials, if any, incorporated into the Real Estate, (g) the manner, quality, state or repair or lack of repair of the Real Estate, or (h) any other matter with respect to the Real Estate. Grantor has not made, does not make and specifically disclaims any other representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including, the disposal or existence, in or on the Real Estate, of any hazardous materials.

And the Grantor herein hereby covenants that subject to the aforesaid conditions, restrictions, streets, reservations, easements and rights of way, it will warrant specially the property hereby conveyed and will execute such other and further assurances thereof as may be requisite.

(Signatures appear on the following page)

WITNESS my hand and seal.

ATTEST:

GRANTOR
The Herald-Mail Company, Inc.

(SEAL)

, President

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2016, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared *, known to me or satisfactorily proven to me to be the person whose name is subscribed to the foregoing Deed, and who acknowledged that * executed the same on behalf of the Grantor, The Herald-Mail Company, Inc., with full authority to do so, for the purposes herein contained. And the said * further made oath and acknowledged the consideration set forth herein to be true and accurate.

WITNESS my hand and Official Notarial Seal.

Notary Public

My Commission Expires:

WITNESS my hand and seal this _____ day of _____, 2016.

ATTEST:

GRANTEE
City of Hagerstown

(SEAL)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2016, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared * , the authorized representative and agent of the Grantee in the foregoing Deed, and made oath and acknowledged the consideration set forth herein to be true and accurate.

WITNESS my hand and Official Notarial Seal.

Notary Public

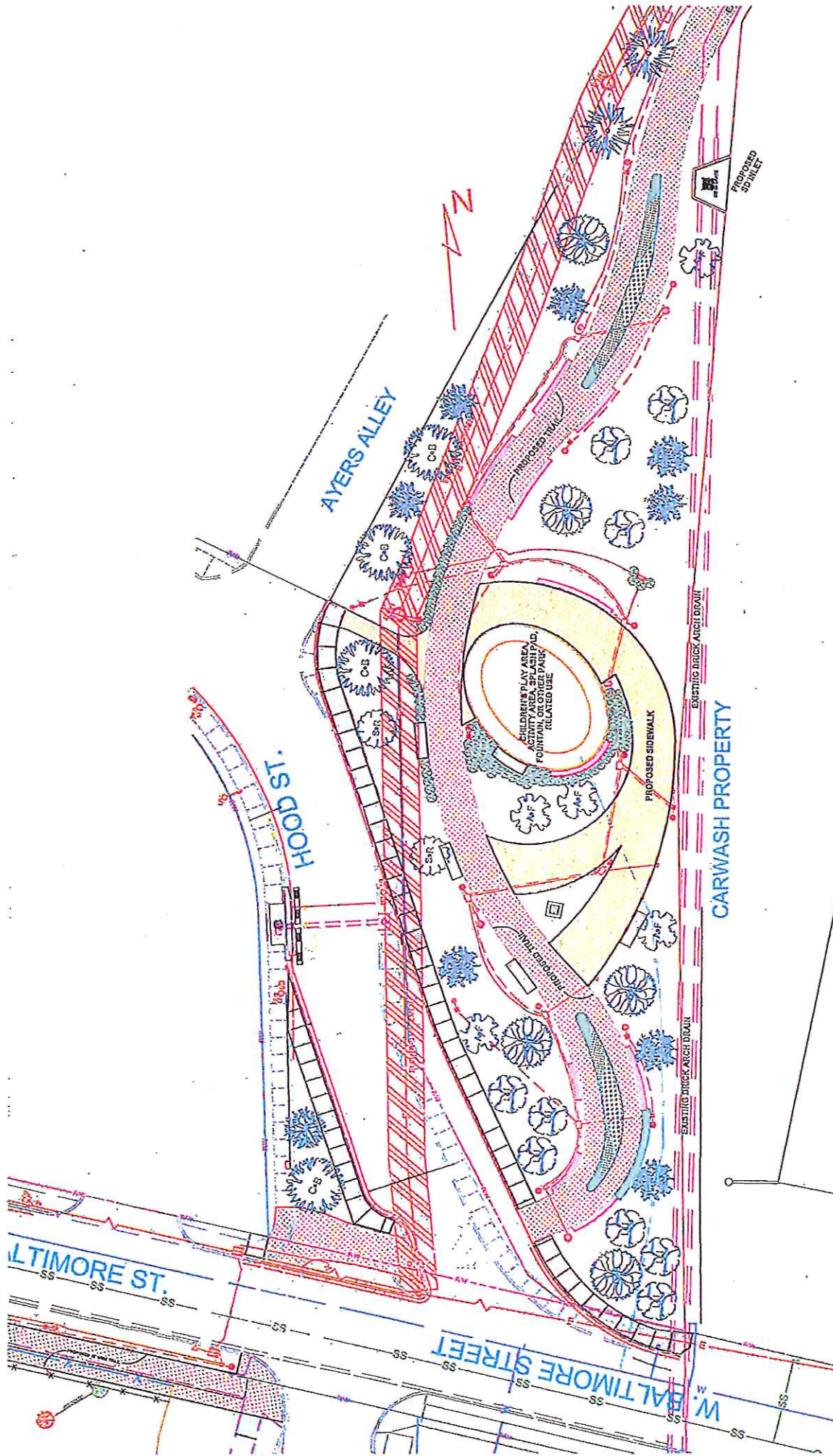
My Commission Expires:

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Mark K. Boyer, Attorney

MAIL TO:
City of Hagerstown
City Hall
1 E. Franklin Street
Hagerstown, MD 21740

EXHIBIT C
TRAIL PROJECT DRAWING



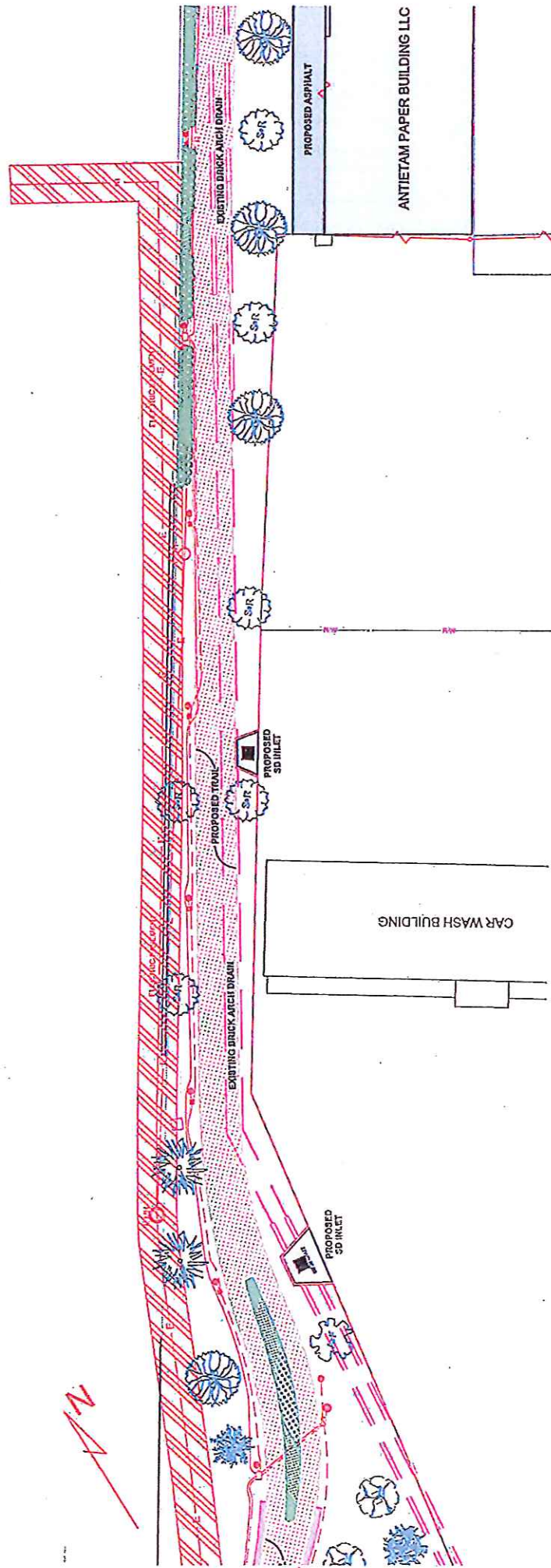


EXHIBIT "C"

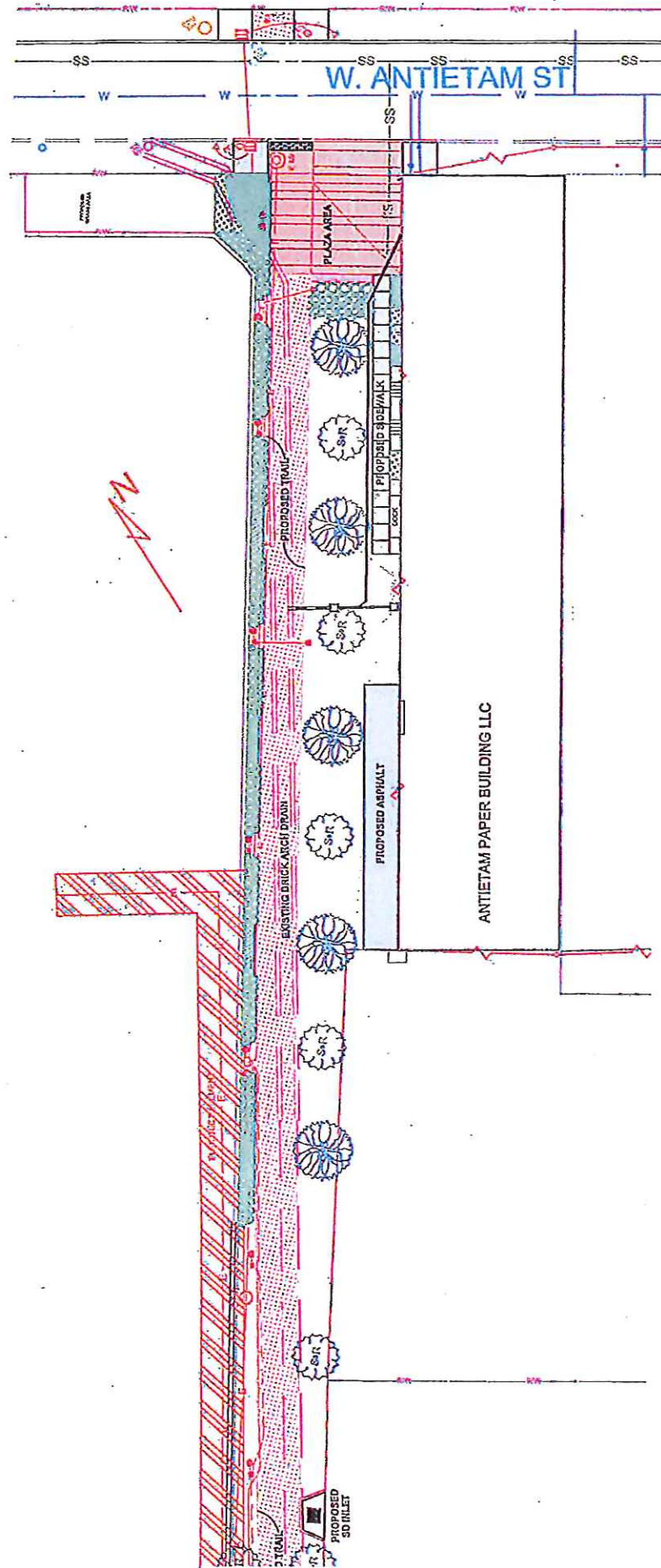


EXHIBIT "C"

EXHIBIT D
QUIT CLAIM DEED

WITNESSETH: That for and in consideration of the sum of ONE DOLLAR (\$1.00), the receipt and sufficiency of which is hereby acknowledged, the said Grantor, does hereby grant, convey, release, quit claim and surrender unto The City of Hagerstown, a Maryland municipal corporation, Grantee, its assigns and successors all right title, interest, claim or demand of whatever kind or nature to all the following parcel or tract of land, being more particularly described as follows:

Together with the rights, ways, alleys, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

WITNESS my hand and seal.

By: _____ (SEAL)
_____, President

STATE OF

COUNTY, to-wit:

I HEREBY CERTIFY, that on this day of , 2016, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared , known to me to be the person whose name is subscribed to the foregoing Deed, and who acknowledged that he executed the same on behalf of The Herald-Mail Company, Inc., with full authority to do so for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

My Comm. Expires:

Notary Public

This is to certify that the within instrument was prepared by or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Mark K. Boyer, Attorney

Mail to: The City of Hagerstown
 City Hall
 1 E. Franklin Street
 Hagerstown, MD 21740

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Western Maryland Blues Fest Artwork Reveal - 2016 - *Gaela Shoop, Community Events Coordinator*

Mayor and City Council Action Required:

Discussion:

At the March 1, 2016 Work Session of Mayor and City Council, staff will reveal the selected artwork for the 21st Annual Western Maryland Blues Fest.

Larry Poncho Brown, an established artist and native of Baltimore, Maryland was selected through a blind selection process to be the Western Maryland Blues Fest Poster Artist. His work will appear on posters, t-shirts and has inspired other elements of the promotional aspects of the event.

The artwork will go on raffle beginning on Friday, March 4, 2016 at the Cabin Fever Blues Bash. A winner will be selected at the event at the Family Blues Picnic portion of our event on Sunday, June 5th at City Park,.

Staff looks forward the opportunity to share this amazing artwork and to highlight one of the many aspect of the Western Maryland Blues Fest experience with Mayor & City Council.

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Western Maryland Blues



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development
Gaela S. M. Shoop – Community Events Coordinator

February 24, 2016

TO: Valerie Means, City Administrator
FROM: Gaela S. M. Shoop, Community Events Coordinator
RE: **Western Maryland Blues Fest Artwork Reveal - 2016**

At the March 1, 2016 Work Session of Mayor and City Council, staff will reveal the selected artwork for the 21st Annual Western Maryland Blues Fest.

Larry Poncho Brown, an established artist and native of Baltimore, Maryland was selected through a blind selection process to be the Western Maryland Blues Fest Poster Artist. His work will appear on posters, t-shirts and has inspired other elements of the promotional aspects of the event.

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Staff looks forward the opportunity to share this amazing artwork and to highlight one of the many aspect of the Western Maryland Blues Fest experience with Mayor & City Council.

□ □ □ □

cc: Jill Frick, Director of Community and Economic Development

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

Action Report: Update on Implementation of the Community's City Center Plan- *Jill Frick, Director of Department of Community and Economic Development, and Kathleen Maher, Director of Planning and Code Administration*

Mayor and City Council Action Required:

Discussion:

Staff will present the attached Action Report on our community's progress in implementation of the Community's City Center Plan at the March 1st Mayor and City Council Work Session.

Background

The Community's City Center Plan was released in July of 2014. The plan is a 10-year roadmap for eight catalyst projects that will spur development in City Center. The Community's City Center Plan is the result of broad community input, with the consultants spending more than 130 hours collecting feedback from the community.

The plan includes detailed steps for making the project concepts a reality, bringing an anticipated \$125 million in new investment to downtown over 10 years. This is a public-private partnership, where 75% of the investment will come from the private sector, and the balance from all levels of public resources.

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Action Report: Update on

030116_MCC_Progress_Update_Community_s_City_Center_Plan.pdf Implementation of the
Community's City Center
Plan



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Jill Frick, Director of Community and Economic Development
Kathleen A. Maher, Director of Planning and Code Administration

DATE: February 25, 2016

SUBJECT: Action Report: Update on Implementation of the Community's City Center Plan

Staff will present the attached Action Report on our community's progress in implementation of the Community's City Center Plan at the March 1st Mayor and City Council Work Session.

Work has been progressing on most of the catalyst projects identified in the Community's City Center Plan:

- **Office Development and Recruitment (Catalyst #1):** The City and Bowman Development are in the exploratory phase on the Class A Office Building project.
- **Expansion of Attendance/Programming at Maryland Theatre (Catalyst #2):** The Maryland Theatre hired a new staff member in October with a background in advertising, sponsorship, and promotion to improve this area of operations at the theater.
- **Expansion of USMH (Catalyst #3):** USMH is continuing work on development of three new programs: Hospitality Management, Nurse Practitioners, and Physician's Assistant. Depending upon State funding and securing expansion space downtown, the Hospitality Management program could begin as soon as the Fall of 2017 or Spring of 2018.
- **Student Housing (Catalyst #3):** The first Student Housing project at Patterson Hall is fully leased with eight USMH students.
- **Hagerstown Cultural Trail (Catalyst #5):**
 - The Public Arts Master Plan for the Hagerstown Cultural Trail has been completed and approved by the Mayor and City Council. A planning charrette with the public was held on January 11th. The budget for Phase I of the art plan was approved by the Mayor and City Council on February 23rd.
 - Agreements have been reached on easements or fee simple transfer of the land necessary for the Hagerstown Cultural Trail.
 - The Mayor and City Council awarded the bids for construction of the Hagerstown Cultural Trail on February 23rd. Construction should begin in April and conclude by the fall.

- **Expanded Downtown Events Programming (Catalyst #6):** The five work groups of Main Street Hagerstown are planning new events and projects. The Second Saturday program has been underway since October. Pop Up Shops events occurred in November.
- **Private Management of the Farmers' Market (Catalyst #7):** The City posted a Request for Proposals for a market operator in November and received one response by the January deadline. The proposal did not meet the submittal requirements. Staff will work with the Mayor and City Council to assess, consider alternatives and consider the opportunity to re-post the RFP.
- **Protection of our Neighborhoods and Support for Home-ownership (Catalyst #8):**
 - Vacant Structures Program: 908 vacant blighted and non-blighted properties have been identified for registration in the Vacant Structures Program in the past year. Inspections are underway to ensure protection of our neighborhoods and first responders from exterior blight and unsafe interior conditions.
 - Home-Ownership Program: Two proposals are under review in the Competitive Negotiated Sales process for acquisition of 278 S. Prospect Street for home-ownership. Architectural work is underway for creation of two condo units for home-ownership at 261 S. Prospect Street.

The attached Action Report will be distributed to businesses and community stakeholders through email next week, and will be also available on the City's website at www.HagerstownMD.org/CityCenterPlan .

Background

The Community's City Center Plan was released in July of 2014. The plan is a 10-year roadmap for eight catalyst projects that will spur development in City Center. The Community's City Center Plan is the result of broad community input, with the consultants spending more than 130 hours collecting feedback from the community.

The plan includes detailed steps for making the project concepts a reality, bringing an anticipated \$125 million in new investment to downtown over 10 years. This is a public-private partnership, where 75% of the investment will come from the private sector, and the balance from all levels of public resources.

ATTACHMENT

Action Report – 1st Quarter 2016

c: DCED Leadership Team
 PCAD Leadership Team
 Erin Wolfe, Communications Manager
 Department Managers
 Dave Cotton, Maryland Department of Planning
 Kevin Baynes, Maryland Department of Housing & Community Development

Community's City Center Plan

3/1/16

ACTIONS COMPLETED:

Catalyst Project #1 – Office Development and Recruitment:

GOALS: To position downtown to compete for new office development using portions of Central Parking Lot to build 154,000 sf across three buildings.

1. Developed concept renderings. (Bushey Feight Morin Architects)
2. M&T Bank Support - received concept support.
3. Search for Developer/Partner - RFQ posted in December 2014 with March 2, 2015 submittal deadline. (City)
 - a. Staff met with submitters of response in Mid-March and April. (City)
 - b. Update Mayor and City Council in May. (City)
4. City very pleased to receive submission from Bowman Development
5. Next steps are part of an Exploratory Phase, and include:
 - Site Analysis – City to explore the ability to provide a level of site analysis to determine that the site is suitable for construction. This may include Phase 1 and 2 Environmental Impact Studies; sub-surface investigations to determine soil bearing capacity of the site; and an ALTA survey to determine easement or right of way restrictions on the property.
 - Identification of Incentives – Bowman Development and the City will identify and review City, County and State incentive programs that may support the project.
 - Staff have drafted modeling of the use of the Partners in Economic Progress Incentive based on an assumed leasing timeline. Staff are meeting with the developer to review the assumptions and further refine the modeling. Staff are also working to model the City Revitalization Improvement Zone (CRIZ) program to determine impact of this proposed new financing incentive.
 - Cost Outline of the Project – Bowman Development to develop a cost outline of the project to include the effect of incentives and the estimated rental rates. This pro forma analysis will confirm that the building can be leased at rates that will attract tenants. The pro forma provided by Urban Partners will be used as a guide, and it will be tested and adjusted as needed.

The two goals of this phase of the project are to determine that:

- the site is suitable for the construction of the proposed building; and
- the projected cost outline and incentive impact analysis supports that the building can be leased at rates that will attract tenants.

After these determinations, Bowman Development, in partnership with the City, would be willing to move forward with a series of additional Pre-Development Phase next steps.

Catalyst Project #2 – Maryland Theatre Expansion Project:

GOALS: Expand and improve the facility, and grow from 150 to 225 performance days per year, increasing the audience by 60,000 annually.

1. New Seating Project complete – included refinishing floors and new carpeting, aisle lights, and hearing loop system. Ribbon cutting on February 12, 2015. (Maryland Theatre)
2. New HVAC units installed – final inspection complete. (Maryland Theatre)
3. Back-of-house facility improvements – completed dressing rooms remodeling (50% complete); updated stage lighting; and modification to artist entry. Theatre was awarded \$175,000 in State Bond Bill funding, which will go towards improvements on rigging, completing the dressing room remodel, fire curtain replacement, etc. Theatre is looking for the necessary match for the bond funds. (Maryland Theatre)
4. Ticketing – availability through TicketMaster is fully functioning and a big improvement. (Maryland Theatre)
5. Programming – hired a new staff member in October with a background in advertising, sponsorship, and promotion in order to improve this area of operations at the theater. (Maryland Theatre)

Catalyst Project #3 – USMH Expansion Support:

GOALS: Support USMH growth from 500 to 750 students through the addition of new program offerings, and capture student housing opportunities with three (3) upper-floor renovation projects. The three (3) upper-floor renovation projects are planned to be implemented separately, in sequence to each other and throughout the 10 year plan.

1. Phase I Student Housing Project
 - a. USMH Partnership – received support from USMH.
 - b. City Funding – reserved \$250,000 from the City's First Third Grant Program and \$100,000 from other City funds. (City Council)
 - c. Developer Partner – invited proposals from property owners near USMH; selected developer partner; development/rental agreement signed by City, USMH, and developer in April.
 - d. Construction Completed on August 12, 2015 – 4 two-bedroom, two-bathroom apartments.
 - e. Apartments are fully leased.
2. New Program Offerings at USMH
 - a. Provided the program is included in the System's FY 2017 budget and downtown space can be secured in the very near term, a new Hospitality Management program is projected to begin in the Fall of 2017 or Spring 2018. It is anticipated the program would support 15-18 students per year over a two year completion period. Full enrollment anticipated at about 30 students.

- b. It is the intent to bring in a new Nurse Practitioners program in the Fall of 2018. It is anticipated the program would support 20 students per year over a two year completion period. Full enrollment anticipated at 40 students.
 - c. It is the intent to bring in a new Physician's Assistant program in the Fall of 2019. It is anticipated the program would start slowly, but within three years admit 30 students per year over a two year completion period. Full enrollment anticipated at close to 70 students. It is anticipated that at least half of those students would move into our area for the 27 month program, which includes full time in the summer.
- 3. Next Phases of Student Housing Project
 - a. It is anticipated that the next phase of student housing would need to be 6-7 units (12-14 students) and be ready for occupation by the Fall of 2017.
 - b. By the Fall of 2019, it is anticipated another 6-7 units (12-14 students) will be needed.
 - c. By Spring of 2021, it is anticipated that another 6-7 units (12-14 students) will be needed, as the Physician's Assistant program ramps up.
 - d. If City involvement in the next phases continues, the Request for Proposals for the developer partner for the next phase(s) of the project could occur over the Winter/Spring of 2016.

Catalyst Project #4 – Hotel/Conference Center and Heritage Center/Commemorative Park:

GOALS: Construct 200-room “Upper Upscale” hotel (ie: Sheraton, Wyndham, Hilton). Programmed with adjacent 20,000 square-foot conference center. Establish Civil War Heritage Center and Commemorative Park.

- 1. Exploratory conversations to date.
- 2. Project is much more long-term in nature.

Catalyst Project #5 – Linking City Park/The Washington County Museum of Fine Arts and A&E District with Trail and New Housing:

GOALS: Construct multi-use trail linking City Park/WCMFA with the Arts & Entertainment District, and add 31 new townhomes along trail and rehab buildings to create 85 loft apartments (in 10 years).

Hagerstown Cultural Trail

- 1. Funding – plan approved by City Council.
- 2. Public input – charrette in October 2014.
- 3. Design – field surveys and design is complete.
- 4. Property acquisition – negotiations with property owners complete; plats being processed through Planning and acquiring signatures from owners.

5. Branding and Signs – finalized by graphics firm; contract to manufacture products awarded on February 23rd
6. Art along the Trail – public input session facilitated by City’s public art consultant, Cochran Studio, on January 11th. Public Art Master Plan presented to the Mayor and City Council by completed by William Cochran on February 16th and accepted by Mayor and City Council on February 23rd. Funding to implement Phase I of the plan approved by Mayor and City Council on February 23rd.
7. Construction Contract – in-house construction drawings complete; work bid; contract for construction awarded on February 23rd.
8. Construction of Phase I of the Trail – construction of Phase I of the trail to begin in April 2016 with completion in Fall 2016. Implementation of Phase I of art plan to start in Summer 2016.

Catalyst Project #6 – Expanded Downtown Arts/Events Programming:

GOALS: Leverage resources to produce more frequent events and build upon atmosphere created by popular downtown events.

1. New Pop-Up Shop Events – Past events occurred on Augustoberfest weekend, City Tree Lighting event, Black Friday, and Small Business Saturday in 2014; Blues Fest Weekend and November 2015. Continued events to occur in conjunction with other events in 2016.
2. Sounds of the Square Program – entertainment in Public Square every Friday night for 8 weeks in Fall 2014. Recreating program to re-establish either in University Plaza or in coordination with restaurants.
3. Wind Down Fridays – revamped in 2015 to coordinate with larger events with added features and wrist band system for entire event area. Six scheduled to occur from May to October in 2016.
4. St. Patrick’s Day Run – expanded in 2015 to half marathon in addition to the 5K run and 1K walk. New programming in 2016 includes children’s activities and an After Party.
5. Main Street Hagerstown Designation – Currently more than 50 volunteers are supporting Main Street Hagerstown through five (5) Work Groups. Sample projects in 2015 included:
 - a. *Organization Work Group*: Fundraising efforts and volunteer management.
 - b. *Promotions Work Group*: Created new MSH logo and established Second Saturday event series.
 - c. *Design Work Group*: To highlight downtown architecture, hosted a Main Street Area Smartphone Photography Tour last fall.
 - d. *Business Relations Work Group*: Creating follow-up business retention and expansion survey. Established Ambassador group to welcome new Main Street businesses during grand opening events.
 - e. *Clean, Safe and Green Work Group*: Worked with City Engineering Division to offer recycling containers around the Main Street area.
6. Second Saturday Series began October 10, 2015. This is a monthly series of themed events focused on Main Street area for family-friendly afternoons and evening activities

for adults. In February 2016, Main Street Hagerstown was awarded a \$10,000 grant from the State of Maryland to support the Second Saturday Series.

7. Engine Room Art Space opened Summer 2015. Currently open Thursday through Sunday with fresh exhibits opening regularly. Continues to grow and flourish with new and alternative exhibits. Gallery Coordinator is creating momentum through the use of exhibit space and creating opportunities for the community to interact with the art themselves.
8. Downtown Summer Slide Festival held on August 29, 2015. A private event with City support that drew hundreds of patrons to the downtown area. Plans are underway for an expanded Downtown Summer Slide Festival for 2016.
9. The annual New Year's Eve Donut Drop experienced increase attendance in 2016 and was expanded this year to include Fireworks and additional event activities.
10. Event Guidelines are being developed by staff that will serve as a resource to event organizers. This will create more event opportunities while more efficiently using staff time and the resources the City can offer.

Catalyst Project #7 – Expanded Operations of the City Farmers' Market:

GOALS: Expand operations from 7 to 35 hours per week. Implement private management approach. Make necessary capital improvements. Re-brand. Recruit additional tenants.

1. Update existing vendors – briefed on the Community's City Center Plan.
2. Capital Improvements – initial adjustments being made to the space and vendor locations to allow for inclusion of new vendors.
3. Update Mayor and City Council on development of RFP for private management – June 16, 2015.
4. Public input meeting on August 8th.
5. Mayor and City Council review of final draft of RFP for Private Management on October 20th.
6. RFP distributed on November 30th; one proposal submitted by deadline on January 15, 2016; proposal was reviewed and staff determined it did not adequately address the submittal requirements.
7. NEXT STEPS: Staff will work with the Mayor and City Council to assess, consider alternatives, consider the opportunity to re-post the RFP and determine a path forward to implement this catalyst project.

Catalyst Project #8 – Expanded and Targeted Home-Ownership Support:

GOALS: Market home ownership incentives and support Neighborhood 1st programs. Establish annual rental licensing inspections, and continue excessive nuisance enforcement programs.

1. Rental Registration Program – adopted amendments – annual exterior inspections to provide additional support to protect neighborhoods.
2. Vacant Structures Program – adopted amendments – program overhauled to provide additional support to protect neighborhoods.

3. Increase Code Enforcement Staffing – authorized addition of 5 full-time staff to help improve the quality of life in our neighborhoods. Hiring and training complete for initial five.
4. Property Acquisition Analysis – underway – assess conditions and acquisition opportunities within the three target neighborhoods.
5. Home-Ownership Program – awarded \$100,000 Community Legacy grant in FY 2015; awarded \$150,000 Community Legacy grant in FY 2016. (State)
6. Vacant Structures Registration – 908 blighted and non-blighted vacant properties identified as of February 23rd (36% blighted). The registration process is on-going. 242 exterior inspections and 29 interior inspections have been completed to date. An update on the program will be provided to the Mayor and City Council in April. (City)
7. Property Acquisition for Home-Ownership Program – The City acquired two properties in the S. Prospect Street historic district for the Home-ownership Program. The property at 261 S. Prospect Street will be renovated to create two condominium units to be sold for home-ownership. Architectural work is underway for this property. The property at 278 S. Prospect Street will be sold through the City's Competitive Negotiated Sales process for a single-family home-ownership opportunity. Proposals to purchase this property are currently under review.
8. Renovations of 64 E. Franklin Street are underway with anticipated completion in Summer of 2016. The property will be positioned for sale for home-ownership.
9. City Center Residency Initiative – seven homes purchased with down payment assistance and 18 residents renting with rental payment assistance since December 2013.

March 1, 2016

**REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

Topic:

STATE OF THE CITY Presentation - Hosted by the City of Hagerstown - Washington County Free Library, 100 S. Potomac Street, Hagerstown, Maryland

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates: