

Mayor and Council

November 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."

"Voting is the expression of our commitment to ourselves, one another, this country and this world."

Sharon Salzberg

4:00 PM WORK SESSION

1. Update on In-house Abatements - *Eric Deike, Director of Public Works; Paul Fulk, Inspection Manager*
- 4:15 PM** 2. Proposed Amendments to Rental Facilities Code and Administrative Policy - *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspection Manager*
- 4:30 PM** 3. Inspections of Non-profit Housing- *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspection Manager*
- 4:45 PM** 4. Proposed Policy Change to Sidewalk Regulations - *Kathleen Maher, Director of Planning and Code Administration; Amanda Whitmore, Downtown Coordinator*
- 5:15 PM** 5. Update on Competitive Negotiated Sale Program - *Randy Gray, Business Development Specialist*
- 5:00 PM** 6. Prospective Sale of Property: 43-53 W. Washington Street - *Jonathan Kerns, Community Development Manager*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

Update on In-house Abatements - *Eric Deike, Director of Public Works; Paul Fulk, Inspection Manager*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

MCC_memo_High_Weeds_and_Rubbish_Update_10_27_16.pdf

Description

Neighborhood Protection -
Abatement of High Weeds
and Rubbish Update



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Paul W. Fulk, Inspection Manager

DATE: October 27, 2016

SUBJECT: Neighborhood Protection – Abatement of High Weeds and Rubbish Update

Staff will be present at the November 1st work session to provide the Mayor and City Council with an update on the Planning and Code Administration in-house abatement of high weeds and rubbish being conducted by the Public Works Department.

Background

Since 2002, the City's Code Administration Office has contracted with a private contractor to abate high weeds and rubbish violations on properties. In recent years the response time, quality of work, and billing by the abatement contractor were causing complaints by neighborhood residents, property owners, and City staff. Inspection staff would direct the abatement contractor to abate violations and the contractor response times would vary between 10-45 days after the request. At times, work would be done unsatisfactorily and require a second trip by the contractor. Bills would be high for the work performed and bills would be submitted weeks or months after the work was completed. This delay would cause aggravation for surrounding property owners and hardship to the City when billing the property owner - sometimes the property would be sold leaving the City with the inability to collect fees for services performed. Staff had been unable to attract bids from other contractors who would provide improved service on these issues of high weeds and rubbish abatement work.

Planning and Code Administration staff presented recommendations to the Mayor and City Council during the December 8, 2015 work session, recommending an in-house crew in Public Works perform the abatement of high weeds and rubbish. The recommendation of was approved and authorized to begin on April 1, 2016 after the expiration of the private contractor's contract. The recommendation was cost neutral to the budget since funds had been allocated for high weeds and rubbish abatements.

High Weeds and Rubbish Process

The Planning and Code Administration inspection staff will respond to a concern by a citizen or identify a property with high weeds or rubbish during routine patrols. Depending on the conditions of the property, inspection staff post the property with a notice of violation to abate

the violation and establish a deadline of 7 days, 5 days, or 1 day. Inspectors re-inspect the property after the deadline has passed. If the property owner failed to abate the high weeds and/or rubbish violation, inspectors submit a work order request to the Public Works Department. The Public Works Department then abates the violations at the property based on the work order request and submits a bill for their services to the Planning and Code Administration Department. PCAD Administrative staff bill the property owner for the services rendered plus an administrative and technology fee. Bills that are not paid within 30 days are placed as a tax lien on the property.

Update on In-House Abatement's First 6 Months

Staff has prepared a PowerPoint presentation on our history abating high weeds and rubbish since 2013. This presentation provides data on the numbers of properties abated and costs of the services performed. In addition, the presentation will provide examples of abatement work performed by Public Works, review of the past 6 months, and recommendations.

The assessment of the in-house abatement during the first 6 months has shown:

- A decrease in abatement costs
- A decrease in completion and invoice time from initial request
- Response time from “contractor” has shortened
- An increase in communication between “contractor” and PCAD staff
- A decrease in call volume from citizens about City’s response time
- City staff time become more efficient
- Compliments from citizens on work performed by Public Works

c: Kathleen Maher, Planning and Code Administration Director
Eric Dieke, Director of Public Works
Blaine Mowen, Chief Code Official
Gary Lambert, Programs Manager
Emily McFarland, Program Administration Specialist
Andrea Rueckerl, Administrative Coordinator

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

Topic:

Proposed Amendments to Rental Facilities Code and Administrative Policy - *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspection Manager*

Mayor and City Council Action Required:

Review of a proposed minor amendments to Chapter 197, Rental Facilities, of the City Code and a proposed revision to the Planning and Code Administration Department's administrative policy for acceptance of Hagerstown Housing Authority interior inspections.

Discussion:

Revocation of Residential Operator Certification

This proposed amendment is in response to a concern raised by a member of the real estate investment community on how the ordinance is written versus applied relative to revocation of residential operator certificates. The way Chapter 197 is written it could be interpreted that if a residential operator (owner or property manager) is in violation of the Crime-Free Provisions, the residential operator license would be revoked for all properties owned or managed by that operator. In practice, staff apply this revocation provision only to the property where the violation is in effect.

The concern expressed to staff is that new investors and new property management companies are uncertain whether the current administrative practice will continue or whether a stricter interpretation of the code could occur in the future. According to the concern expressed, this uncertainty deters some investors or property management companies from real estate opportunities in Hagerstown.

Staff are fine with minor amendments to Chapter 197 that clarifies that any such revocation would be limited to the property where the violations of Sections 197-9 and 197-10 occurred. The City Attorney recommends that a definition be created for 'certified crime-free housing residential operator' – an undefined term used in Section 197-12.

Acceptance of Hagerstown Housing Authority's Interior Inspections

The proposed amendment is intended to address staff concerns about situations which may arise where an interior inspection by the City would be preferable to acceptance of an HHA Tenant-based Section 8 inspection.

Existing Provisions: Chapter 197, Rental Facilities, states that the City 'may' accept an HHA interior inspection in place of a City inspection for the rental licensing process. PCAD has an existing administrative policy for 'Acceptance of Hagerstown Housing Authority's Interior Inspections' which states the department 'shall' accept the HHA inspection.

Issues of Concern: At times situations arise with a prospective Section 8 rental unit where City inspection would be preferable:

- The property has never been licensed under Chapter 197, Rental Facilities;
- The unit or structure has previously been condemned or deemed uninhabitable by the City; or

- Building permits have not been finalized by PCAD or non-permitted work has occurred at the property.

Financial Impact:

Recommendation:

Code Amendments: Approval of amendments to Chapter 197 intended:

- to be responsive to a raised concern by the business community by providing clarity on how the City intends to administer the residential operator certification revocation process; and
- to protect new residents in circumstances where the units have previously been condemned or otherwise deemed uninhabitable, work has been done without a permit or without a final inspection of a permit, or the property has never been in the program by outlining the circumstances under which a Hagerstown Housing Authority interior inspection would not be accepted in lieu of City inspections.

If so desired, an ordinance will be placed on a Special Session agenda for November 15th to allow for approval at the regular meeting on November 22nd.

Policy Revisions: PCAD's administrative policies are authorized and approved by the Department head. If the Code is amended, staff will revise PCAD Policy 166 for consistency with Chapter 197's provisions regarding acceptance of HHA interior inspections.

Motion:

Action Dates:

Discussion - November 1, 2016

Introduction (if support) - Special Session on November 15, 2016

Approval - November 22, 2016

ATTACHMENTS:

File Name

Description

MCC_memo_Rental_Facilities_HHA_Inspections_and_Crime_Free_Provision_10_27_16.pdf

Proposed
Amendments
to Rental
Facilities
Ordinance
and
Administrative
Policy




CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration
Paul Fulk, Inspection Manager 

DATE: October 27, 2016

SUBJECT: Proposed Amendments to Rental Facilities Code and Administrative Policy

ACTION REQUESTED

Review of a proposed minor amendments to Chapter 197, Rental Facilities, of the City Code and a proposed revision to the Planning and Code Administration Department's administrative policy for acceptance of Hagerstown Housing Authority interior inspections.

Revocation of Residential Operator Certification

This proposed amendment is in response to a concern raised by a member of the real estate investment community on how the ordinance is written versus applied relative to revocation of residential operator certificates. The way Chapter 197 is written it could be interpreted that if a residential operator (owner or property manager) is in violation of the Crime-Free Provisions, the residential operator license would be revoked for all properties owned or managed by that operator. In practice, staff apply this revocation provision only to the property where the violation is in effect.

The concern expressed to staff is that new investors and new property management companies are uncertain whether the current administrative practice will continue or whether a stricter interpretation of the code could occur in the future. According to the concern expressed, this uncertainty deters some investors or property management companies from real estate opportunities in Hagerstown.

Staff are fine with minor amendments to Chapter 197 that clarifies that any such revocation would be limited to the property where the violations of Sections 197-9 and 197-10 occurred. The City Attorney recommends that a definition be created for 'certified crime-free housing residential operator' – an undefined term used in Section 197-12.

Acceptance of Hagerstown Housing Authority's Interior Inspections

The proposed amendment is intended to address staff concerns about situations which may arise where an interior inspection by the City would be preferable to acceptance of an HHA Tenant-based Section 8 inspection.

Existing Provisions: Chapter 197, Rental Facilities, states that the City 'may' accept an HHA interior inspection in place of a City inspection for the rental licensing process. PCAD has an existing administrative policy for 'Acceptance of Hagerstown Housing Authority's Interior Inspections' which states the department 'shall' accept the HHA inspection.

Issues of Concern: At times situations arise with a prospective Section 8 rental unit where City inspection would be preferable:

- The property has never been licensed under Chapter 197, Rental Facilities;
- The unit or structure has previously been condemned or deemed uninhabitable by the City; or
- Building permits have not been finalized by PCAD or non-permitted work has occurred at the property.

RECOMMENDATION

Code Amendments: Approval of amendments to Chapter 197 intended:

- to be responsive to a raised concern by the business community by providing clarity on how the City intends to administer the residential operator certification revocation process; and
- to protect new residents in circumstances where the units have previously been condemned or otherwise deemed uninhabitable, work has been done without a permit or without a final inspection of a permit, or the property has never been in the program by outlining the circumstances under which a Hagerstown Housing Authority interior inspection would not be accepted in lieu of City inspections.

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Policy Revisions: PCAD's administrative policies are authorized and approved by the Department head. If the Code is amended, staff will revise PCAD Policy 166 for consistency with Chapter 197's provisions regarding acceptance of HHA interior inspections.

c: Gerry Kendle, HPD
 Blaine Mowen, Chief Code Official
 Gary Lambert, Programs Manager
 Mark Boyer, City Attorney
 Jennifer Keefer, City Attorney
 Jason Morton, City Attorney

REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Topic:

Inspections of Non-profit Housing- *Kathleen Maher, Director of Planning and Code Administration; Paul Fulk, Inspection Manager*

Mayor and City Council Action Required:

Planning and Code Administration staff will be present at the November 1st work session to provide the Mayor and City Council with a report on our assessment of the inspection checklists utilized for non-profit supported housing not in the City's Rental Licensing program. This is in follow-up to a prior discussion on this topic with the Mayor and City Council on August 23rd. Concerns had been expressed in the past by Councilman Aleshire as to whether sheltered housing was subject to the same or similar inspection standards as rental housing to ensure the safety of the residents.

Discussion:

Hagerstown's Rental Facilities Program

Chapter 197 of the City Code outlines the licensing and inspection requirements for the City's Rental Facilities Program. This code was adopted by the Mayor and City Council in 2003 for the purpose of protecting and promoting the public health, safety and welfare of the citizens of Hagerstown, establishing rights and obligations of the landlords and tenants in the rental of dwelling units, and encouraging the landlords and tenants to maintain and improve the quality of rental housing within the community. An additional purpose is promoting and assuring the safety, health and habitability in the housing conditions in rental facilities in the City, preventing deterioration of rental facilities in the City, supporting property values, and encouraging responsible management and use of rental facilities through licensing and inspection.

Licensing and Inspections Required by the Code: Chapter 197 requires any structure containing one or more dwelling units to be licensed with the City and subject to periodic inspections for compliance with the City's Property Maintenance Code. Rooming houses are considered rental facilities under this code. Exceptions are provided to owner-occupied structures containing no more than one rental unit ("owner plus one") and to rental facilities owned and operated by the Hagerstown Housing Authority (HHA). The exception for HHA is because it was determined their inspection standards were comparable to the City's standards.

Excluded from Licensing by the Code: Chapter 197 excludes traditional hotels, motels, bed-and-breakfasts, nursing homes and hospitals from the definition of "rental facility." The first three are "rented" on a very transient basis by travelers passing through the community, and any hotel or motel operating under the flag of a national chain would be subject to the operational and maintenance standards to remain under that flag. The last two are subject to oversight by the State of Maryland.

Excluded from Licensing by Interpretation: Planning and Code Administration staff have excluded homeless shelters due to their hotel-like transiency and assumption of oversight by the State of Maryland or other authority, residential treatment facilities due to on-site care and oversight by others, ARC of Washington County houses due to in-home nursing care and other oversight, and assisted living facilities due to nursing care and other oversight.

Assessment of Inspection Checklist for Non-Profit Housing and Shelter Providers

While a number of housing facilities owned or managed by non-profit entities are already licensed in the City's Rental Facilities program, another 118 units and 247 beds (in addition to the 118 units) in non-profit supported housing are not licensed by the City and subject to our inspections. In mid-September we sent letters to the seven providers with facilities not in the Rental Facilities program, and to date we have received inspections checklists from five of those providers. Attached is a report on our assessment of the information we have gathered on these facilities which are unlicensed by the City. It is staff's determination that none of the checklists we received provide for a comparable inspection to the City's inspection for compliance with the Property Maintenance Code. A large percentage of the standards on the checklists we reviewed are more medical or social service in nature than building safety. Staff will be present at the meeting to answer any questions about this assessment.

Financial Impact:

Recommendation:

If the Mayor and City Council would be interested in amending the Rental Facilities ordinance to incorporate the sheltered housing types not currently subject to the ordinance (e.g., dormitories, homeless shelters, residential treatment facilities), the City Attorney's Office has indicated that further research is necessary to determine if the City is preempted from such regulatory oversight of facilities also regulated by the State and/or Federal government. As expressed by Councilman Aleshire in the past, the intent of any such local effort is to ensure that the housing provided to the most vulnerable residents of our community are inspected to the same or higher standard as other non-owner occupied housing in Hagerstown.

Motion:

Action Dates:

Discussion - November 1, 2016

ATTACHMENTS:

File Name

M_CC_Memo_Inspections_of_Nonprofit_Housing_10_27_16.pdf

Report_on_Inspections_of_Non-Profit_Housing_PUBLIC_8_22_16.pdf

Description

Inspections of Non-profit Housing

Report on Inspections of Non-profit Housing



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration
Paul Fulk, Inspections Manager

DATE: October 27, 2016

SUBJECT: Inspections of Non-Profit Housing

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Staff Recommendation

If the Mayor and City Council would be interested in amending the Rental Facilities ordinance to incorporate the sheltered housing types not currently subject to the ordinance (e.g., dormitories, homeless shelters, residential treatment facilities), the City Attorney’s Office has indicated that further research is necessary to determine if the City is preempted from such regulatory oversight of facilities also regulated by the State and/or Federal government. As expressed by Councilman Aleshire in the past, the intent of any such local effort is to ensure that the housing provided to the most vulnerable residents of our community are inspected to the same or higher standard as other non-owner occupied housing in Hagerstown.

Attachment

c: Blaine Mowen, Chief Code Official
Gary Lambert, Programs Manager
Jon Kerns, Community Development Manager
Victor Brito, Police Chief
Steve Lohr, Fire Chief
City Attorney’s Office

Report on Inspections of Non-Profit Supported or Provided Housing

Housing NOT in the City's Rental Licensing Program

Agency	Program	No. of Prop.	No. of Units	No. of Beds	Inspections by Others?	Inspections Comparable to City PMC Inspections?
Troy Van Scoyoc, Ex.Dir., The ARC of Washington County, 820 Florida Avenue, 21740	supportive housing for mentally and physically disabled	Multiple	58		inspection of ARC-owned homes. ARC inspections monthly of all units. HHA inspections of Section 8 units. No external oversight of client rented homes (unless Section 8).	No
William G. Boyer, Jr. Ex.Dir., Ravenwood Lutheran Village, 1183 Luther Drive, 21740	independent living units for seniors	1	60		Twice per year inspections by maintenance staff.	No
Bruce L. Sonny Shank, Ex.Dir., The Hope Center at Hagerstown Rescue Mission, 125 N. Prospect Street, P.O. Box 685, 21741-0685	13-month residential program	1		31	Health Department inspects kitchen.	No
Bruce L. Sonny Shank, Ex.Dir., The Hope Center at Hagerstown Rescue Mission, 125 N. Prospect Street, P.O. Box 685, 21741-0685	shelter for transient men (30 consecutive nights maximum stay)	1		31	Health Department inspects kitchen.	No
Jodie Ostoich, Ex.Dir., REACH of Washington County, 140 W. Franklin Street, Suite 300, 21740	shelter for homeless adults	1		56	Self-inspection per Federal guidelines with annual report to Federal government.	No

Major Dan Heard, Commanding Officer, The Salvation Army, Hagerstown, MD Command, 534 W. Franklin Street, 21740	shelter for women and children	1		28	Annual inspection by SA HQ. Annual inspections of fire extinguishers and fire alarm system by outside contractor. Unannounced inspection by City Fire Dept.	?
Scott Rose, President, Way Station, Inc./Turning Point of Washington County, 230 W. Patrick Street, Frederick, MD 21705	treatment of non- vets for mental illness	5		29	Annual inspection by MD Dept of Health & Mental Hygiene, inspected at least every 3 years by HUD, and inspected at least every 3 years by Commission on Accreditation of Rehab Facilities (national accrediting body).	No
Scott Rose, President, Way Station, Inc./Turning Point of Washington County, 230 W. Patrick Street, Frederick, MD 21705	treatment of veterans for mental illness	2		40	Federally licensed and inspected annually by the Veterans Administration.	No
Charles Mooneyhan, Ex.Dir., Wells House, Inc., 124 E. Baltimore Street, 21740	treatment facility for recovering addicts	2		32	Annual inspection by the State and State Fire Marshall.	No

PCAD, Sept 2, 2016
and Oct 21, 2016

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

Topic:

Proposed Policy Change to Sidewalk Regulations - *Kathleen Maher, Director of Planning and Code Administration; Amanda Whitmore, Downtown Coordinator*

Mayor and City Council Action Required:

Provide staff direction on any amendments desired to the Standards and Conditions for display of merchandise on the sidewalks downtown - based on input received during Citizen Comments on October 25th.

Discussion:

Proposed Policy Change which sparked Citizen Comments

- Displays shall be limited to a single row of merchandise against the wall of the business and not be hung from the building or awning.

Existing Policy Provision which sparked Citizen Comments

- Display shall not be anchored or affixed to a tree, post, sign, parking meter, or other structure.

Input Received during Citizen Comments on October 25th

- Examples provided of obstacles in the sidewalk (e.g., utility pit covers, sidewalk defects, etc.) which merchants felt would make alternative display locations more appropriate to protect pedestrian movement – such as in bump outs near the street or hanging from the awning.
- If cannot anchor displays to the building or sidewalk, the wind could shift the merchandise racks away from the frontage of the store.

Financial Impact:

Recommendation:

Once Mayor and City Council review is completed, the item will be placed on an agenda for approval.

Motion:

Action Dates:

Discussion - October 18, 2016

Citizen Comments - October 25, 2016
Discussion - November 1, 2016

ATTACHMENTS:

File Name	Description
MCC_Memo_Proposed_Sidewalk_Standard_and_Condition_Changes_10_26_16.pdf	Proposed Policy Change to Sidewalk Display Standards
2016_Amendment_Proposal_- _Sidewalk_business_license_standards_and_conditions_Red_Line.pdf	Amendments to Standards and Conditions for Sidewalk Business License



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration
Amanda Whitmore, Downtown Coordinator

DATE: October 26, 2016

SUBJECT: Proposed Policy Change to Sidewalk Display Standards

Mayor and City Council Action Requested

Provide staff direction on any amendments desired to the Standards and Conditions for display of merchandise on the sidewalk - based on input received during Citizen Comments on October 25th.

Proposed Policy Change which sparked Citizen Comments

- Displays shall be limited to a single row of merchandise against the wall of the business and not be hung from the building or awning.

Existing Policy Provision which sparked Citizen Comments

- Display shall not be anchored or affixed to a tree, post, sign, parking meter, or other structure.

Input Received during Citizen Comments on October 25th

- Examples provided of obstacles in the sidewalk (e.g., utility pit covers, sidewalk defects, etc.) which merchants felt would make alternative display locations more appropriate to protect pedestrian movement – such as in bump outs near the street or hanging from the awning.
- If cannot anchor displays to the building or sidewalk, the wind could shift the merchandise racks away from the frontage of the store.

Next Steps

Once Mayor and City Council review is completed, the item will be placed on an agenda for approval.

Attachments

c:

Jill Frick, Director of Community & Economic Development
Rodney Tissue, City Engineer
Paul Fulk, Inspections Manager
Blaine Mowen, Chief Code Official
Victor Brito, Police Chief

Standards and Conditions
for
Sidewalk Business License
Temporary Use of the Public Right-of-Way
for Display of Merchandise

PROPOSED REVISIONS, OCTOBER 25, 2016

Per Section 216-62 of the Code of the City of Hagerstown, merchandise shall only be displayed in public street rights of way in the City Center if a license is granted by the City ~~for a specified time~~. The City Center is defined as the City Center Mixed-Use (CC-MU) zoning district. Any ongoing and unlicensed merchandise display in public street rights-of-way shall be ordered removed by the City or removed at the Operator's cost.

Display of merchandise on public sidewalks shall ONLY be related to the principal use of the abutting *storefront* property. Placement for display and sale of merchandise upon any portion of the public right-of-way is regulated by these "Standards and Conditions":

1. **Application Process**: Applicant must submit a sidewalk business license application, a certificate of liability insurance ~~(naming City as additional insured), and a tentative schedule of events to the Engineering Division in City Hall, 1 East Franklin Street and a drawing of the planned display area.~~
2. **License Agreement**: The license agreement allows for temporary use of the public right-of-way for the display of merchandise on public sidewalks. This agreement will be administratively approved and can be revoked by the City with a five (5) business day notice. Appeals can be made to the Mayor and City Council. License agreements shall automatically renew for a one-year term (unless terminated by either party) and are not transferable. These agreements shall ONLY be related to the principal use of the abutting property. The holder of the license agreement is responsible for removing trash and litter from permitted sidewalk business area. ~~Enforcement of the standards associated with this license agreement shall be by Code Administration and the Police Department.~~
3. **Sidewalk clearance**: Sidewalk retail display shall be located in such a manner that promotes efficient and direct pedestrian movement. Operators must maintain sidewalk in clean safe condition for pedestrian travel and must immediately clear the sidewalk when ordered to do so by the City.

Operator must maintain a **minimum five foot** width of unobstructed sidewalk space for pedestrians *at all times between the merchandise display and any tree, treewell, parking meter, fire hydrant, street light, trash can or other obstacle*. ~~A waiver of this width~~

~~may be granted by the City if existing permanent obstructions in the sidewalk area do not permit a five foot width. Under no circumstances may this width be less than 3 feet of sidewalk.~~

No display *shall obstruct access to building entrances, fire hydrants, street lights, telephones, mailboxes, or transit stops and shall be located so it does not impede ingress or egress from buildings.* ~~is allowed in front of or two feet on either side of a building entrance, fire hydrant, or property line.~~ Display must be at least ~~15~~ **10** feet from any adjoining ~~street~~, alley or driveway to provide adequate sight distance

4. **Frequency Hours:** ~~This license is limited to four (4) events in a calendar year and each event can be no longer than three (3) consecutive business days.~~ Display is only permitted while business is open, and never between 10:00PM and 7:00AM. ~~Operator shall notify the Engineering Division prior to the events.~~
5. **Display:** ~~Merchandise and display fixtures are not to exceed 100 square feet for all outdoor displays. Display may be up to five feet high.~~ *Display on the sidewalk shall be limited to a single row of merchandise against the wall of the business and shall not be hung from the building or awning.* No permanent anchoring into sidewalk. Display shall not be anchored or affixed to a tree, post, sign, parking meter, or other structure.
6. **Insurance:** By applying for a sidewalk business license, any person owning or operating such use agrees to indemnify, defend, save and hold harmless the City of Hagerstown, its officers, agents, and employees, from any and all claims, liability, lawsuits, damages, and causes of action which may arise out of the operation of the sidewalk business. The Owner/Operator shall keep in full force and effect at its own expense, insurance as required by the City of Hagerstown. Failure to do so will automatically terminate this license.
7. **Other Conditions:**
 - The City may require the temporary removal of sidewalk retail items by the Owner/Operator when street, sidewalk, or utility repairs necessitate such action or in case of an emergency. The licensee agrees that they will not be entitled to any reimbursement for lost sales revenue nor is the City responsible for any costs associated with the removal of the merchandise from the sidewalk.
 - The sidewalk retail display shall be maintained in a neat and orderly appearance at all times.
 - *Per the Land Management Code*, one *portable non-illuminated* sign may be displayed on the sidewalk *within the vicinity of the entry door of the first floor business. Such signs are permitted* only during operating hours of the abutting business. The sign shall not exceed six (6) square feet and shall be placed to maintain a five (5) foot clear pedestrian space.
 - Owner/Operator is responsible that all items stay in the approved areas.
 - No garbage may be stored on the sidewalk. Owner/Operator shall keep the sidewalk clean at all times.

8. **Enforcement:** *Enforcement of these standards shall be by Code Administration and the Police Department.*

*Approved by the Mayor and City Council on January 27, 2015. **Proposed Amendments,**
October 25, 2016.*

REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Topic:

Update on Competitive Negotiated Sale Program - *Randy Gray, Business Development Specialist*

Mayor and City Council Action Required:

Discussion:

Staff members will attend the November 1, 2016 Work Session of the Mayor and City Council to provide an update on the City's Competitive Negotiated Sale (CNS) program. The following is a summary of the program which originated in 2013.

Program Overview

- The Competitive Negotiated Sale is a process that facilitates the sale of City-owned properties. The City of Hagerstown makes real estate available for purchase and redevelopment. The Department of Community and Economic Development (DCED) coordinates the process and accepts purchase applications. The Mayor and City Council identify properties to be offered for sale and ultimately approve any development concept and purchase.
- Any entity or individual may qualify to purchase City property through this process except that some restrictions may apply to City of Hagerstown employees. The purchaser must provide a project plan and budget and be able to demonstrate the financial ability and experience necessary to complete the purchase, the proposed development plan and /or the operation and proper maintenance of the property.
- Properties currently available through CNS:
 - Ø Alms House, 239 N. Locust St.
 - Ø Massey building, 28 E. Baltimore St.
 - Ø Nicodemus House, 170 W. Washington St.
 - Ø Roslyn building, 17-25 E. Franklin St.
 - Ø Updegraff building, 43-53 W. Washington St.

Program Process

- Applicants must submit a completed CNS application form, along with all required supporting documents to DCED. A cross-department staff committee reviews all application submittals and recommends complete and viable applications to the Mayor and City Council. Competitive proposals are accepted on an ongoing basis. During committee review of CNS proposals, the development plan is weighed equally if not more importantly than the proposed sale price. The goal is to find the highest and best use of each CNS

property.

- CNS properties are marketed through the City of Hagerstown's (DCED) website, through free real-estate websites such as Co-Star, by local realtors and developers and through signage on the buildings.
- CNS properties acquired or rehabilitated with State Community Legacy funds may restrict the types of uses for the property. For example, Community Legacy funded buildings cannot be used for the following: pawn shops, gun shops, tanning salons, massage parlors, adult video/book shops, adult entertainment facilities, check cashing facilities, gambling facilities, tattoo parlors or liquor stores.
- CNS properties acquired or rehabilitated with CDBG funds typically require sale proceeds to return to the CDBG program.
- DCED staff maintains documentation concerning other aspects of CNS properties where applicable, such as code overviews and environmental assessment reports.

Properties Sold to Date

- Since its inception, three properties have been sold in the CNS program. 11-16 Public Square was sold August 28, 2013 for \$240,000. This commercial property continues to be used as restaurant and office space. 278 South Prospect Street was sold for \$75,000 on October 6, 2016 through the City's Home Ownership Program to be used as an owner occupied residence. 19-21-23 West Antietam Street was sold on October 21, 2014 for \$1.00 (one dollar) to initiate the demolition of a fire-damaged building and redevelopment of the property.

Background

- For additional information, attached are "Fact Sheets" containing general information about each CNS property as well as the program guidelines and application form for the CNS program.

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

110116_MCC_Memo_CNS_Update.pdf

Description

Update on Competitive
Negotiated Sale program



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Valerie Means, City Administrator
FROM: Randy Gray, Business Development Specialist
DATE: October 27, 2016
RE: Update on Competitive Negotiated Sale program

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Background

- For additional information, attached are "Fact Sheets" containing general information about each CNS property as well as the program guidelines and application form for the CNS program.

C: Jill Frick, Director of Community & Economic Development
Jon Kerns, Community Development Manager
City of Hagerstown CNS Review Committee

Property Name: **Alms House**

Address: 239 North Locust St

Square Footage: 8,450

Date Acquired: November, 2004

FY17 Budget Rent Revenue: \$0.00

FY17 Budget Expense: \$1,083

Acquisition Price: \$90,000

Rehab Expense to Date: \$85,000

Total \$ - Acquisition and Rehab: \$175,000

Description of Rehab Work Done to Date: exterior repairs

Grant Funding Amounts Used and Sources: State Community Legacy funds (\$85,000).

Property Name: Massey Property

Address: 28 East Baltimore St.

Square Footage: 20,000

Date Acquired: October, 2015

FY17 Budget Rent Revenue:

FY17 Budget Expense: \$8,559 (covers Nicodemus and Massey)

Acquisition Price: \$1.00 (one dollar)

Rehab Expense to Date: \$4,600 general repairs and \$39,724 for demolition of adjacent Meadowhawk Building and Bester House. Total \$44,324

Total \$ - Acquisition and Rehab: \$44,325

Description of Rehab Work Done to Date: several roof repairs, electrical work (interior lights), brick work to the exterior walls for stabilization, demolition of 2 adjacent structures

Grant Funding Amounts Used and Sources: none

Property Name: Nicodemus Building

Address: 170 W. Washington St.

Square Footage: 7,500

Date Acquired: March, 2013

FY17 Budget Rent Revenue: \$0.00

FY17 Budget Expense: \$8,559 (covers Nicodemus and Massey)

Acquisition Price: \$27,500

Rehab Expense to Date: \$238,000 + \$87,000 (demolition)

Total \$ - Acquisition and Rehab: \$352,500

Description of Rehab Work Done to Date: new roof, new windows, exterior painting and general cleanup maintenance.

Grant Funding Amounts Used and Sources: State Community Legacy funds (\$150,000), Economic Redevelopment funds (\$177,500), Property Management/sale of 11-16 Public Square (\$25,000) = \$352,500

Property Name: Roslyn Building

Address: 17-25 E. Franklin St.

Square Footage: 24,000

Date Acquired: June, 1996

FY17 Budget Rent Revenue: \$9,188 (Spicklers)

FY17 Budget Expense: \$18,128

Acquisition Price: \$75,000

Rehab Expense to Date: \$850,000

Total \$ - Acquisition and Rehab: \$925,000

Description of Rehab Work Done to Date: asbestos abatement, new roof & windows and elevator system, first floor rehab.

Grant Funding Amounts Used and Sources: CDBG funds (\$850,000)

Property Name: Updegraff Buildings

Address: 43-53 West Washington St.

Square Footage: 40,000

Date Acquired: April, 2013

FY17 Budget Rent Revenue: \$1,800/mo = \$21,600/yr (Potomac Bead)

FY17 Budget Expense: \$13,028 (includes \$1,728 for parking space rental)

Acquisition Price: \$320,000 (funded by \$100,000 State CL; \$220,000 CDBG)

Rehab Expense to Date: \$306,517 (funded by \$195,000 CDBG; \$111,517 sale of Public Square/Property Management).

Total \$ - Acquisition and Rehab: \$626,517

Description of Rehab Work Done to Date: interior cleaned out and building secured. Demolition of rear addition, rear roof replacement and rear wall reconstruction.

Grant Funding Amounts Used and Sources: Federal CDBG funds (\$415,000), State Community Legacy funds (\$100,000), Property Management/sale of 11-16 Public Square (\$111,517) = \$626,517

City of Hagerstown
Department of Community & Economic Development
14 North Potomac Street Suite 200A
Hagerstown, 21740



Competitive Negotiated Sale (CNS) of City Owned Property

PROGRAM OVERVIEW

The Competitive Negotiated Sale is a process that facilitates the sale of City-owned properties. The City of Hagerstown makes real estate available for purchase and redevelopment. The Department of Community and Economic Development (DCED) coordinates the process and accepts purchase applications. The Mayor and City Council identify properties to be offered for sale and ultimately approve any development concept and purchase.

Who Is Eligible To Purchase City Property through the Competitive Negotiated Sale Process?

Any entity or individual may qualify to purchase City property through this process except that some restrictions may apply to City of Hagerstown employees. The purchaser must be able to demonstrate the financial ability and experience necessary to complete the purchase, any proposed development plan and /or the operation and proper maintenance of the property.

What Financial Incentives Are Available?

Redevelopment projects that will create visible change and provide tangible public benefits may be eligible for various forms of financial assistance, such as facade grants. Eligibility for most financial assistance programs requires a property location in a designated redevelopment area. For more information on the various assistance programs administered by DCED, visit the department's webpage at www.hagerstownmd.org

Application and Approval Process

Applicants must submit a completed CNS application form, along with any and all required supporting documents, to DCED. A staff committee will review all complete application submittals and recommend certain applications to be presented to the Mayor and City Council. Competitive proposals are accepted on an ongoing basis. Application reviews occur the first week of each month. In order to be considered in a timely fashion, please submit a completed application before the end of the month. If a concept is approved by the Mayor and City Council, staff will be authorized to negotiate a Purchase Agreement consistent with the terms of the application.

Application for Purchase of City-Owned Property

Please return the completed application and supporting documentation to:

City of Hagerstown
Department of Community and Economic Development
14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740

I. Information

1. This is a proposed: ☐ Purchase ☐ Purchase and Redevelopment
 - a. If redevelopment, the project name: _____
2. Provide the street address of the property to be purchased below:

3. Current Use of Property: ☐ Vacant Land ☐ Improved with Building

II. Applicant Information

4. Name of Applicant: _____
5. Business Name: _____
6. Business Address: _____
7. Phone Number: _____ Fax Number: _____
8. Email Address: _____
9. Type Of Business: ☐ Individual ☐ Sole Proprietorship ☐ Nonprofit Corporation
☐ For-Profit Corporation ☐ Partnership ☐ LLC
10. Name, address and phone numbers of other persons or entities having an ownership in the applicant business entity:

11. Provide a description of your real estate development or related business experience.
Attach additional sheets if necessary:

III. **Purchase and Redevelopment Proposal**

IV.

12. Do you own or control an adjacent property? If so, identify the property by address, describe your interest and describe its current use:

13. Type of Redevelopment Proposed: ☐ Commercial/Retail ☐ Multi-Family Residential
☐ Single Family/Townhouse ☐ Industrial ☐ Institutional/Nonprofit
☐ Accessory Parking/Open ☐ Mixed Use ☐ Other _____

14. Project narrative: Write a brief description of the project. Be as specific as possible about timing, scope of work, intended end users of the property, type of construction and financing. If you own an adjacent property, describe how the City parcel will enhance the overall project. Attach additional sheets if necessary.

15. Provide sources and uses of funds.

16. Proposed Purchase Price: \$_____

17. If you have copies of site plans or concept drawings, please attach them.

18. Job Retention/Creation: List projected number of part time and full time jobs at the project after completion if applicable.

	<u>Jobs Retained</u>	<u>Jobs Created</u>	<u>Total Jobs</u>
<u>Full Time</u>	_____	_____	_____
<u>Part Time</u>	_____	_____	_____

19. Identify any public benefits, if any, to be created by the project:

20. Please attach construction pro-forma and revenue projections if available.

V. Signature

I, the undersigned, affirm that the project descriptions, numerical and financial estimates, and all other information I have provided in this application are true and complete to the best of my knowledge. I have read and understood the requirements described in the overview and application. Furthermore, I certify that I am authorized to initiate the application process on behalf of the project described.

I understand that I must demonstrate to the satisfaction of the department the ability of the purchasing entity to complete the proposed project. I understand that all documents submitted on behalf of this application become the property of the City of Hagerstown and may be subject to inspection and copying pursuant to the Public Information Act.

Signed: _____ Date: _____



Confidential Information Form

Please be advised that documents submitted to the City of Hagerstown are considered public records. As such, they are subject to the dictates of Maryland's Public Information Act, which permits inspection and copying of most public records in an effort to ensure open and fair governance within the State. However, certain records are affirmatively protected from disclosure by specific exceptions found in the Act. Among other categories, these exceptions include personal identification information of individuals, trade secrets, and confidential commercial or financial information.

If you believe information contained in the documents or other materials submitted to the City of Hagerstown are confidential based upon these or other exceptions contained in the Act, please identify the sections of the document which contain confidential information by listing the document section below:

	<u>Section</u>	<u>Reason for Confidentiality</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

The determination of whether the above information falls within an exception to disclosure contained in the Act will be made by City staff in consultation with its legal advisors. You will be informed of any determination made in this regard. You can be assured that the City of Hagerstown will comply with the requirements of the Act, and will maintain all appropriately confidential material in strict confidence to the extent permitted by law.

Applicant Print: _____ Date: _____

Applicant Signature: _____

Staff Signature: _____

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

Topic:

Prospective Sale of Property: 43-53 W. Washington Street - *Jonathan Kems, Community Development Manager*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Proposed_Sale_of_43-53_West_Washington_Street.pdf

Description

Memo - 43-53 W
Washington Street



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development
Business and Community Relations Division

To: Valerie Means, City Administrator

From: Jonathan Kerns, Community Development Manager *J.K.*
Randy Gray, Business Development Specialist *RG*

Date: October 27, 2016

RE: Proposed Sale of 43-53 West Washington Street

At the November 1, 2016 Work Session, staff seek an opportunity to meet with the Mayor & Council to discuss the potential sale of City owned property located at 43-53 West Washington Street. Paul Crampton, Jr., John Barr, and Greg Snook (doing business as Hager 5 LLC) have submitted a proposal to purchase the property through the City's Competitive Negotiated Sale (CNS) process. The proposed project plans include new construction and renovation to create commercial and residential occupancies at 43-53 West Washington Street.

Background

In April of 2013, the City acquired the property at 43-53 West Washington Street from Hagerstown Table Corporation (Vincent Groh). The property presents a significant opportunity for an impactful Downtown redevelopment project due to its proximity to the USMH campus and location within the Arts & Entertainment District.

The City utilized \$100,000 in State Community Legacy grant funds and \$220,000 in Community Development Block Grant (CDBG) funds to acquire the property for a purchase price of \$320,000. Utilizing a combination of CDBG funds and property management funds, the City demolished the property's two-story rear wing and reconstructed the rear wall in 2014-2015. This work eliminated a major barrier to redevelopment.

Highlights of Current Proposal

The City has received a Competitive Negotiated Sale application from Hager 5 LLC proposing to purchase the property at 43-53 West Washington Street. The proposed purchase price for the property is \$150,000.

The concept plan for revitalization of the property includes the following:

- Retention of the Potomac Bead Company as a tenant in their existing space with possible expansion by Potomac Bead Company into other areas of the structure
- Renovation of 49-53 West Washington as mixed use space with student housing units on the upper floors

- Demolition of 43-47 West Washington Street structure to allow for construction of a new building creating additional commercial and residential occupancies
- Hager 5 LLC also own adjacent property located 55-59 West Washington Street (demolition and renovation activities have begun at this property)
- Project to include a pedestrian walkway or walking trail connecting the rear of the property to West Washington Street
- Project to occur in phases over the next 12 to 48 months. Initial Phase: demolition of 43-47 West Washington Street. Future phases: renovation of 49-53 West Washington Street and construction of a new building with pedestrian walkway on lot at 43-47 West Washington Street (order of future phases to be determined)
- Preliminary project estimate of \$1.5 million

Details of Purchase Agreement

The draft Purchase Agreement has been prepared by City Attorney Mark Boyer.

Highlights of the draft Purchase Agreement include the following:

- Purchase price of \$150,000 with \$5,000 deposit due at execution of Purchase Agreement
- Buyer is required to obtain a waiver of the Option and Right of First Refusal Agreement currently enjoyed by the Potomac Bead Company, LLC
- An elaborated final development plan must be approved by the Mayor & Council prior to settlement
- Closing costs are the responsibility of the Buyer
- Settlement to occur on or before March 31, 2017

Staff will continue to work with the City Attorney and Hager 5 LLC to finalize the Purchase Agreement as necessary.

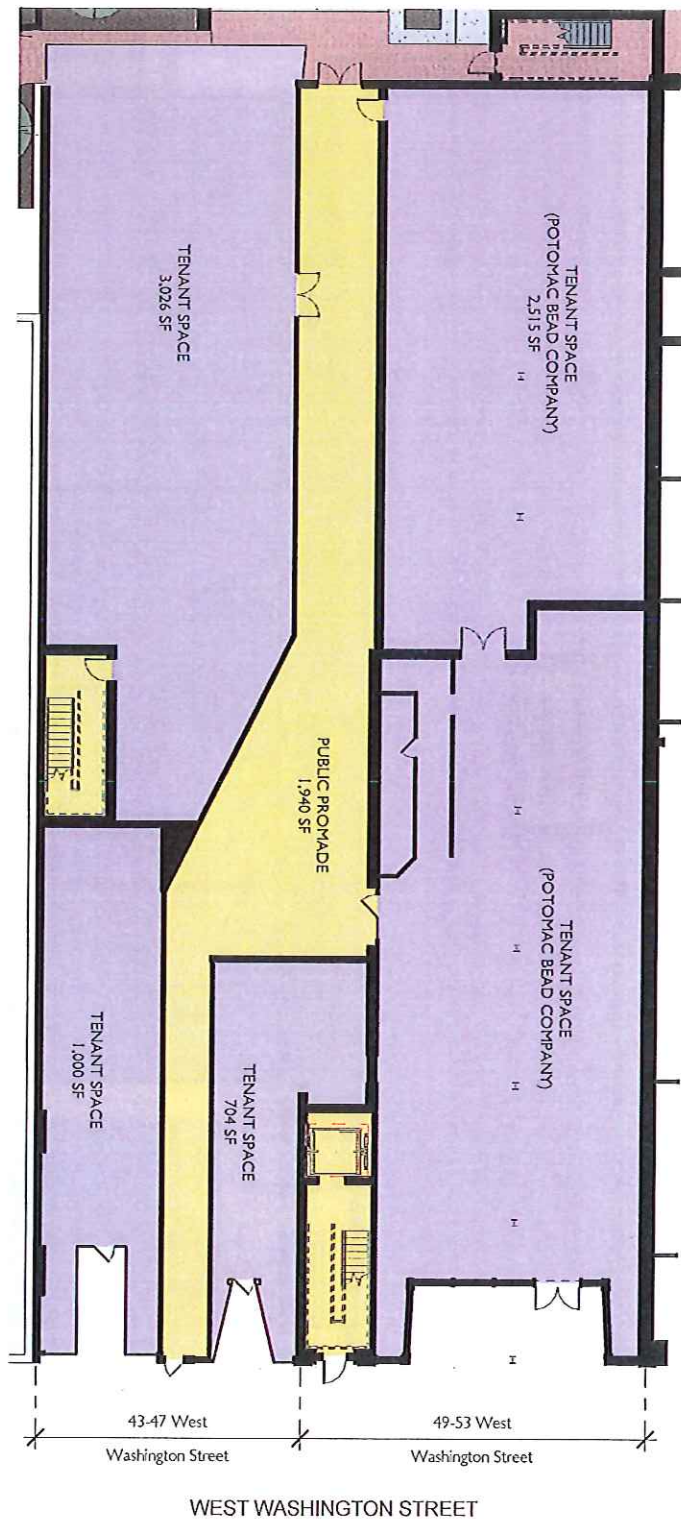
Mayor & Council Action Requested

The DCED review committee has reviewed the aforementioned Hager 5 LLC CNS proposal and the committee recommends the proposal be approved by Mayor & Council. Staff request Mayor & Council introduction and approval of an ordinance to enter into a purchase agreement with Hager 5 LLC for the sale of 43-53 West Washington Street. Introduction of the ordinance is scheduled during the November 15th Special Session and approval of the ordinance is scheduled for November 22nd Regular Session.

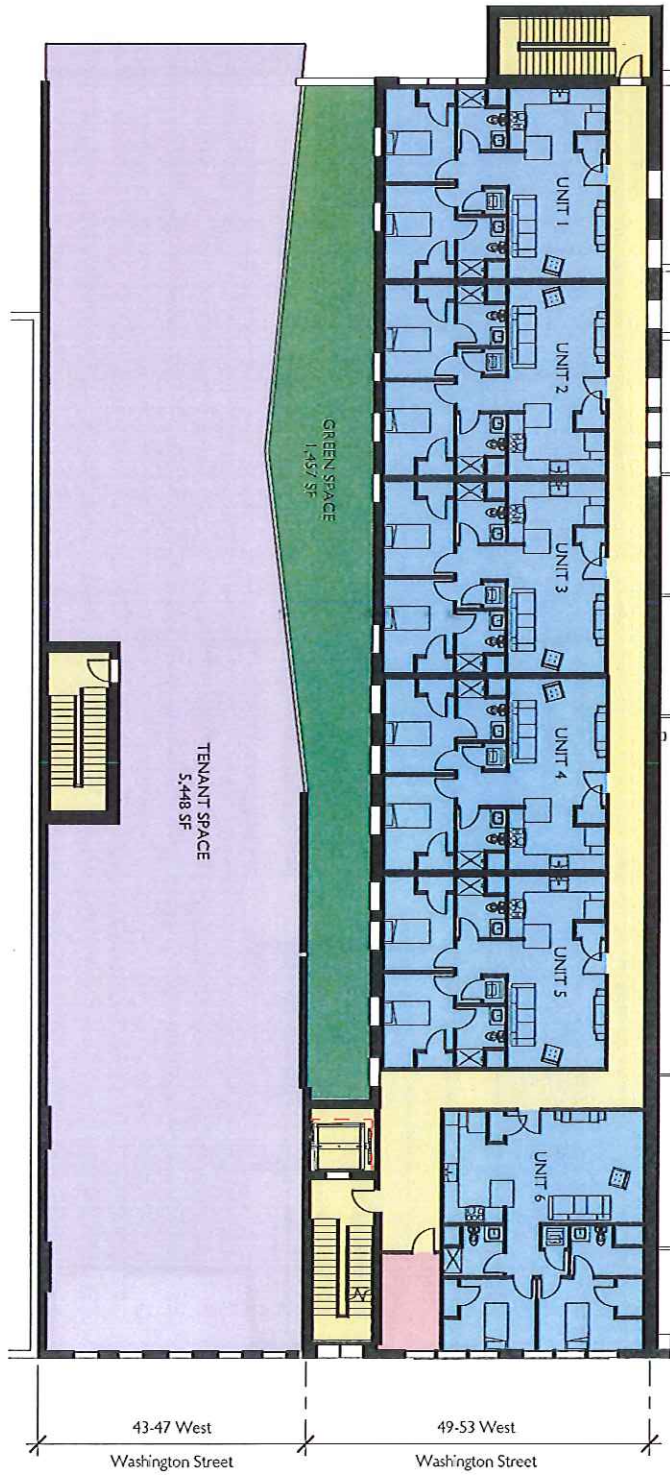
Attachments: Hager 5 LLC Conceptual Renderings for 43-53 West Washington Street
Draft Purchase Agreement

c. Jill Frick, Director DCED
DCED Review Committee

SCHEME A - FIRST FLOOR PLAN
 43-53 West Washington Street
 2/15/2016



SCHEME A - SECOND FLOOR PLAN
 43-53 West Washington Street
 2/15/2016

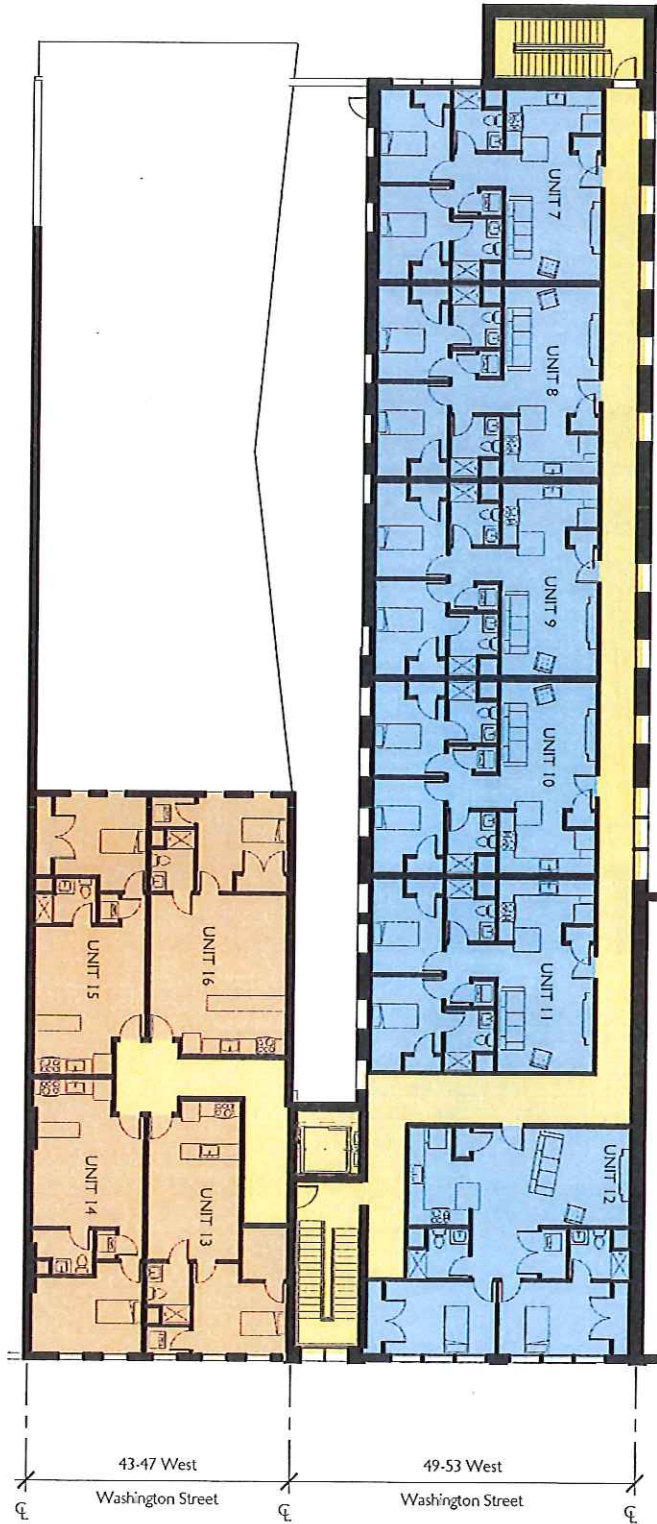


KEY

- 2 BEDROOM APARTMENT
- BUSINESS
- CIRCULATION
- STORAGE

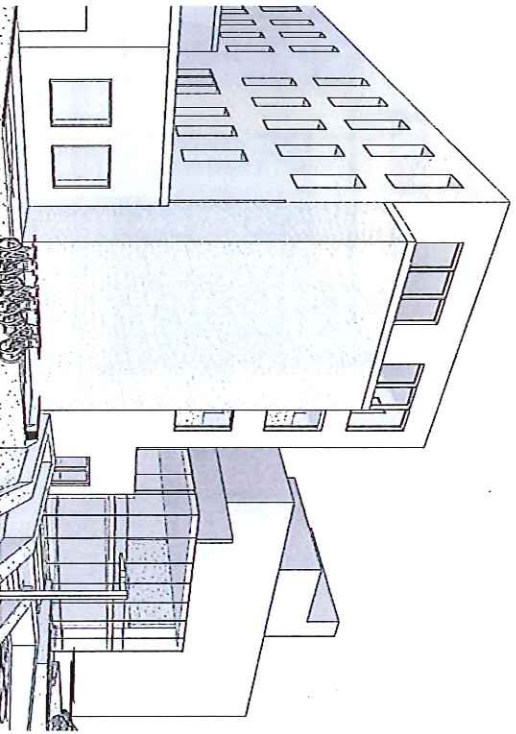
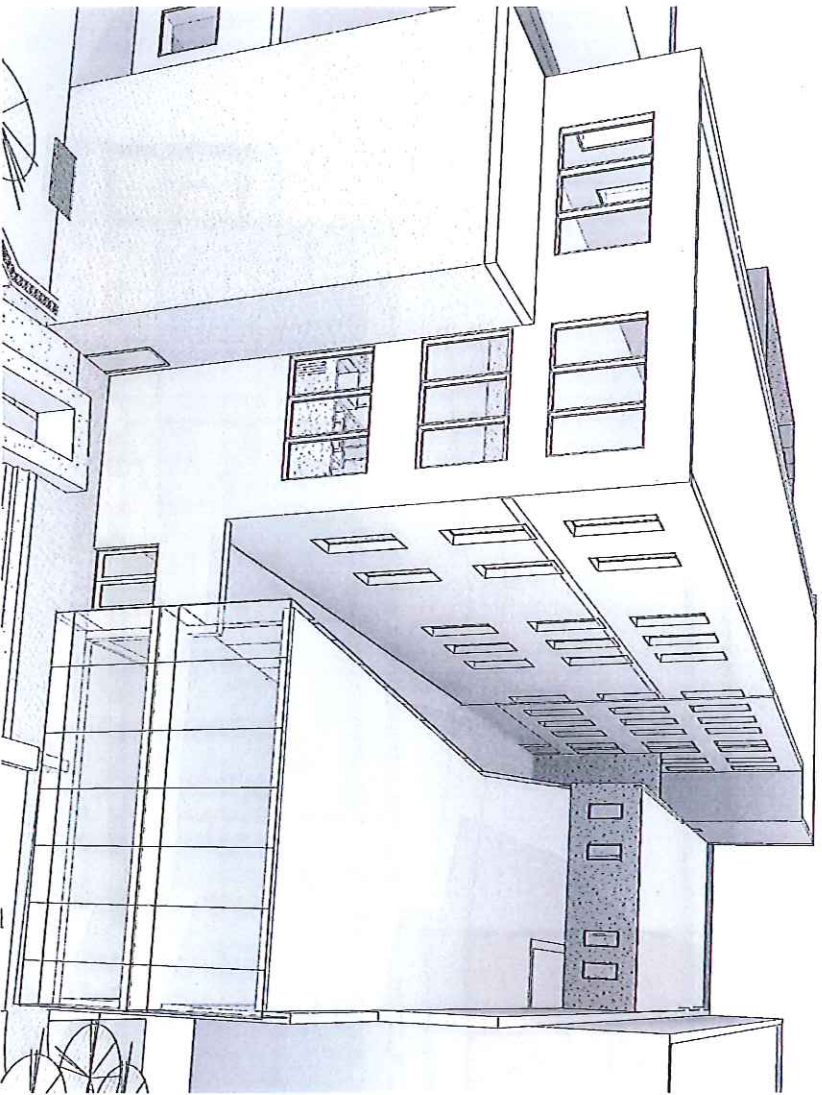
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SCHEME A - THIRD FLOOR
 43-53 West Washington Street
 2/15/2016



KEY

- 1 BEDROOM APARTMENT
- 2 BEDROOM APARTMENT
- CIRCULATION



SCHEME A - ARTISTIC RENDERING
43-53 West Washington Street
02/15/16

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2016 (the "Effective Date"), by Hager 5, LLC, ("Buyer") and The City of Hagerstown, a Maryland municipal corporation ("Seller").

RECITALS

A. Seller is the owner in fee simple of certain property consisting of 2 parcels of land located in Hagerstown, Maryland known as 43 – 53 West Washington Street and identified in a Deed from Hagerstown Table Corporation to Seller dated April 24, 2013 and recorded at Liber 4522, folio 305 among the land records of Washington County, Maryland. A legal description of the Property is attached hereto as **Exhibit A**, including, without limitation, all easements, covenants and other rights appurtenant to such land and any land lying in the bed of any street, road, avenue or alley adjoining such land which may be described and included in Exhibit A (the "Real Property"); (ii) all buildings, structures, garages and any other improvements situated on such land (the "Improvements") The foregoing Real Property and Improvements are collectively referred to herein as the "Property".

B. Seller has agreed to sell the Property to Buyer, and Buyer has agreed to purchase the Property from Seller, under all of the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated herein by reference as a substantive part of this Agreement.

2. Purchase and Sale of the Property. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property in accordance with the terms of this Agreement. Buyer and Seller agree that the parties mutual cooperation and compliance with the additional terms and conditions stated in **Exhibit B** is a material part of this Agreement and are hereby incorporated herein and made a part hereof.

3. Purchase Price; Terms of Payment; Duties of Escrow Agent.

3.1 Purchase Price. The aggregate purchase price for the Property ("Purchase Price") shall be One Hundred Fifty Thousand DOLLARS (\$150,000.00), Five Thousand DOLLARS (\$5,000.00) of which shall be due and payable as a deposit simultaneous with the execution hereof, with the balance of the Purchase Price due at settlement, subject to adjustments and prorations as set forth below and in Section 5.

3.2 Terms of Payment. The Purchase Price shall be paid by Buyer to Seller in 100% immediately available funds by certified check or wire transfer at Closing.

4. Closing. The closing of the purchase and sale of the Property shall be held at the offices of Buyer's attorney on or before March 31, 2017.

4.1 Seller's Closing Deliverables. At the closing, Seller shall deliver the following documents (collectively the "**Closing Documents**") and such other items described below:

4.1.1 a special warranty deed to the Real Property including a covenant of further assurances, duly executed and acknowledged by Seller and in proper form for recording, conveying fee simple title to the Real Property to Buyer or its designee subject only to the Permitted Encumbrances. Buyer hereby acknowledges and agrees that the deed shall contain a covenant prohibiting use of the Property as a residential rental property, a bail bond business, a store front church, Hookah Shop, or tattoo or body piercing business for a period of 10 years from the date of Closing.

The Parties acknowledge that the Property shall be conveyed subject to that certain Commercial Lease Agreement between Seller and Nathan Buchman and Allison Buchman, a copy of which is attached hereto as **Exhibit C**.

The Parties further acknowledge that the Property shall be conveyed subject to a ten foot (10') public walking trail easement retained by the Seller to be used as part of the Hagerstown Cultural Trail. The extent of said Easement shall be as and where depicted on the attached **Exhibit D**. Buyer shall develop and construct the said walking trail on the Easement Area pursuant to the Development Plan attached hereto as **Exhibit B**.

4.1.2 Execution of a Waiver of the Purchase Option and Right of First Refusal benefits regarding the Property currently enjoyed by Potomac Bead Company, LLC and Nathan and Allison Buchman ("Tenants") pursuant to the Agreement attached hereto as **Exhibit E**. It shall be the sole and exclusive obligation of the Buyer to negotiate said waiver with the Tenants and to prepare said waiver for execution by Tenants and Seller prior to settlement. This contact and the obligation to Close are contingent upon Buyer obtaining such waiver to Buyer's reasonable satisfaction.

4.1.3 a FIRPTA affidavit;

4.1.4 any transfer tax statements, declarations, filings and other similar documents that may be necessary, to the extent the same are required to be executed by Seller;

4.1.5 a closing statement conforming to the proration and other relevant provisions of this Agreement;

4.1.6 an owner's affidavit of title, a "gap" indemnity and such other documents as reasonably required by the Escrow Agent for the Settlement Agent to issue to Buyer its title insurance policy, all in form and substance reasonably acceptable to Buyer; and

4.1.7 such other information as the Settlement Agent may reasonably require to demonstrate Seller's due authorization and performance of this Agreement and the foregoing documents.

4.2 Buyer's Closing Deliverables. At the closing, Buyer shall deliver the following:

4.2.1 the Purchase Price as adjusted pursuant to the terms hereof;

4.2.2 a closing statement conforming to the proration and other relevant provisions of this Agreement; and

4.2.3 a certificate updating the representations and warranties made pursuant to Section 8.

5. Closing Adjustments/Costs.

5.1 Expense Adjustments. The following items of expense shall be adjusted as of 11:59 p.m., of the day immediately preceding the Closing Date such that Seller shall be responsible for all days prior to the Closing Date and Purchaser shall be responsible for the Closing Date and all days thereafter:

5.1.1 Taxes. Real estate, personal property, ad valorem taxes, assessments payable in installments and front foot benefit charges payable in installments that are due and payable with respect to Seller and the Property, respectively, on the basis of the most current bills or other current information available. Assessments payable in a lump sum and not in monthly installments, if any, for improvements completed prior to the Closing Date, whether assessment therefor has been levied or not, shall be paid by Seller or allowance therefor made at the closing.

5.1.2 Utilities. Fuel, water and sewer service charges, and charges for gas, electricity, telephone and all other public utilities. If there are meters on the Property measuring the consumption of water, gas or electric current, Seller shall cause such meters (for utilities for which Seller, and not tenants, are responsible) to be read not more than one (1) day prior to the Closing Date, and shall pay promptly all utility bills for which Seller is liable upon receipt of a statement therefor. Purchaser shall be liable for and shall pay all utility bills for services rendered after such meter readings.

5.2 Final Reconciliation. The adjustments described in this Section 5 shall be paid on the Closing Date. If the amount of any of the adjustments described in this Section 5 cannot be determined on the Closing Date, the adjustment therefor shall be made within thirty (30) days after the Closing Date by cashier's check. In making the adjustments required by this subsection, Seller shall be given credit for all amounts prepaid for the Closing Date and

any period thereafter, and Seller shall be charged with any unpaid charges for the period prior to the Closing Date.

5.3 Closing Costs. Buyer shall pay all expenses of examination of title, title insurance commitment and title premiums. All state, county, city, local, and municipal transfer and recordation taxes, if any, owing with respect to the sale of the Property, if any, shall be paid by Buyer. Each of Buyer and Seller shall pay their own attorneys' fees and expenses incurred in connection with this negotiation of this Agreement and the closing of the transactions contemplated hereby.

6. Title. Buyer shall have the right to inspect the status of title to the Property. Promptly after execution hereof, Buyer may obtain at Buyer's expense a title report or title commitment ("**Commitment**") and, at Buyer's election, a UCC lien search for the Property. Buyer may also obtain, at Buyer's sole cost and expense, a current ALTA/ASCM survey of the Property. In the event the Commitment discloses or Buyer becomes aware of any lien on the Property created by Seller that can be discharged or satisfied by the payment of money ("**Monetary Title Matters**"), Seller shall discharge or satisfy such Monetary Title Matters on or prior to the Closing Date. If Seller fails to discharge or satisfy any such Monetary Title Matters as aforesaid, Buyer, at its sole option, and in addition to any other rights and remedies it may have under this Agreement, at law and/or in equity, shall have the right to discharge and satisfy (or cause the Settlement Agent to discharge and satisfy) the same from the proceeds of the Purchase Price to be paid to Seller at closing. Title to the Property shall be subject only to the following matters: (i) the lien of real estate taxes and sewer and water rents not yet due and payable; (ii) such matters appearing on the Commitment to which Buyer shall fail to object during the Feasibility Period; and (iii) all conditions and restrictions contained herein (collectively, the "**Permitted Exceptions**"). Title to the Property shall be insurable, together with such title insurance endorsements as Buyer may reasonably request, at regular rates (including applicable rates for such endorsements) from a title insurance company licensed in the State of Maryland and selected by Buyer. In the event Buyer's review of title to the Property reveals any matters that are unacceptable to Buyer in its sole and absolute discretion (other than Monetary Title Matters which Seller is required to remedy as aforesaid), Buyer shall notify Seller thereof within twenty (20) days after the Effective Date (the "**Objection Notice**"). Within ten (10) days after receipt of the Objection Notice, Seller shall notify Buyer in writing, whether Seller shall undertake to cure such unacceptable exception(s). In the event Seller elects not to cure any unacceptable exception or is unable with the exercise of due diligence to satisfy said objection before the Closing Date, Buyer may, at its option, either (a) accept title subject to the objections raised by Buyer, without an adjustment of the Purchase Price, in which event each of said objections shall be deemed waived for all purposes and considered a Permitted Exception, or (b) terminate this Agreement. If Buyer shall terminate this Agreement, then (i) this Agreement shall be deemed to have terminated as of the date of Buyer's notice without need for any further action by either party and (ii) neither Buyer nor Seller shall have any further obligations to one another hereunder, except for those which expressly survive termination of this Agreement.

7. Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer, all of which are made as of the Effective Date and shall be true and correct in all material respects on and as of the Closing Date.

7.1 Enforceability; Authorization. This Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto are, or will be when executed and delivered by Seller, the legal, valid and binding obligations of Seller and enforceable against Seller in accordance with its terms. Seller has obtained all consents necessary for, and possesses full authority and legal right to authorize Seller's entry into and performance of this Agreement, the documents, affidavits, certificates and other instruments to be executed and delivered by Seller pursuant hereto and/or the transactions contemplated hereby or thereby.

7.2 Ownership of the Property. Seller is the fee simple record and beneficial owner of the Property. Except as identified in Section 4.1.2, no person or entity has an option, right of first refusal or other similar right to acquire all or any portion of the Property. Seller has performed all obligations under and is not in default in complying with the terms and provisions of any covenants, conditions, restrictions, rights-of-way or easements applicable to the Property.

7.3 No Conflicts. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Seller is a party.

7.4 Third Party Consents. All consents required from any governmental authority or third party in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby have been made or obtained or shall have been made or obtained by the Closing Date

7.5 Leases. The following leases exist on the Property: See **Exhibit C**.

7.6 Other Agreements. Except as identified in Section 4.1.2, Seller is not a party to, nor does Seller have knowledge of, any agreements relating to the Property.

7.7 Condemnation, Violation of Laws, Etc. Seller has not received notice of, and, to Seller's knowledge, there are no existing violations of any federal, state, county or municipal laws, ordinances, orders, codes, regulations or requirements affecting all or any portion of the Property, including, without limitation, violations of housing, building, safety, health, environmental, fire or zoning ordinances, codes and regulations of the respective jurisdictions within which the Property is located or any certificate(s) of occupancy issued for the Property.

7.8 No Flood Hazard Area. To Seller's knowledge, no portion of the Real Property is located in an area designated by any governmental entity as a flood hazard area.

7.9 Hazardous Conditions.

(i) During Seller's ownership of the Property there have been no, and there are no pending or, to Seller's knowledge, threatened: (A) claims, complaints, notices, or

requests for information received by Seller with respect to any alleged violation of any Environmental Law with respect to the Property, or (B) claims, complaints, notices, or requests for information to Seller regarding potential or alleged liability under any Environmental Law with respect to the Property.

(ii) To Seller's knowledge, no conditions exist at, on, or under the Property that, with the passage of time or the giving of notice or both, would constitute a Hazardous Condition or give rise to liability under any Environmental Law.

(iii) Seller has not received notice of any violation of any orders, directives, requirements, permits, certificates, approvals, licenses, and other authorizations relating to Environmental Laws with respect to the Property.

(iv) To Seller's knowledge there are no aboveground tanks in excess of 275 gallon storage capacity or any underground storage tanks (collectively, "USTs") at the Property. With the exception of one (1) underground storage tank which was removed by Seller, Seller has not removed or abandoned any USTs at the Property and Seller has no knowledge of the existence, abandonment or removal of USTs at the Property.

(v) To Seller's knowledge there are no polychlorinated biphenyls ("PCBs") or friable or damaged asbestos at the Property, and Seller has not removed (or required or requested the removal of) any PCBs or damaged or friable asbestos from the Property, and Seller has no knowledge of the previous existence of any PCBs or damaged or friable asbestos at the Property.

7.10 Litigation. No proceeding, suit or litigation relating to Seller or the Property or any part thereof is pending or, to Seller's knowledge, threatened in any court or other tribunal or before any Governmental Authority. Seller is and shall remain responsible after the Closing Date for defending (or continuing) any suit or proceeding attributable to periods prior to the Closing Date, and all damages, losses, expenses and costs related thereto, and Seller shall continue after the Closing Date to pursue any insurance maintained by Seller prior to closing with respect thereto, which obligations shall survive closing. Seller is not the subject of, nor has Seller received any written notice of or threat that it has or will become the subject of, any actions or proceedings under the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("**Bankruptcy Code**"), or under any other federal, state or local laws affecting the rights of debtors and/or creditors generally, whether voluntary or involuntary and including, without limitation, proceedings to set aside or avoid any transfer of any interest in property or obligations, whether denominated as a fraudulent conveyance, preferential transfer or otherwise, or to recover the value thereof or to charge, encumber or impose a lien thereon.

7.11 FIRPTA. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "**Code**"), and the sale of the Property is not subject to the federal income tax withholding requirements of such section of the Code.

7.12 Mechanic's Liens. There are no claims for labor performed, materials furnished or services rendered in connection with the development, construction, improvement,

renovation or repair of the Property with respect to which liens may or could be filed against the Property, either pending or threatened.

7.13 Tax Matters. No federal or other taxing authority (each, a “**Taxing Authority**” and collectively, the “**Taxing Authorities**”) has asserted in writing any tax deficiency, lien, interest or penalty against Seller or the Property that has not been paid, and there is no pending audit or inquiry from any Taxing Authority relating to Seller or the Property, and to Seller’s knowledge, no event has occurred and no condition or circumstance exists which presents a material risk that any tax deficiency, lien, interest, penalty or other assessment will be imposed against Seller or the Property.

7.14 Condemnation. Seller has not received any written notice advising it of any pending or threatened condemnation or other governmental taking proceedings affecting all or any part of the Property.

7.15 Except as otherwise provided herein Seller is making no warranties as to the condition of the property and the property is being sold “AS IS.”

8. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that: (i) Buyer is a Maryland Limited Liability Company and is in good standing in the State of Maryland; (ii) this Agreement and the documents, affidavits, certificates and other instruments to be executed and delivered by Buyer pursuant hereto are, or will be when executed and delivered by Buyer, legally binding on, and enforceable against, Buyer in accordance with their respective terms except as the same may be limited by applicable bankruptcy, insolvency, reorganization, receivership and other similar laws affecting the rights and remedies of creditors generally and by general principles of equity (whether applied by a court of law or equity); and (iii) neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which Buyer is a party.

9. Seller Covenants.

9.1 Inspection. Seller shall make available to Buyer during normal business hours prior to the Closing Date all information in Seller’s or its management agent’s possession or control concerning the Property, including, without limitation, all books and records and plans and specifications.

9.2 Operation and Maintenance. Seller agrees that from the date of this Agreement to the Closing Date, Seller will, at its sole cost and expense: (i) maintain the Property in its current condition (ii) comply with and perform all material provisions and obligations to be complied with and/or performed by Seller under each Contract; (iii) not mortgage or otherwise encumber all or any part of the Property; and (iv) maintain in full force and effect its current all-risk casualty insurance policy for the Property.

9.3 Contracts. Seller shall not enter into any Contracts of any kind with respect to the Property or any portion thereof.

9.4 Leases. Seller shall not enter into any leases or other occupancy agreements of any kind with respect to the Property or any portion thereof.

9.5 Correspondence. Promptly upon receipt, Seller shall provide Buyer with copies of any notices (including all written notices and summaries, including requests for rental concessions), and sales reports and correspondence received from tenants, neighboring property owners, any insurance company which carries insurance on the Property, from any Governmental Authorities or from any other person or entity with respect to the Property or any portion thereof.

9.6 Title and Encumbrances. Seller hereby agrees that, after the date of this Agreement, it shall not take any action affecting title to the Property or encumbering the Property (except for actions effectuating the release of liens or encumbrances in accordance with the terms of this Agreement) unless consented to by Buyer, which consent may be withheld in Buyer's sole and absolute discretion. In all events, Seller will cause to be removed, paid off, released and/or discharged at closing any mortgage, judgment, deed of trust, lien or other evidence of a monetary charge against the Property and any lien or other encumbrance affecting title to the Property and arising subsequent to the date of the Commitment referred to above.

9.7 Real Estate Tax Assessments. Prior to the Closing Date, Seller shall not institute any proceeding or application for a reduction in the real estate tax assessment of the Real Property for any tax year without the prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

9.8 Payment of Taxes. Seller shall pay all federal, state, county, local and foreign income, excise, real and personal property, sales and other taxes which first become due and payable prior to or on the Closing Date.

9.9 Claims. Seller hereby agrees to cooperate with Buyer in connection with the pursuit of any claims resulting from or based on an event that occurred prior to closing that are covered under the liability insurance policies for the Property that were in effect prior to closing to assist Buyer in filing a claim under such insurance policies, including, but not limited to executing any assignment of such policy or proceeds to Buyer. The obligations of Seller under this Section shall survive closing for a period of three (3) years.

10. Conditions Precedent to Buyer's Obligation to Purchase. The obligation of Buyer to acquire the Property and to perform the other covenants and obligations to be performed by it on the Closing Date shall be subject to the following conditions precedent (which conditions precedent shall inure solely to the benefit of Buyer and no other person or entity, including, without limitation, Seller, shall have any right to waive or defer any of such conditions in whole or in part):

(i) Seller shall have performed in all material respects its covenants and obligations required by this Agreement to be performed or complied with by it on or before the Closing Date.

(ii) All of Seller's representations and warranties in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date. Notwithstanding that certain representations and warranties made herein may be made to the knowledge of Seller, each of the representations, warranties and covenants made on behalf of Seller herein shall remain true, complete and correct in the absolute as of the Closing Date without regard to any qualification as to the knowledge of Seller.

(iii) Delivery of possession of the Property to Buyer at Closing, which shall be in substantially the same condition it is in on the date of this Agreement, subject to casualty and/or condemnation and the provisions of this Agreement relating thereto. The property shall be in broom-clean condition at Closing.

(iv) Title to the Property on the Closing Date shall be in accordance with Section 6 above.

(v) Buyer shall obtain and Seller shall execute the waiver identified in Section 4.1.2.

11. Condemnation and Casualty. If prior to the Closing Date Seller receives written notice of any pending or threatened condemnation proceedings or actions or if there occurs any damage, destruction or casualty with respect to all or any portion of the Property, Seller shall promptly notify Buyer thereof in writing. In the event there occurs: (i) any actual or pending condemnation of any portion of the Property; or (ii) any casualty, Buyer shall have the right to terminate this Agreement by giving notice to Seller within ten (10) days after receipt of Seller's notice advising Buyer of the occurrence of any casualty or condemnation. If: (i) Buyer fails to notify Seller of Buyer's election to terminate this Agreement within such 10-day period; or (ii) Buyer elects to proceed to closing and not terminate this Agreement, then Buyer shall proceed to closing, without adjustment of the Purchase Price, subject to such condemnation or casualty, in which event at closing, Seller shall, as applicable: (A) assign to Buyer any condemnation award or rights thereto paid or payable or otherwise accruing to Seller on account of such condemnation; or (B) assign to Buyer all of Seller's right, title and interest in and to the proceeds of any casualty insurance payable to Seller on account of such casualty and pay to Buyer an amount equal to any deductible or coinsurance applicable to the casualty insurance under such insurance policies. If Buyer timely elects to terminate this Agreement as aforesaid, Escrow Agent shall return the Deposit to Buyer, and neither Buyer nor Seller shall have any further rights or liability under this Agreement except for such rights and liabilities as expressly survive termination hereof.

12. Breach/Termination.

12.1 Breach by Seller. If Seller shall fail to perform its covenants or agreements hereunder and such failure shall continue for five (5) days after written notice from

Buyer, or if any of Seller's representations and warranties set forth in this Agreement are not true and correct in all material respects on the date hereof or on the Closing Date, Buyer shall have the right, at its sole option, to: (i) terminate this Agreement and neither party shall have any further rights or obligations to the other under this Agreement except such rights and obligations as expressly survive termination of this Agreement; or (ii) pursue any legal or equitable remedies to which Buyer may be entitled on account of the foregoing, including, without limitation, specific performance and recovery of actual third party costs and expenses incurred by Buyer with respect to this Agreement, the Property and the Inspections up to a maximum of One Thousand Dollars (\$1,000.00).

12.2 Breach by Buyer. If Buyer shall fail to perform any of the covenants or agreements to be performed by it hereunder and such failure shall continue for five (5) days after written notice from Seller (except there shall be no notice requirement for a failure to terminate this Agreement prior to the expiration of the Feasibility Period), or if any of Buyer's representations and warranties set forth herein shall not be true and correct in all material respects as of the date made or deemed made, Seller's sole and exclusive remedy shall be to terminate this Agreement for Buyer's default. All other claims for losses, damages, costs and expenses being hereby waived.

12.3 Litigation Costs. In the event of any litigation between the parties with respect to this Agreement, including any action for specific performance that may be brought by Buyer as provided above, each party shall be responsible for its own attorney's fees and expenses.

13. Brokers. Each party hereto represents and warrants to the other that it has dealt with no brokers or finders in connection with this transaction. Each of the parties hereto hereby represents and warrants that neither has authorized any real estate broker, agent or finder to act on its/their behalf in connection with the transaction contemplated by this Agreement other than the Broker, nor does it have any knowledge of any other broker, agent or finder purporting to act on its behalf in respect to this Agreement and the sale of the Property to be made pursuant hereto, and that the other party hereto shall have no liability to any broker for compensation, commission or otherwise except for Seller's obligations to the Broker. Each party agrees that it shall indemnify, defend and save the other harmless from and against any cost, expense, claim, loss, liability or damages, including reasonable attorneys' fees, and court costs, resulting from a breach of the foregoing representation and warranty by such party. The provisions of this Section shall survive closing or termination of this Agreement.

14. Entire Agreement/Modification. This Agreement, including the exhibits attached hereto, and the Closing Documents contain the entire agreement between the parties relating to the conveyance of the Property, all prior negotiations between the parties are merged into this Agreement and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between them other than as set forth in this Agreement, including the exhibits attached hereto, and the Closing Documents. No change or modification of this Agreement or any of the Closing Documents shall be valid unless the same is in writing and signed by each of the parties hereto or thereto. No waiver of any of the provisions of this Agreement or any of the Closing Documents executed or to be executed in connection herewith shall be valid unless in writing and signed by the party against whom it is

sought to be enforced. Notwithstanding the foregoing, in the event that Buyer and Seller agree to and execute any written amendment or other document modifying this Agreement, which does not directly modify the obligations of the Escrow Agent hereunder, the Escrow Agent shall not be required to execute such amendment or other agreement in order for the document to be fully effective and enforceable.

15. Survival of Representations, Warranties and Agreements. Except as otherwise expressly set forth in this Agreement, the representations, warranties, indemnities, covenants and agreements of the parties set forth in this Agreement, shall remain operative and shall survive the closing under this Agreement for a period of three (3) years.

16. Miscellaneous.

16.1 Binding Effect. This Agreement shall be binding upon, and inure to the benefit of and be enforceable by, the respective personal representatives, successors and permitted assigns of the parties hereto.

16.2 Governing Law; Venue. The provisions of this Agreement shall be governed by the laws of the state of Maryland, without regard to the conflicts of laws provisions thereof. **Any suit involving any dispute or matter arising under this Agreement shall exclusively be brought the Circuit Court for Washington County, Maryland.** All of the parties hereto hereby consent to the exercise of personal jurisdiction by any such court with respect to such proceeding.

16.3 Notices. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and delivered (i) personally, or (ii) sent by certified or registered mail, postage prepaid, return receipt requested, or (iii) by a nationally recognized overnight courier. A notice must be addressed to a party as indicated below. Any notice hereunder shall be deemed duly delivered (x) when delivered, with written receipt, if personally delivered or delivered by nationally recognized overnight courier, or (y) three (3) days after mailing, if mailed by certified mail, return receipt requested, postage prepaid. Any party may designate a change of address by written notice to the other in accordance with the provisions set forth above, which notice shall be given at least ten (10) days before such change of address is to become effective.

Seller's notice address:

Jonathan Kerns
Dept. of Community & Economic Development
N. Potomac Street
Hagerstown, MD 21740

With a copy to:

Salvatore & Boyer, LLC
Or its successor firm
82 W. Washington Street
Hagerstown, MD 21740

Buyer's notice address:

With a copy to:
Jason Divelbiss, Esq.

16.4 Incorporation. Each and all of the exhibits and schedules attached hereto are hereby incorporated into this Agreement by reference.

16.5 Further Assurances. Seller agrees that it will, at any time and from time to time after the Closing Date, upon reasonable request of Buyer, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably required for the better assigning, transferring, granting, assuring and confirming to Buyer, or to its successors and assigns of, or for aiding and assisting in collecting and reducing to possession, any or all of the assets or property being transferred to Buyer pursuant to this Agreement; provided, however, that any instruments to be executed by Seller shall be in form and substance reasonably acceptable to Seller and in no event shall Seller be required to incur any liability or obligation in addition to that which it is obligated to incur under this Agreement. The provisions of this Section shall survive the closing of the transactions contemplated by this Agreement.

16.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument; provided, however, in no event shall this Agreement be effective unless and until signed by all parties hereto. Fax or email copies of this Agreement shall be sufficient for all purposes.

16.7 Risk of Loss. Risk of loss or damage from fire or other casualty until recordation of the deed conveying the Property to Buyer is assumed by Seller.

16.8 Rules of Construction. Section captions used in this Agreement are for convenience only and shall not affect the construction of the Agreement. All references to "Sections", without reference to a document other than this Agreement are intended to designate articles and sections of this Agreement, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, unless specifically designated otherwise. The use of the term "including" shall mean in all cases "including but not limited to," unless specifically designated otherwise. No rules of construction against the drafter of this Agreement shall apply in any interpretation or enforcement of this Agreement, any documents or certificates executed pursuant hereto, or any provisions of any of the foregoing.

16.9 Computation of Time. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is a Saturday, Sunday or legal holiday in Maryland, in which event the period runs until the end of the next day which is not a Saturday, Sunday or such legal holiday.

16.10 Time of the Essence. **Time shall be of the essence under this Agreement.**

16.11 No Third Party Beneficiaries. None of the rights or obligations provided hereunder shall inure to the benefit of any third party.

16.12 Waiver of Trial by Jury. **THE PARTIES HERETO HEREBY AGREE TO WAIVE ANY RIGHTS THEY MIGHT OTHERWISE HAVE TO A TRIAL BY JURY UNDER ANY PROVISION OF ANY APPLICABLE LAW.**

16.13 Assignment. Buyer may not assign the agreement, or any part hereof without the express written consent of Seller, in its sole and absolute discretion.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

ATTEST:

SELLER:

CITY OF HAGERSTOWN
a Maryland municipal corporation

Donna Spickler, City Clerk

By: _____
David S. Gysberts, Mayor

WITNESS:

BUYER:

HAGER 5, LLC

Name: _____

By: _____, Member

EXHIBIT A

PARCEL NO. 1: Beginning for the same at the Northeast corner of the property now occupied by the Farmers and Merchants National Bank and formerly owned by the Mechanics Loan and Savings Bank on the South side of West Washington Street in said city of Hagerstown and running thence along the South marginal line of West Washington Street in an easterly direction a distance of 45 feet 6 inches to the point where the South marginal line of West Washington Street is intersected by the exterior surface of the West wall of the building known as the Updegraff residence; thence in a Southerly direction along the exterior surface of said West wall of said Updegraff residence and the projection thereof a distance of 240 feet, more or less, to the point where the projected line along the exterior surface of said wall intersects the North marginal line of the public alley which runs East and West between the Alley known as Rochester Place and the alley known as Court Place; thence in a Westerly direction along said North marginal line of said public alley a distance of 45 feet 6 inches, more or less, to the Southeast corner of the property now occupied by the Farmers and Merchants Bank and formerly owned by the Mechanics Loan and Savings Bank, thence in a Northerly direction along the East boundary line of said property now occupied by the Farmers & Merchants Bank and formerly owned by the Mechanics Loan and Savings Bank a distance of 240 feet, more or less, to the point and place of beginning.

PARCEL NO. 2: Beginning for the same at the point in the South marginal line of West Washington Street in said City of Hagerstown, where the same is intersected by the exterior surface of the West wall of the building known as the Updegraff residence which point is at the end of the first line of Parcel No. 1 and running thence along the exterior surface of the said West wall of said Updegraff residence and the projection thereof in a Southerly direction a distance of 240 feet, more or less, to the point where the projected line along the exterior surface of said wall intersects the North marginal line of the public alley which runs East and West between the alley known as Rochester Place and the alley known as Court Place; thence in an easterly direction along said North marginal line of said public alley a distance of 36 feet 6 inches, more or less, to the property now occupied by the County Commissioner of Washington County as a county office building and formerly owned by the President and Directors of the Hagerstown Bank; thence in a Northerly direction along the West marginal line of said Hagerstown Bank property and along the exterior surface of the East wall of said Updegraff residence in a straight line a distance of 240 feet, more or less, to the South marginal line of West Washington Street; thence in a Westerly direction along the South marginal line of West Washington Street a distance of 36 feet 6 inches, more or less, to the point and place of beginning.

Saving and excepting therefrom all that parcel of land which Hagerstown Table Corporation granted and conveyed into the City of Hagerstown by Deed dated August 7, 2001 and is recorded among the Land Records of Washington County, Maryland at Liber 3821, folio 3222.

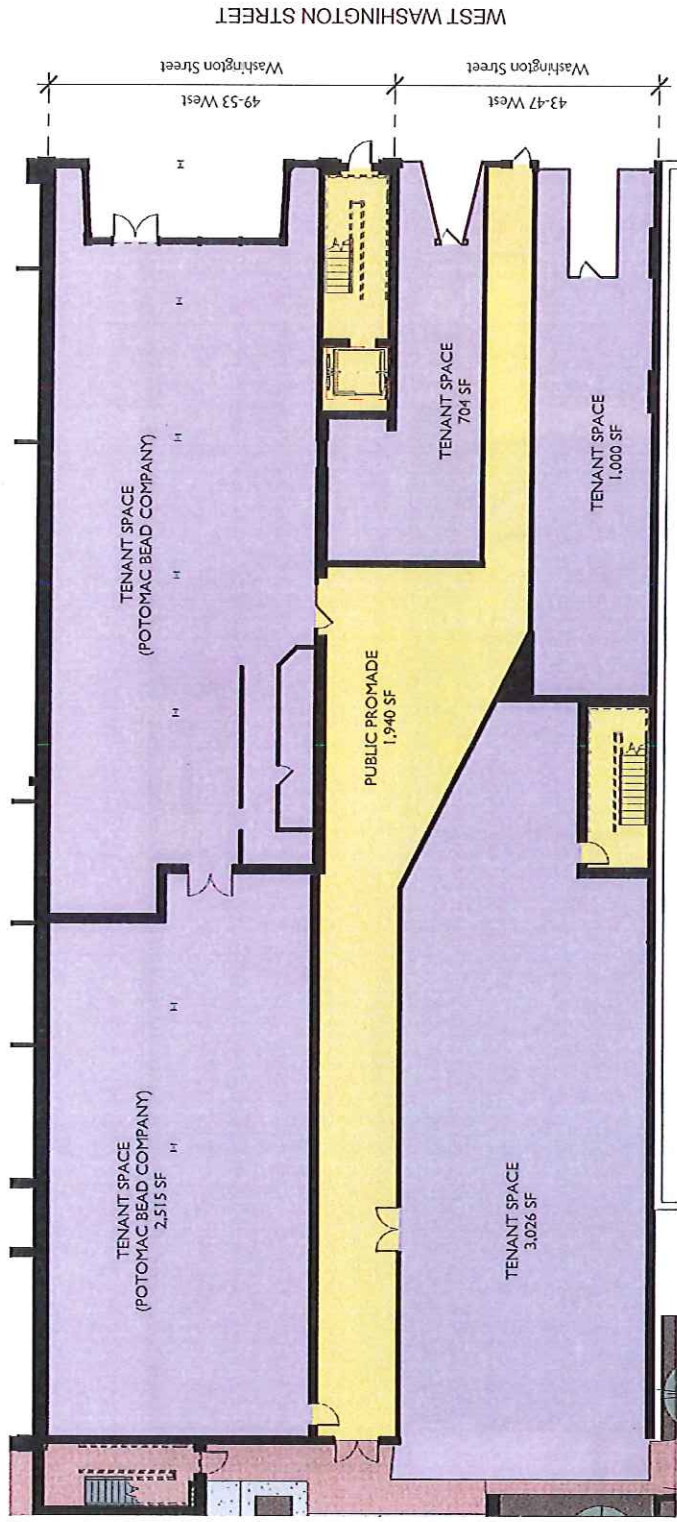
EXHIBIT B

1. Development Plan

On or before January 31, 2017 Buyer shall elaborate on and finalize the Development Plan ideas set forth in his Application for Purchase of City-Owned Property dated April 12, 2016, and which was approved in principle by the Mayor and City Council at their meeting held on September 27, 2016. Said Development Plan, in its final form shall be subject to approval by the Seller in its absolute discretion as a condition precedent to Seller's obligation to close on this contract.

2. Requirements.

Buyer acknowledges that the Development Plan will be subject to Historic District Commission and other governmental approvals, and that the Develop Plan may be further subject to certain federal regulations and restrictions as may be applicable to the property in connection with the Community Development Block Grant funding previously utilized by Seller in connection with the Property.



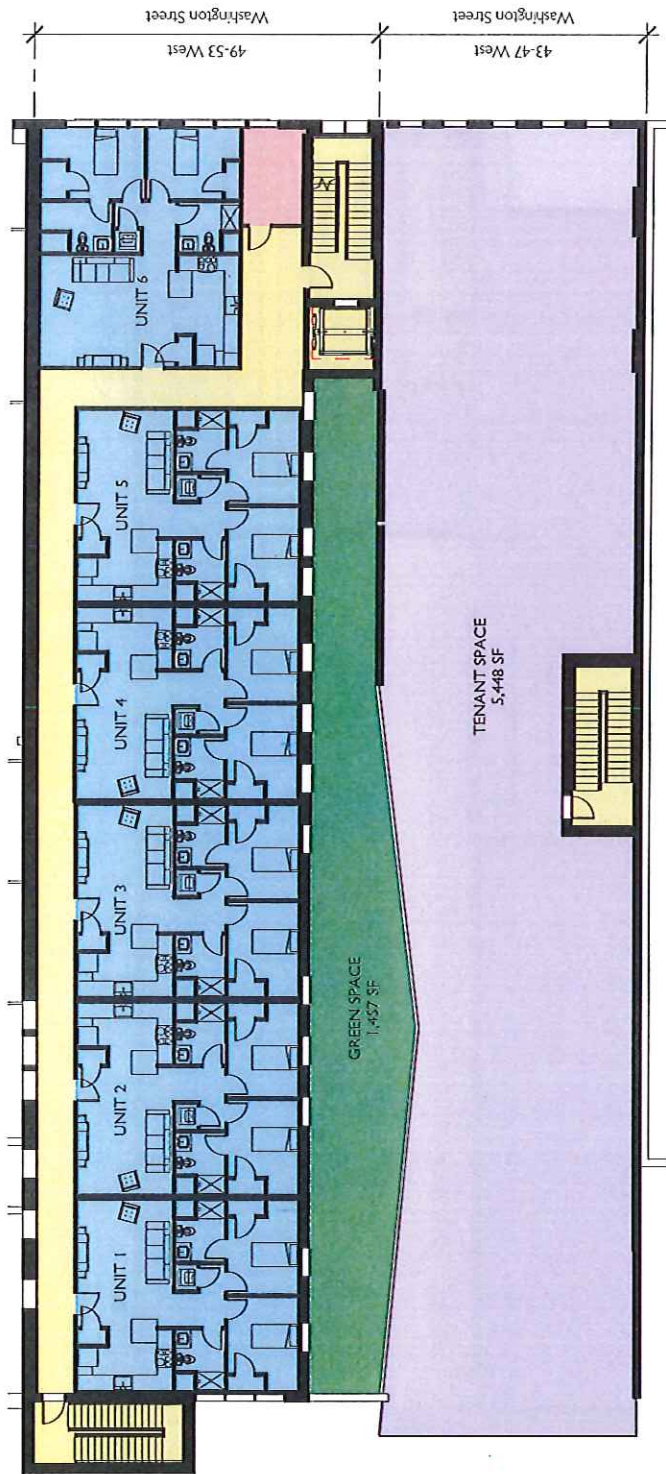
SCHEME A - FIRST FLOOR PLAN
 43-53 West Washington Street
 2/15/2016

KEY

■ BUSINESS

■ CIRCULATION



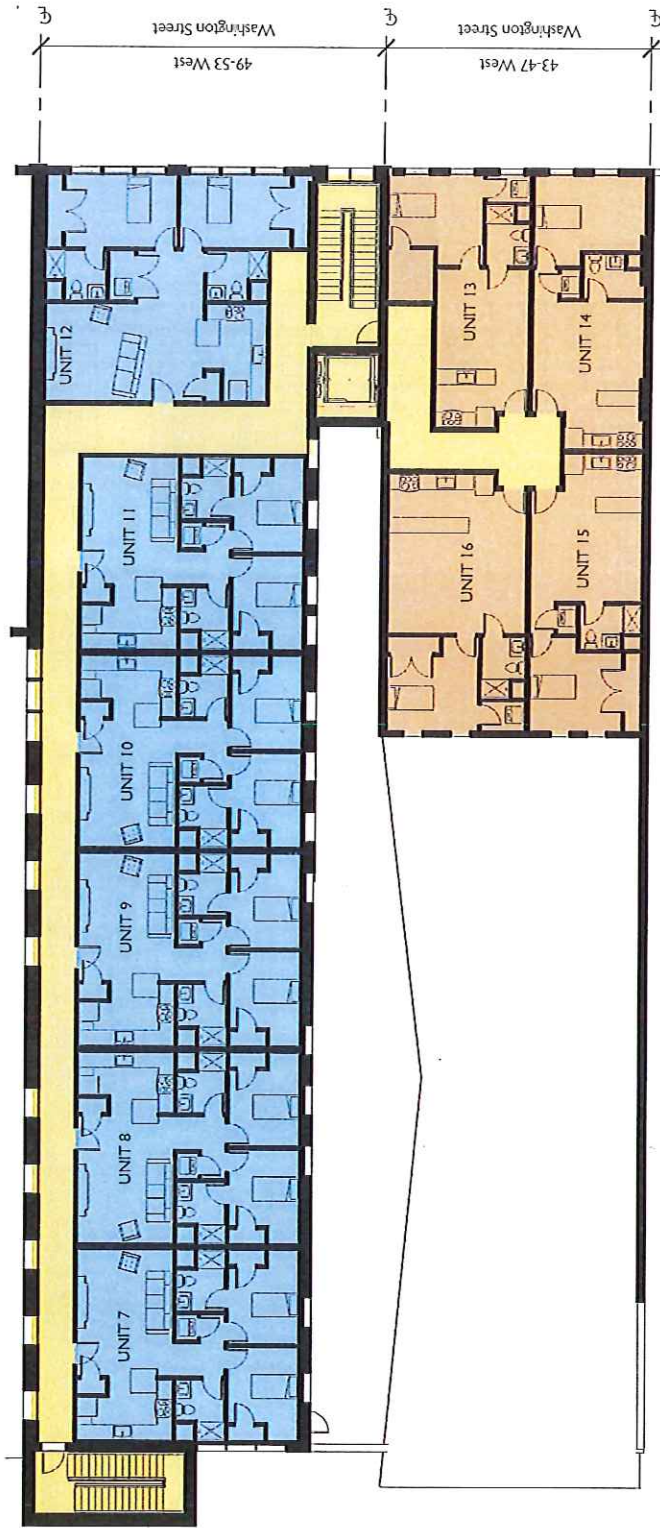


SCHEME A - SECOND FLOOR PLAN
 43-53 West Washington Street
 2/15/2016

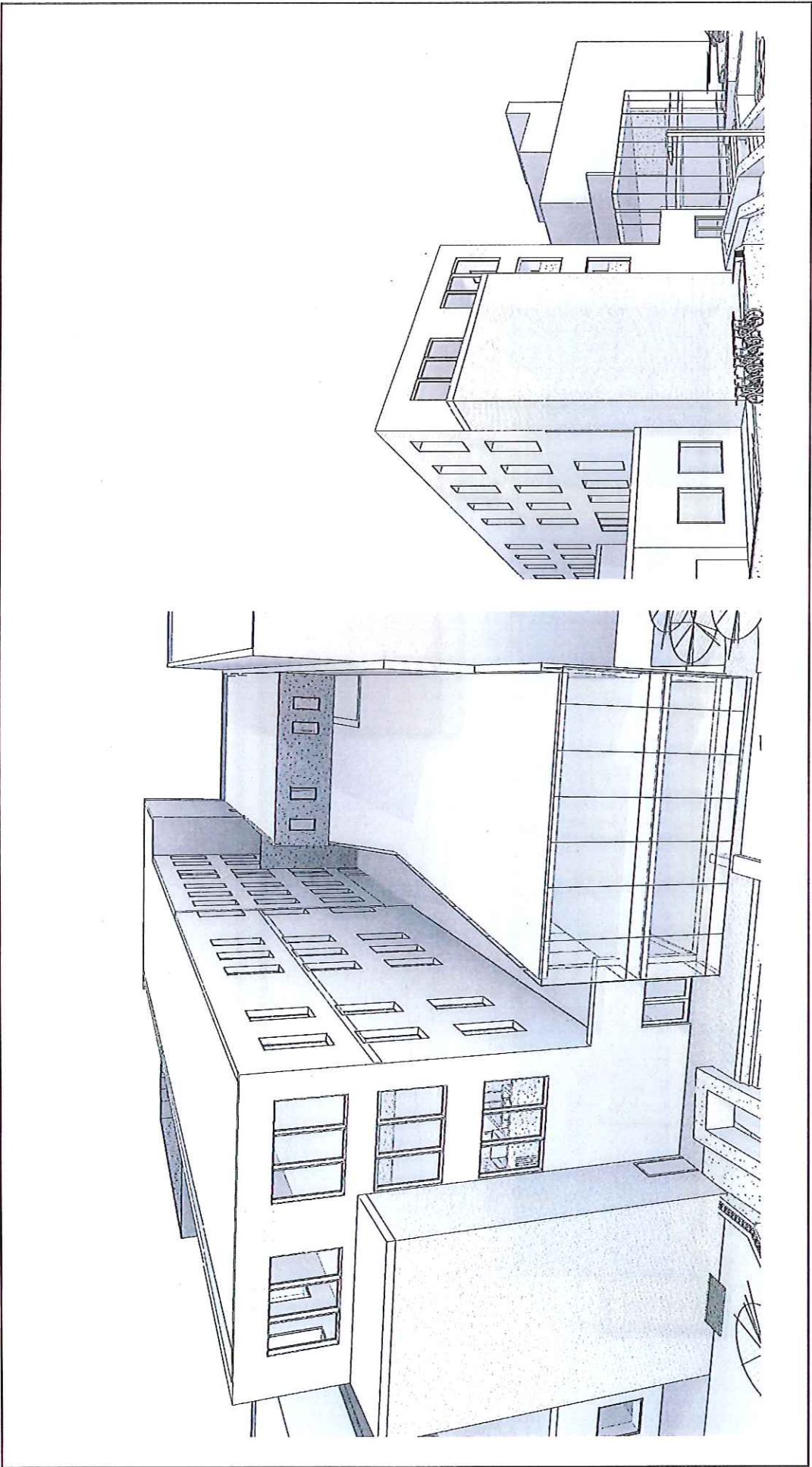
KEY

- 2 BEDROOM APARTMENT
- BUSINESS
- CIRCULATION
- STORAGE





SCHEME A - THIRD FLOOR
43-53 West Washington Street
2/15/2016



SCHEME A - ARTISTIC RENDERING
43-53 West Washington Street

02/15/16

EXHIBIT C

COMMERCIAL LEASE AGREEMENT

PARTIES

THIS COMMERCIAL LEASE AGREEMENT (hereinafter called "Agreement"), made as of this 29th day of August, 2013, by and between the City of Hagerstown, (hereinafter sometimes referred to as "Lessor"), with its principal office and place of business at 1 East Franklin Street, Hagerstown, Maryland, and Nathan Buchman and Allison Buchman, jointly and severally (hereinafter sometimes referred to as "Lessee" or "Tenant"), having its principal office and place of business at 53 West Washington Street, Hagerstown, MD.

WITNESSETH: That for and in consideration of the mutual covenants and agreements hereinafter set forth and of the rental reserved to be paid by the Lessee to the Lessor, the Lessor has rented, demised and leased unto the Lessee, and the Lessee does hereby accept, take, lease and rent from the Lessor the "Premises" as hereinafter described.

PREMISES

A. The Premises herein rented northernmost 90 ft. of the first floor of 53 W. Washington Street, Hagerstown, MD, and 250 sq. ft. of the adjoining balcony plus use in common of a court yard on the eastside of the leased premises.

B. The use of 2 parking spaces at the rear of the Premises.

USE OF PREMISES

Lessee shall have the right to use the premises to conduct its business of a retail sale of jewelry and classrooms for teaching jewelry assembly and such other uses as are normal incident thereto. Lessee shall conduct its business on the premises in accordance with all statutes, ordinances, rules, orders, regulations and requirement of State, Federal, County and Municipal governments and any and all of their departments, bureaus, agencies and instrumentalities.

TERM

This shall be a lease for a period of one year subject to renewal by agreement of the parties. Lessor agrees that for a period of three years it will not refuse to renew the Lease because the City transfers an interest in the remainder of 53 W. Washington Street.

HOLDING OVER

Tenant shall not hold over and shall be subject to immediate eviction if this Lease is terminated by the Lessor.

RENT

Lessee agrees to pay Lessor a monthly rental of One Thousand Eight Hundred Dollars (\$1,800.00) payable monthly in advance on the first day of each and every month. All rental payments shall be paid promptly by the Lessee to the Lessor. Rental payments shall start May 1, 2013.

DISTRAINT FOR RENT DUE

Lessor shall have at all times the right to distrain for rent due, and shall have a valid lien upon all personal property of Lessee situated on the premises as security for the payment of the rent herein reserved.

UTILITY CHARGES

- A. Lessee shall pay promptly when due all charges for electricity supplied to or in connection with the premises.
- B. The Lessor will supply and pay for water and sewer service.
- C. The Lessee will promptly pay for their portion of the gas and heating charges for their premises on a pro-rata square foot basis.
- D. Lessee shall promptly pay all other utilities serving their premises.

REPAIRS AND MAINTENANCE

Lessor agrees to keep and maintain in good order and repair the interior of the rented Premises, the Lessee shall maintain the cooking hood vents so as not to cause damage to other parts of the building through their use. Further to keep and maintain in good order and repair the electrical and heating equipment, plumbing facilities, including sewer and water lines which serve the premises. Lessee shall maintain the premises in a neat and clean condition and upon the expiration of the term of this Agreement surrender the entire premises in as good state and condition as they were in at the commencement of the term, ordinary wear and tear excepted. If Lessee refuses or neglects to repair or replace property as required hereunder to the reasonable satisfaction of Lessor within a reasonable time following written demand to Lessee by Lessor, Lessor may make such repairs or replacements, and upon completion, Lessee shall pay Lessor's costs for making such repairs or replacements upon presentation of bills therefore, payable and collectible as additional rent. Lessee shall maintain its own business equipment.

FIRE AND CASUALTY INSURANCE

Lessee agrees to purchase and maintain, without any co-insurance requirement or factor, a One Million Dollar (\$1,000,000.00) fire and casualty insurance policy having

any loss by fire or casualty payable by appropriate endorsement to Lessor to the extent of its interest in the property insured. Lessee agrees to provide Lessor with a current copy of certificate of said insurance policy and any renewal thereof.

PUBLIC LIABILITY INSURANCE

Lessee agrees to indemnify, exonerate and save the Lessor harmless from any and all suits or claims for loss, expenses, damages or injury to persons or property sustained upon the premises or arising out of the Tenant's neglect or use of the premises. Lessee agrees to carry, at its own expense, public liability insurance with limits of at least One Million Dollars (\$1,000,000.00) for injury to any one person and not less than One Million Dollars (\$1,000,000.00) for injury to property. Lessee agrees to provide Lessor with a current copy of said insurance policy and any renewals thereof, and Lessor is to be one of the named Insureds on any such policy.

SAVE HARMLESS

Lessee covenants and agrees to save Lessor harmless from and indemnify Lessor against any and all claims of liability arising out of or caused by Lessor's use and operation of the leased premises.

ASSIGNMENT OR SUBLET

Lessee shall not assign this Agreement or sublet the premises without first securing the written consent of the Lessor.

CONDEMNATION

Should the premises or any part thereof be condemned, appropriated and/or required for public use, then this Agreement at the option of Lessor, shall then terminate upon the date when the premises or any part thereof shall be taken. Current rent shall be apportioned as of the date of such termination. No part of any damages or award shall belong to Lessee.

INSPECTION OF PREMISES

Lessor or its agents may, during regular business hours, enter upon the premises for the purpose of inspecting the condition thereof and in compliance with the provisions of this Agreement.

DEFAULT

If the premises are abandoned or become vacant during the term, the Lessor or its agents may re-enter the same by force or otherwise without being liable to any prosecution therefore and, in addition to any other remedies, re-rent the premises in

whole or in part as the agent of the Lessee who in all events shall remain liable for any unpaid rentals for the full term of this Lease. Lessor may receive the rent from any such re-rental applying the same first to the payment of such expenses as the Lessor may incur in re-entering and re-letting, and then to the payment of the rent due hereunder.

If any default is made in the payment of the rent due hereunder, or if any default or violation be made in the performance of any of the covenants and agreements herein contained on the part of the Lessee to be performed, and if such default shall not be cured by the Lessee within fifteen (15) days after receipt by the Lessee of written notice from the Lessor of such default, then the relation of Lessor and Lessee, at the option of the Lessor, shall wholly cease and determine and, in addition to any other remedies, the Lessor may re-enter the premises by force, if necessary, and remove all persons therefrom and distrain for rent, if any be due, and assume and take possession of the premises and Lessee's property therein; and the Lessee, in any such event, expressly waives the service of any notice to Quit or Demand for Possession, but the Lessee shall, nevertheless, remain liable for any unpaid rental for the full term of this Agreement.

If any legal process whatsoever shall be issued for the purpose of attaching or taking in execution of any of Lessee's chattels located on the premises or Lessee's interest in the premises created by this Agreement, or if Lessee shall petition or have a petition filed against him to be adjudicated a bankrupt or insolvent, and such petition is not removed within ten (10) days, or if a receiver or trustee shall be appointed for Lessee's business or property, or if Lessee shall make a general assignment for the benefit of creditors, or if a corporate reorganization of Lessee or any arrangement with Lessee's creditors shall be approved by a court under any provision of the Federal Bankruptcy law, or if, in any other manner, the Lessee's interest under this Agreement would otherwise pass to another by operation of law, or if Lessee, without Lessor's prior written consent, shall assign or transfer to another in bulk, and not in the ordinary course of business, a major part of the materials, supplies, merchandise and other inventory, or substantially all of the fixtures and equipment located on the premises, then in any such event, Lessee shall be deemed to have committed a material breach of this Agreement and the Lessor may, at its option, forthwith by written notice re-enter the premises, and re-rent the premises as the agent for the Lessee. Notwithstanding any such action(s) by Lessor, Lessee shall in all events remain liable for any unpaid rental for the full term of this Lease.

Lessee hereby expressly waives the benefits of all laws exempting property of any amount or value from levy and sale on execution of distress for rent, or upon any execution under any judgment that may be recovered from rent due under this Agreement.

Lessor shall in all events be entitled to the benefit of all provisions of applicable laws respecting the speedy recovery of lands and tenements held over by Tenants or proceedings in forcible entry and detainer.

TERMINATION

In the event of termination of this Agreement, Lessee shall (i) remove all of its own property from the premises, (ii) restore the premises to a condition satisfactory to Lessor; (iii) vacate the premises; provided, however, that no property of the Lessee shall be removed from the until all money due Lessor under this Agreement shall have been paid.

QUIET ENJOYMENT

Lessor agrees that on paying the rent as herein reserved and performing the covenants and terms on his part herein contained, Lessee shall at all times during the term hereof peacefully and quietly bold and enjoy the said premises without eviction or disturbance by Lessor.

SECURITY DEPOSIT


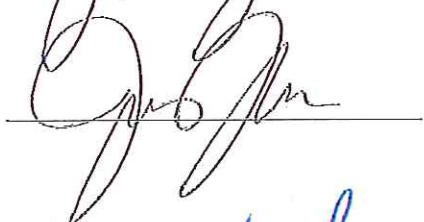
Lessee shall pay a Security Deposit of One Thousand Eight Hundred Dollars (\$1,800.00) to be used for the faithful performance of the Lease and for any maintenance and repair of the premises on termination.


MISCELLANEOUS

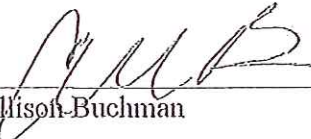
1. Failure or neglect of either party to act upon breach of one or more of the covenants, terms and conditions of this Agreement shall not constitute or be construed as a waiver of such breach or any subsequent breach or of any right created thereby.
2. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Lessor and upon the Lessee, its successors, assigns and sub-Lessee(s).
3. This instrument contains the entire agreement between the parties hereto in respect to the transaction contemplated herein, and no oral agreement or written correspondence shall be held to affect the provisions hereof. All subsequent changes and modifications, to be valid, must be by written instrument signed by Lessor and Lessee and attached as an Addendum to this Agreement.
4. The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be deemed to add to the interpretation, construction or meaning of any of the provisions of or the scope and intent of this Agreement or in any way affect this Agreement.
5. The terms and conditions of this Agreement shall be interpreted under the laws of the State of Maryland.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and sealed as of the day and year first above written.

WITNESS:

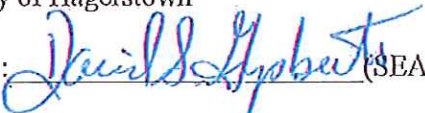




Nathan Buchman (SEAL)


Allison Buchman (SEAL)

City of Hagerstown



By:  (SEAL)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY that on this 28th day of ^{August} ~~June~~, 2013, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Nathan Buchman and Allison Buchman and acknowledged the foregoing instrument to be their act and deed.

WITNESS my hand and Official Notarial Seal.


Notary Public

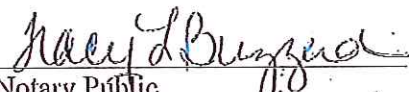


My Commission Expires: 1/9/2014

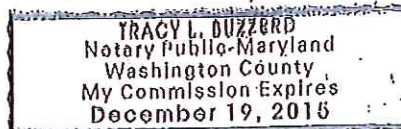
STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY that on this 6th day of ^{September} ~~June~~, 2013, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared David Gysberts, Mayor of the City of Hagerstown and having been authorized to do so executed the foregoing Lease as the act of the City of Hagerstown.

WITNESS my hand and Official Notarial Seal.


Notary Public

My Commission Expires: 12/19/2015




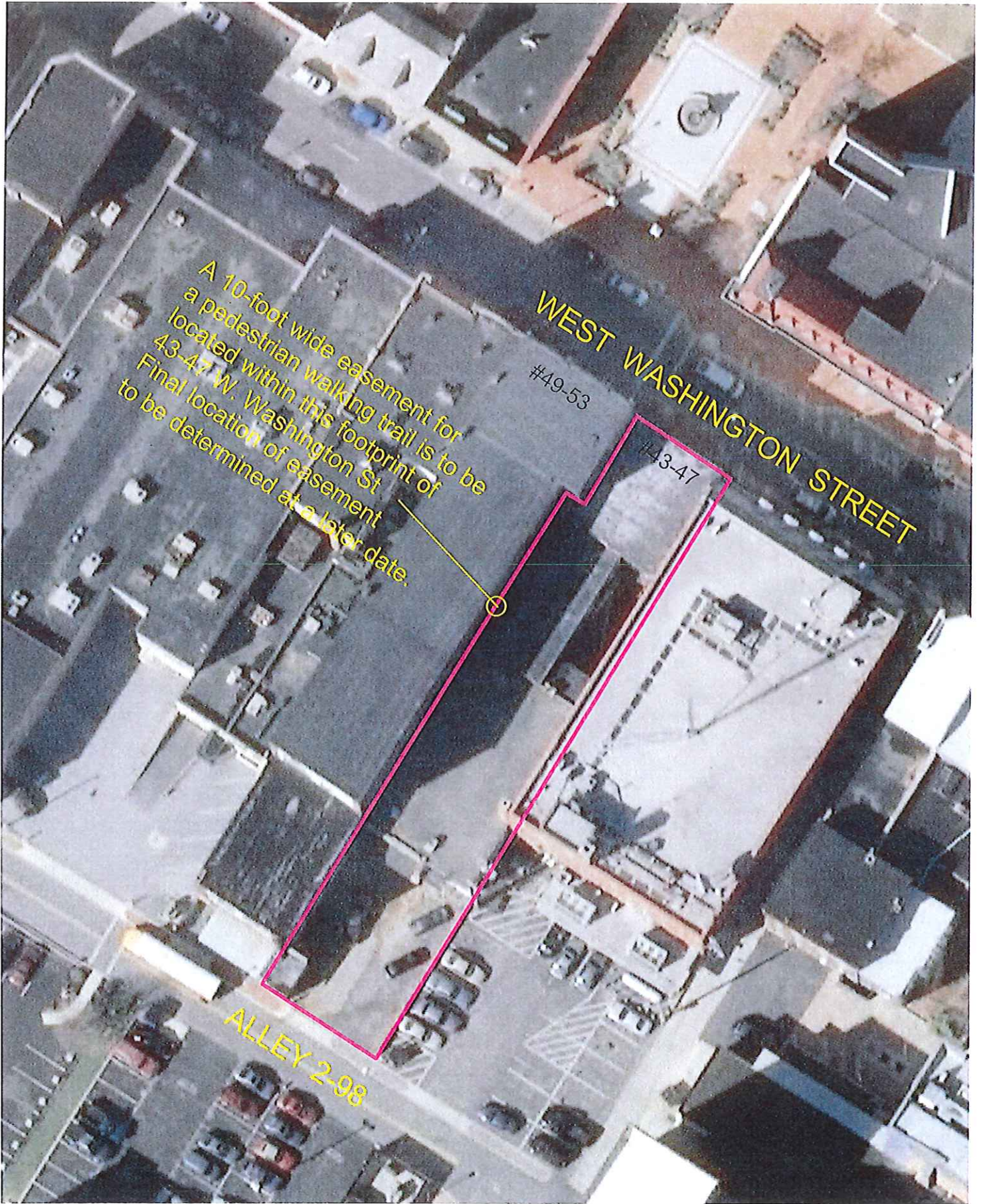

R-13-29

EXHIBIT D



A 10-foot wide easement for a pedestrian walking trail is to be located within this footprint of 43-47 W. Washington St. Final location of easement to be determined at a later date.

WEST WASHINGTON STREET

#49-53

#43-47

ALLEY 2-98

EXHIBIT E

AGREEMENT

This Agreement made this 18th day of April, 2013 by and between the City of Hagerstown, a Maryland Municipal Corporation, hereinafter called "City" and the Potomac Bead Company, LLC and Nathan and Allison Buchman, hereinafter referred to as "Tenants".

WHEREAS, the Tenants currently occupy and conduct business from the building comprising 49 to 53 West Washington Street, Hagerstown, Maryland, 21740, hereinafter referred to as "Parcel 1", (See Attachment A for a proper legal description of Parcel 1) as set forth in a Lease Agreement dated December 15, 2006, commencing April 1, 2007 and expiring March 31, 2012 with Vincent R. Groh and Hagerstown Table Corporation, hereinafter referred to as the "Lease Agreement", which provided for a first refusal option to purchase the property located at 43-53 West Washington Street, Hagerstown, Maryland, 21740, hereinafter referred to as the "Combined Parcel" (See Attachment A for a proper legal description of the Combined Parcel, which includes Parcel 1 described above and Parcel 2 which includes 43-47 West Washington Street, Hagerstown, Maryland, 21740), and

WHEREAS, the Hagerstown Table Corporation and the Tenants had the right to renew their Lease Agreement, and

WHEREAS, the City has entered into an Option and Purchase Agreement with the Hagerstown Table Corporation to purchase the Combined Parcel, and

WHEREAS, Tenants agree to waive the right of first refusal as existed in the Lease Agreement or any subsequent renewal, and consent to the purchase by the City free and clear of their first refusal option in consideration of the City granting them a further right of first refusal and an option to purchase.

WITNESS: That for and in consideration of the mutual promises herein contained, the

City and Tenants agree as follows:

1. The City and Tenants incorporate into the agreement the above whereas clauses.
2. The Tenants hereby waive their first refusal option as recited above in the Lease Agreement and consents to the purchase of the Combined Parcel by the City, which is a condition precedent to the terms of this Agreement included hereinbelow.
3. The City hereby grants to the Tenants an option to purchase Parcel 1 along with a right of first refusal subject to the following terms and conditions:

A) If after one year from the date of this Agreement, the City has not completed a physical subdivision of the Combined Parcel, then the Tenants shall have a three year option to purchase Parcel 1 from the City for Two Hundred and Twenty Five Thousand Dollars (\$225,000). The three year option to purchase shall begin to run one year after the date of this Agreement, if the City has not completed the physical subdivision referenced above. If the City has completed the referenced physical subdivision of the Combined Parcel within one year, then the Tenants shall have a three year option to purchase Parcel 1 from the City for Two Hundred

and Twenty Five Thousand Dollars (\$225,000) running from the date of final and complete physical subdivision.

B) If the City elects to impose a condominium regime on Parcel 1 within three years of the date of final and complete physical subdivision, the City must provide the Tenants with notice of its intent to impose a condominium regime. Upon proper notice by the City as defined herein below, of its intent to impose a condominium regime, the Tenants shall have One Hundred and Twenty (120) days to exercise an option to purchase Parcel 1 for Two Hundred and Twenty Five Thousand Dollars (\$225,000). The City cannot begin imposing a condominium regime on Parcel 1 until One Hundred and Twenty (120) days have lapsed since proper notice was given to the Tenants. If the Tenants do not exercise their option to purchase within one hundred and twenty (120) days from the date of receipt of proper notice, the option to buy Parcel 1 in its entirety shall become null and void. If after the lapse of One Hundred and Twenty (120) days, the City does impose a condominium regime on the Parcel 1, the Tenants shall still have an option to purchase the first and fourth floors of Parcel 1 for One Hundred Twenty Five Thousand Dollars (\$125,000), plus half the cost of imposing the condominium regime not to exceed Thirty Thousand dollars (\$30,000), for three years running from the date the condominium regime is complete and final.

C) Any notice required or permitted under this Agreement or under state law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to City:

John N. Lestitian
Director of Community and Economic Development
14 N. Potomac Street Suite 200A
Hagerstown, MD 21740

With a copy to:

Nairn and Boyer, LLC
207 South Potomac Street
Hagerstown, MD 21740

If to Tenant:

Nathan and Allison Buchman
53 W Washington Street
Hagerstown, MD 21740

City and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

D) If within three years from the date of physical subdivision, the City receives an acceptable offer for the purchase of Parcel 1 in its entirety or any portion thereof, Tenants shall

have a right of first refusal for 120 days from the date written notice of the offer is given to the Tenants. If the price offered is less than the price Tenants would be required to pay under this Agreement, then the Tenants must match the offered price of the offer within 120 days or the City has the right to accept the offer. However, Tenant shall not be required to match the price and terms of an offer submitted to the City if the offer is greater than the price the Tenants would be required to pay under this Agreement. Instead, within the 120 day period, Tenants must provide written notice to the City of their offer in an amount negotiated under the terms of this Agreement. If the offer from a third party is for all of Parcel 1, the Tenants must make a written offer to the City within 120 days in the amount of Two Hundred and Twenty Five Thousand Dollars (\$225,000). If the offer from a third party is for the first and fourth floor following the imposition of a condominium régime, Tenants must make a written offer to the City within 120 days in the amount of One Hundred and Twenty Five Thousand Dollars (\$125,000) plus half the cost of imposing the condominium regime not to exceed Thirty Thousand dollars (\$30,000). Upon proper notice to the City of Tenants' offer, the City can no longer accept the offer from the third party.

E) In order for the Tenants to exercise any of the options to buy referenced above in Section 3 (A) and Section 3(B), the Tenants must be ready, willing, and able to close before the particular option to purchase lapses. The Tenants are not required to actually complete closing within the contemplated option to purchase time period.

4. Base rent paid by the Tenants to the City are not to exceed the current base rent paid by the Tenants to Vincent R. Groh and Hagerstown Table Corporation.


5. This Agreement shall be interpreted according to the laws of the State of Maryland and constitutes the entire agreement between the parties and no alterations or amendment to the same shall be binding upon the parties unless reduced to writing and signed by both parties.


6. As of the date hereof, this Agreement supersedes all previous oral and written agreements between the parties, and constitutes the only and entire understanding to exist between the parties with respect to the subject matter of this Agreement, and no amendment shall be implied or proven from or evidenced by negotiations between the parties heretofore or hereinafter conducted or agreements of the parties heretofore or hereafter executed, unless in writing and signed by the parties hereto.

WITNESS our hands:

WITNESS:








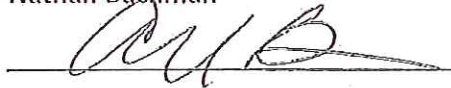


POTOMAC BEAD COMPANY, LLC

By: Nathan Buchman, Potomac Bead Company

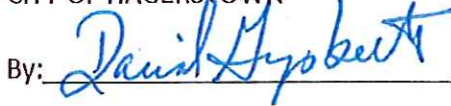


Nathan Buchman



Allison Buchman

CITY OF HAGERSTOWN

By: 

Mayor David Gysberts

ATTACHMENT A

Property Description

All the following described lots or parcels of ground together with the buildings and improvements thereon and all rights, easements, alleys, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, situate on the South side of West Washington Street in the city of Hagerstown, in Washington County, State of Maryland, between the Public Square and Jonathan Street, westerly, known as numbers 43, 45, 47, 51 and 53 West Washington Street, more particularly described as follows:

PARCEL NO. 1: Beginning for the same at the Northeast corner of the property now occupied by the Farmers and Merchants National Bank and formerly owned by the Mechanics Loan and Savings Bank on the South side of West Washington Street in said city of Hagerstown and running thence along the South marginal line of West Washington Street in an easterly direction a distance of 45 feet 6 inches to the point where the South marginal line of West Washington Street is intersected by the exterior surface of the West wall of the building known as the Updegraff residence; thence in a Southerly direction along the exterior surface of said West wall of said Updegraff residence and the projection thereof a distance of 240 feet, more or less, to the point where the projected line along the exterior surface of said wall intersects the North marginal line of the public alley which runs East and West between the Alley known as Rochester Place and the alley known as Court Place; thence in a Westerly direction along said North marginal line of said public alley a distance of 45 feet 6 inches, more or less, to the Southeast corner of the property now occupied by the Farmers and Merchants Bank and formerly owned by the Mechanics Loan and Savings Bank, thence in a Northerly direction along the East boundary line of said property now occupied by the Farmers & Merchants Bank and formerly owned by the Mechanics Loan and Savings Bank a distance of 240 feet, more or less, to the point and place of beginning. Saving and excepting that parcel conveyed to the City of Hagerstown for purposes of widening the alley at the rear of the property by deed dated August 7, 2001 and recorded among the land records of Washington County at Liber 3821, folio 322.

PARCEL NO. 2: Beginning for the same at the point in the South marginal line of West Washington Street in said City of Hagerstown, where the same is intersected by the exterior surface of the West wall of the building known as the Updegraff residence which point is at the end of the first line of Parcel No. 1 and running thence along the exterior surface of the said West wall of said Updegraff residence and the projection thereof in a Southerly direction a distance of 240 feet, more or less, to the point where the projected line along the exterior surface of said wall intersects the North marginal line of the public alley which runs East and West between the alley known as Rochester Place and the alley known as Court Place; thence in an easterly direction along said North marginal line of said public alley a distance of 36 feet 6 inches, more or less, to the property now occupied by the County Commissioner of Washington County as a county office building and formerly owned by the President and Directors of the Hagerstown Bank; thence in a Northerly direction along the West marginal line of said Hagerstown Bank property and along the exterior surface of the East wall of said Updegraff

residence in a straight line a distance of 240 feet, more or less, to the South marginal line of West Washington Street; thence in a Westerly direction along the South marginal line of West Washington Street a distance of 36 feet 6 inches, more or less, to the point and place of beginning. Saving and excepting that parcel conveyed to the City of Hagerstown for purposes of widening the alley at the rear of the property by deed dated August 7, 2001 and recorded among the land records of Washington County at Liber 3821, folio 322.