

Mayor and Council

8th Special Session and Work Session

March 7, 2017

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."*

**"Progress lies not in the enhancing what is, but in the advancing toward what will be."
Khalil Gibran**

7:00 AM STATE OF THE CITY - Academy Theatre 53 E. Washington Street Hagerstown, MD

EXECUTIVE SESSION

4:05 PM 1. Executive Session

4:00 PM WORK SESSION

4:35 PM 1. Request to Lease Space on Eldridge Drive adjacent to the Hagerstown Industrial Park

4:45 PM 2. United States Postal Service Parking Contract Additional Information

5:00 PM 3. **8TH SPECIAL SESSION**

4. Approval of an Ordinance: City of Hagerstown 2017 General Obligation Bonds

5. Approval of a Resolution: Ground Lease Agreement with United States Postal Service for Portion of the Market House Parking Lot

(Tabled 02/28/2017 - A motion to remove from table must be made to discuss this item)

CITY ADMINISTRATOR'S COMMENTS

5:10 P.M.

MAYOR AND COUNCIL COMMENTS

ADJOURN

5:15 P.M.

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

Topic:

STATE OF THE CITY - Academy Theatre 53 E. Washington Street Hagerstown, MD

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Executive Session

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

March_7__2017_Executive_Session_Revised.pdf

Description

Agenda



EXECUTIVE SESSION

MAYOR & CITY COUNCIL

MARCH 7, 2017

AGENDA

REVISED 03/06/2017

4:00 p.m. EXECUTIVE SESSION – *Council Chamber, 2nd floor, City Hall*

1. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State, #4
**Business proposal*

***AUTHORITY: Annotated Code of Maryland, General Provisions Article: Section 3-305(b)**
(Subsection is noted in parentheses)

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: March 7, 2017

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 4:00 p.m.

AUTHORITY: **ANNOTATED CODE OF MARYLAND, GENERAL PROVISIONS ARTICLE: Section 3-305(b) :**

1. To discuss:
 - ☐ (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - ☐ (ii) any other personnel matter that affects 1 or more specific individuals;
- ☐ 2. To protect the privacy or reputation of individuals with respect to a matter that is not related to public business;
- ☐ 3. To consider the acquisition of real property for a public purpose and matters directly related thereto;
- ☒ 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- ☐ 5. To consider the investment of public funds;
- ☐ 6. To consider the marketing of public securities;
- ☐ 7. To consult with counsel to obtain legal advice;
- ☐ 8. To consult with staff, consultants, or other individuals about pending or potential litigation;
- ☐ 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- ☐ 10. To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
 - (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans;
- ☐ 11. To prepare, administer or grade a scholastic, licensing, or qualifying examination;
- ☐ 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct; or
- ☐ 13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; or
- ☐ 14. Before a contract is awarded or bids are opened, discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- ☐ 15. Administrative Function

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

Topic:

Request to Lease Space on Eldridge Drive adjacent to the Hagerstown Industrial Park

Mayor and City Council Action Required:

Discussion:

DCED staff members will attend the March 7, 2017 Work Session of the Mayor and City Council to review a request from a sole proprietor trading as The Mulch Man, to lease a small plot of land (75 feet wide by 200 feet deep) located at 931 Eldridge Drive at the corner of Frederick Street near the Hagerstown Industrial Park.

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Final_Pkt_mulch_man.pdf

Description

Request to Lease Space on Eldridge Drive adjacent to the Hagerstown Industrial Park



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Valerie Means, City Administrator

FROM: Randy Gray, DCED Business Development Specialist

DATE: March 2, 2017

RE: Request to Lease Space on Eldridge Drive adjacent to the Hagerstown Industrial Park

DCED staff members will attend the March 7, 2017 Work Session of the Mayor and City Council to review a request from a sole proprietor trading as The Mulch Man, to lease a small plot of land (75 feet wide by 200 feet deep) located at 931 Eldridge Drive at the corner of Frederick Street near the Hagerstown Industrial Park. The following is a summary of the request and an estimate of the possible rental rate for the space.

Lease Request

- Request from owner James (Jim) Edward Harsh
- Request to continue leasing area of 75 feet wide by 200 feet deep off Eldridge Drive
- Lease term is for three years at \$375 per month/ \$4,500 per year
- Lease may be renewed at the end of three years
- If approved, lease is to commence Wednesday, March 1, 2017
- City would continue paying taxes on the property which total \$542.00 per year (City's share according to the Maryland Department of Assessment and Taxation); the parcel is not separate as noted under Additional Background below (the area used by the City Public Works is tax exempt)

Options to Consider for the Property

- Continue renting to The Mulch Man for a period less than three years
- Continue renting to The Mulch Man – with a 3 year lease
- Discontinue the lease arrangement with Mr. Harsh
- Advertise the space for lease to see if other businesses would be interested in renting
- Sell all or part of the property. The property is a single parcel, selling part would require subdivision
- Use the space for some other City need or project

**DCED staff recommends either option 1 or 2 above. Option 1 could be short term (1 year) with a possible change in direction in the future. Option 2 could have a mid-term lease renewal.*

Additional Background:

- The Mulch Man has been leasing this lot since June, 2007. Mr. Harsh originally had a lease agreement, which expired in October 2014. Initially he paid \$375/month, but was granted a reduction to \$300/mo in 2013 when he requested such based on economic hardship.
- The parcel totals a little more than one-third of an acre (.34) and is in a fenced-in area of City owned property; the area on the other side of the fence (62-plus acres) contains the City Public Works' trash transfer station.
- Director of Public Works Eric Deike believes his department would be in a difficult situation if they had to relocate the trash transfer and storage facility if the land was sold.
- The assessed value of the entire 62.9 acres is \$2,583,900.
- According to local real estate brokers, land in that area sells for approximately \$90-thousand per acre.
- Mr. Harsh does own another nearby parcel for which he pays the City \$1,035 per year in property taxes. He says it is not economically feasible to build on that site, which is used for storage.
- City Attorney review indicates this is more of a policy decision than a legal decision.

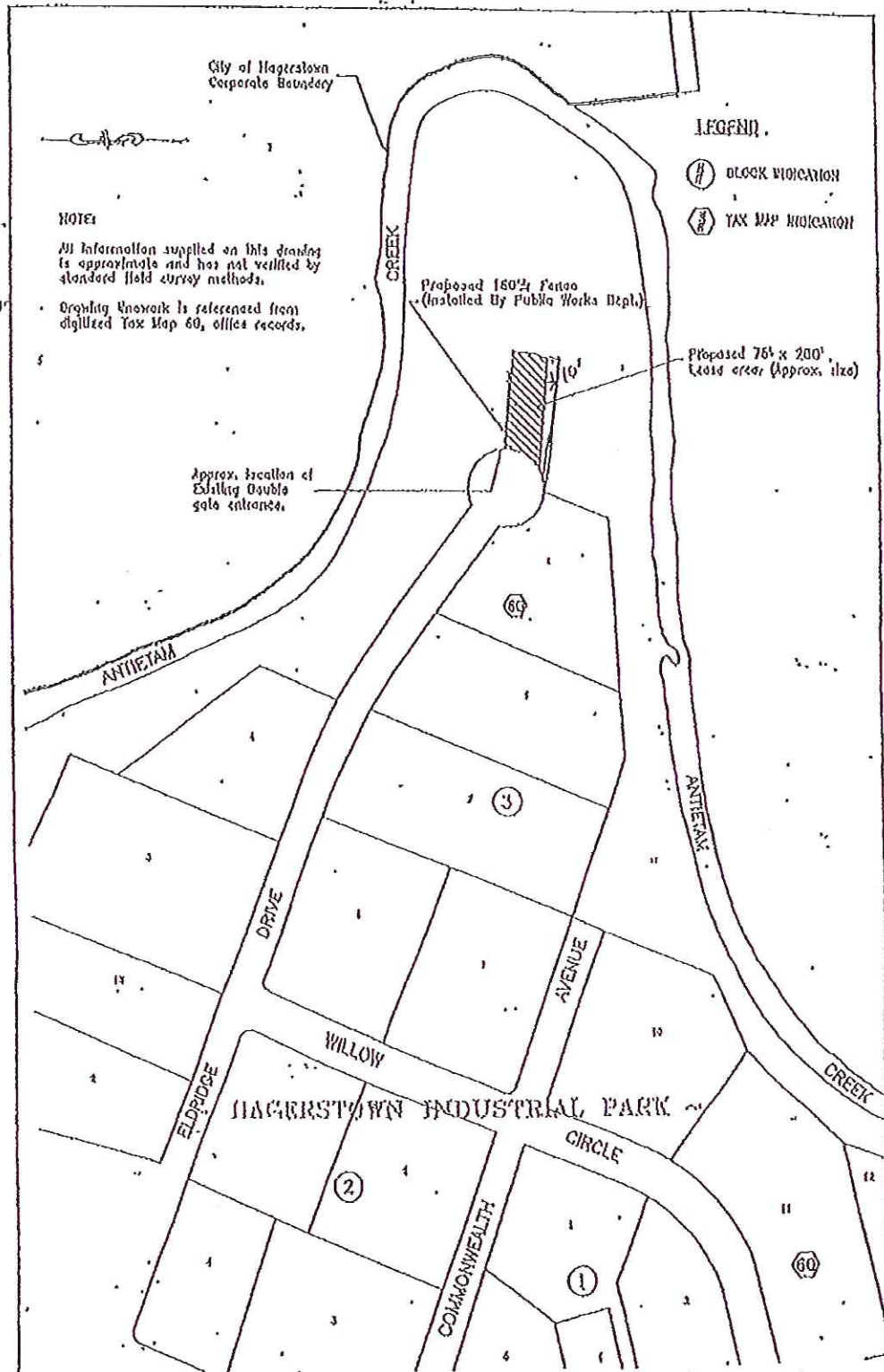
Attached: 2 color photos of site, map A/sketch 1, map B/sketch 2, map C/Eldridge Drive area, County "search" data, proposed lease; lease from December, 2013, lease that originated in June, 2007.

c: Jason Morton, Michelle Hepburn, Eric Deike, Jill Frick



ATTACHMENT A

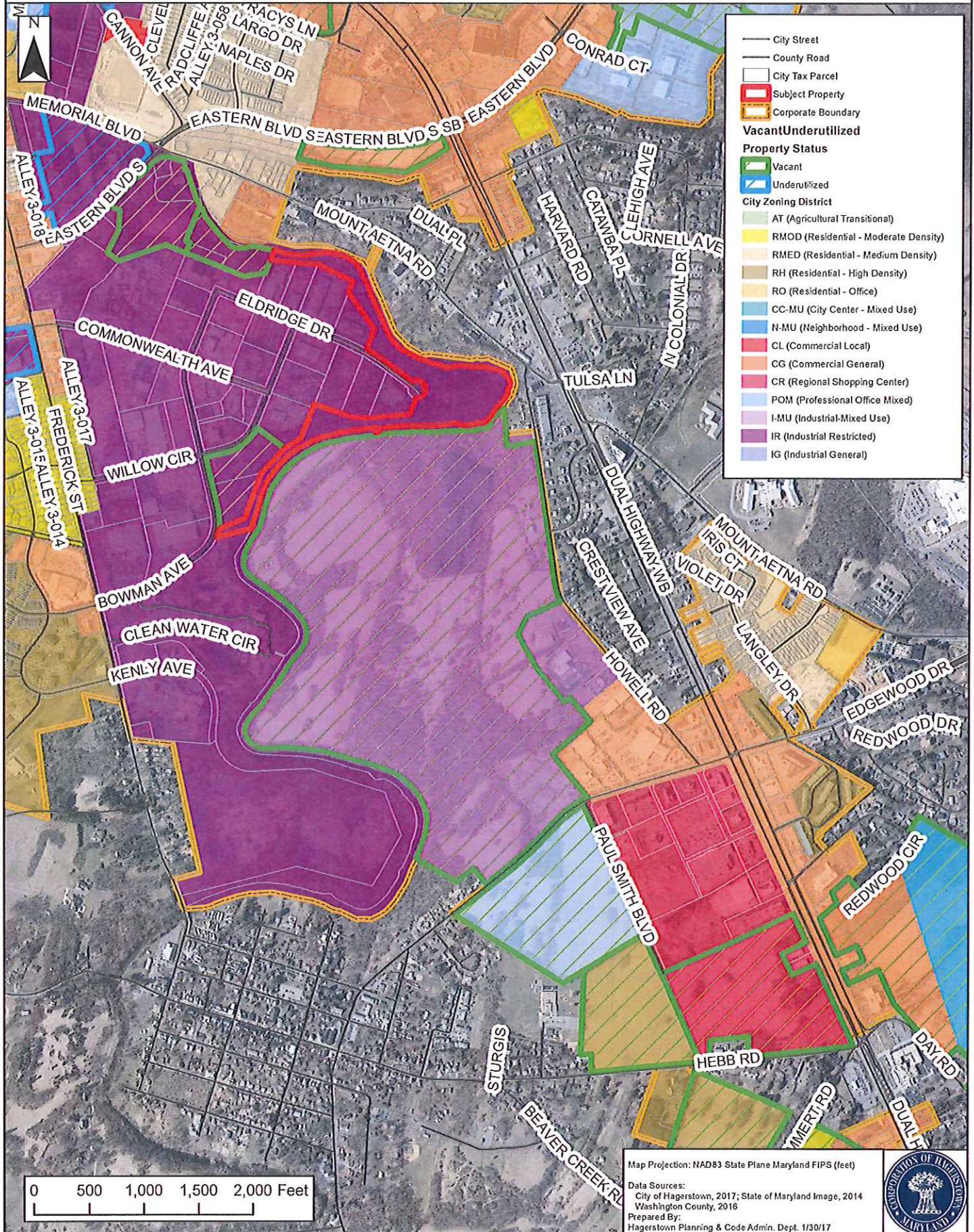
COPY



CITY OF HAGERSTOWN, MARYLAND		ENGINEERING DEPARTMENT	
PARCEL of LAND to be LEASED		BY	DATE
931 ELDRIDGE DRIVE		TWY	8-17-96
CHECKED		DRAWING No.	
APPROVED		83-669-01	
		SCALE = NONE	

R-13-35

Eldridge Dr Area



Search Result for WASHINGTON COUNTY

[Q New Search](#)

[Previous](#)

[View Map](#)

[View GroundRent Redemption](#)

[View GroundRent Registration](#)

Account Identifier: District - 17 Account Number - 022466

Owner Information

Owner Name:	HAGERSTOWN CITY OF	Use:	EXEMPT COMMERCIAL
		Principal Residence:	NO
Mailing Address:	CITY HALL	Deed Reference:	/00150/ 00751
	HAGERSTOWN MD 21740		

Location & Structure Information

Premises Address:	FREDERICK ST	Legal Description:	62.9156 ACRES
	HAGERSTOWN 21740-0000		E/S STATE RD
			FREDERICK ST

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Piat No:	3955
0315	0000	1016		0000				2017	Piat Ref:	

Special Tax Areas:	Town:	HAGERSTOWN
	Ad Valorem:	
	Tax Class:	

Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use
1985	2600		62.2700 AC	
Stories	Basement	Type	Exterior	Full/Half Bath
		LABORATORY BUILDING		

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2017	07/01/2016	07/01/2017
Land:	2,490,800	2,490,800		
Improvements	212,100	93,100		
Total:	2,702,900	2,583,900	2,702,900	2,583,900
Preferential Land:	0			0

Transfer Information

Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2016	07/01/2017
County:	650	2,702,900.00	2,583,900.00
State:	650	2,702,900.00	2,583,900.00
Municipal:	650	2,702,900.00/2,583,900.00	2,702,900.00/2,583,900.00

Draft

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO A LEASE AGREEMENT JAMES HARSH t/a
THE MULCH MAN FOR ALL THAT PARCEL OF
LAND DEPICTED ON CITY OF HAGERSTOWN ENGINEERING
DEPARTMENT DRAWING NO. 83-669-01, DATED JUNE 17, 1996**

RECITALS

WHEREAS, the City of Hagerstown owns real property located in the City and depicted on the City of Hagerstown Engineering Department Drawing No. Street, 83-669-01, dated June 17, 1996, a copy of which is attached hereto and incorporated in herein ("the Property");

WHEREAS, the Property has been leased by James Harsh, a sole proprietor trading as The Mulch Man ("Tenant"), pursuant to a Lease Agreement dated December 17, 2013;

WHEREAS, the City of Hagerstown desires to lease the Property to the Tenant, but an increased monthly rent of \$375, beginning January 1, 2017; and

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

1. That the foregoing recitals are incorporated herein as if fully set forth.
2. That the City of Hagerstown be and is hereby authorized to enter into a Lease Agreement with James Harsh, a sole proprietor, trading as The Mulch Man, for the real property depicted on the City of Hagerstown Engineering Department Drawing No. Street, 83-669-01, dated June 17, 1996, pursuant to the terms of the Lease Agreement attached hereto and incorporated herein by reference.
3. That the City of Hagerstown be and is hereby authorized to execute and deliver the Lease Agreement attached hereto, and to execute any additional documentation required to effectuate the purposes of this Resolution.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

Date of Introduction: January 31, 2017
Date of Passage: January 31, 2017
Effective Date: January 31, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this _____ day of _____, 2017, by and between the CITY OF HAGERSTOWN, MARYLAND, a Municipal Corporation existing under and by virtue of the Laws of the State of Maryland, hereinafter referred as "CITY", and JAMES HARSH, a sole proprietor, t/a THE MULCH MAN, of Hagerstown, Maryland, hereinafter referred to as "TENANT".

WITNESSETH:

THIS IS NOT A CONTRACT TO BUY OR PURCHASE NOR
IS IT AN OPTION TO BUY OR PURCHASE

NOW, THEREFORE, in consideration of the mutual covenants, terms, provisions, conditions, and limitations hereinafter contained, "CITY" and "TENANT" mutually covenant and agree as follows:

I. LEASED PREMISES

"CITY" does demise and lease unto "TENANT", and "TENANT" does hereby rent and lease and take as tenant from "CITY" as landlord, the following described premises:

All of that parcel of land more particularly shown and described on City of Hagerstown Engineering Department Drawing No. 83-669-01, dated June 17, 1996, and entitled, "Parcel of Land to be leased to The Mulch Man", (Attachment A). (The "Property" or "Premises").

Said Drawing is incorporated herein and made a part hereof by reference.

II. TERM

The term of this lease shall be for a period of three (3) years commencing on the 1st day of January, 2017, and ending and terminating without renewing on the 31st day of December, 2019, at, for and subject to the terms and conditions hereinafter set forth, unless terminated or renewed as provided for herein.

III. RENTAL

The "TENANT" shall pay a total rental amount of Four Thousand Five Hundred Dollars (\$4,500.00), payable in equal monthly installments of Three Hundred Seventy-Five Dollars (\$375.00), due on the 1st day of each month during the lease year.

IV. SECURITY DEPOSIT

There shall be no security deposit.

V. TERMINATION

This Contract shall terminate automatically on December 31, 2019, unless terminated earlier as provided herein. Tenant shall have the option to renew said Lease for one (1) year at an increased rent upon giving notice to the City at least sixty (60) days prior to termination, with the new rental amount to be negotiated by the parties. HOWEVER, if Tenant does not immediately surrender possession of the Premises upon the termination of the original term and/or any renewal term, and there is a holding over by Tenant, then and in said event, the tenancy of this lease shall be considered on a month-to-month basis, terminable by either party upon thirty (30) days written notice.

VI. USE

TENANT agrees that the area herein leased shall be utilized only for the purpose of storage of mulch and such equipment as needed for said purpose. It is agreed that said premises shall be utilized only by the "TENANT".

Additional provisions for utilization and use of the property are as follows:

A. It is expressly understood and agreed between the parties to this Agreement that the leased premises shall not be utilized as a junk yard, vehicle or fleet storage or parking, or for storage of equipment not directly related to storage of mulch.

B. "TENANT" shall not construct any permanent structures on said premises. However, "TENANT" shall be permitted to install security lighting at the property, at its sole cost and expense, upon prior approval of such plans by "CITY".

C. No objects of any kind shall be placed over any inlets or manhole covers located on the premises owned by the "CITY".

D. "TENANT" shall be responsible for controlling any and all sediment that may exist on the premises or may develop on the premises during the lease term and prevent same from entering any inlets or manholes or utility areas of the "CITY".

E. "CITY" will be given a key to be able to enter upon the premises and have complete access for purposes of maintaining, constructing, repairing and/or replacing any utilities now located or to be placed on said premises or that may be constructed.

F. "TENANT" shall be responsible for complete maintenance of the area leased, including keeping property free of trash, car parts, debris, and vegetation over 4" in height. Tenant shall maintain the fence in good condition and keep fence line clear of all vegetation 12" beyond fence.

G. "TENANT" does hereby authorize and empower "CITY", its agents, servants, employees, contractors, or representatives to come upon the premises at any time to inspect, repair, maintain, replace, improve, and operate any utilities or appurtenances or fixtures located either above or below the surface on the premises in question. If it becomes necessary for the accomplishment of work set forth in this paragraph, "TENANT" agrees to move any or all of its

property or equipment at its expense in order to allow, facilitate or to expedite the completion of this work by "CITY".

VII. HOLD HARMLESS

Tenant does hereby agree to and does assume all responsibility for the maintenance and control of the premises leased, and waives all claims now and in the future against "CITY", for personal or property damage of whatsoever nature and kind arising directly or indirectly from the use of the premises in question.

Tenant does hereby agree to carry liability insurance in the amount of \$1,000,000 on said leased premises and to have the "CITY" named as an additional insured, and to provide certificates of said insurance to "CITY".

Tenant further agrees to hold the "CITY" harmless and indemnify "CITY" against any suits, demands, claims, expenses, fines, attorney's fees, penalties or damages that may arise directly or indirectly either in law or in equity or as a result of any federal, state or county statutes, ordinances or regulations as a result of the occupancy and use by Tenant of the premises.

VIII. COMPLIANCE WITH LAWS

Tenant shall duly obey and comply with all public laws, ordinances, rules or regulations relating to the use of the leased premises. Tenant shall at its costs, obtain any necessary licenses, and/or permits of whatsoever nature or kind to allow the utilization of the premises in question by Tenant for whatsoever purpose and for the purposes set forth herein.

IX. ENVIRONMENTAL MATTERS

Tenant recognizes the fact that in the event that Tenant causes any environmental conditions or concerns (e.g. pollution) as a result of its use of the property that Tenant shall be responsible for any costs or expenses connected therewith and shall hold "CITY" harmless from same.

X. TAXES, UTILITIES

"CITY" shall pay any State, County and City property taxes on the premises during the term of this lease. Tenant shall be responsible for any other applicable taxes or fees. CITY shall not be obligated to pay any real property taxes on the premises if there is any unpaid rent at the time of receipt of said tax bills. Tenant shall be responsible for paying for any electricity, gas, heating, water, sewer and trash collection, and all other utilities except as provided herein. Tenant shall place the account for any such utilities in its name and same shall be payable directly by Tenant to the applicable utility provider.

XI. ASSIGNMENT

This lease is not assignable by Tenant. Tenant is not authorized to nor can it sublease or sublet.

XII. INSPECTION OF PREMISES

Tenant agrees that Landlord shall have the right to inspect the Premises at all reasonable times during business hours, and to place upon the Premises or Building, where Landlord shall choose, "For Sale" signs at any time during the term of this agreement. In the event that Tenant does not elect to renew this Lease at any time, and then in said event the Landlord shall have the right to place "For Rent" notices or signs upon the property if it so elects.

XIII. DEFAULT

It is further agreed and understood that in the event that any default is made either in payment of the rental fee or any other provision of this Agreement as herein provided, by Tenant, then the relationship of City and Tenant shall wholly cease and terminate without notice, at the option of the City.

The "CITY", its agents, servants, employees, contractors, representatives, or attorneys shall have and are given the absolute right to re-enter said premises and assume and take possession of the same. Tenant waives service of any notice of intention to re-enter, notice to terminate this tenancy, or notice to quit or demand for possession.

XIV. ADDITIONAL TERMINATION PROVISIONS

During the term of this Lease, in the event that the "CITY", within its absolute discretion determines that the property is needed for a public purpose or service, then and in said event, the "CITY" is hereby given the right to terminate this Lease. PROVIDED the "CITY" shall give Tenant 90 days notice in writing to terminate same. In the event of termination for said reason, any prepaid rent shall be refunded or abated on a pro rata basis for the calendar rental year.

XV. ENTIRE UNDERSTANDING

This Agreement contains the entire understanding of the parties and neither shall be bound and are not bound by any representation, warranties, promises, covenants or understandings other than those expressly set forth in this Agreement.

XVI. NOTICE

Any notice required under this Agreement shall be mailed or delivered to the parties as follows:

CITY:	City Administrator
	City of Hagerstown
	One East Franklin Street, Room 202
	Hagerstown, MD 21740

TENANT: James Harsh
t/a The Mulch Man
8859 Beagle Club Lane
Williamsport, MD 21795

XVII. MISCELLANEOUS

The headings in this Agreement are solely for the convenience and reference only, and are not intended to define or limit the scope of any provision of this Lease Agreement.

All references made, and all nouns and pronouns used herein, shall be construed in the singular or plural, and in such gender as the sense and circumstances require and shall be applicable to the parties as such sense and circumstance require.

If any part or portion of this Agreement shall be declared invalid by any court of competent jurisdiction, the remainder shall remain in full force and effect.

This Agreement is subject to and contingent on the passage of any Resolutions required as indicated, and upon adoption of this Agreement by formal action of the Mayor and Council.

THIS IS NOT A CONTRACT TO BUY OR PURCHASE
NOR IS IT AN OPTION TO BUY OR PURCHASE

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representative and designated signatories, executed this Lease Agreement the day and year first above written.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

CITY OF HAGERSTOWN

Donna K. Spickler, City Clerk

BY: _____
Robert E. Bruchey, II, Mayor

WITNESS

TENANT

James Harsh t/a The Mulch Man

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF
HAGERSTOWN TO ENTER INTO A LEASE AGREEMENT
WITH JAMES HARSH T/A THE MULCH MAN**

RECITALS

WHEREAS, the City of Hagerstown is the owner of a parcel of land designated on the City of Hagerstown engineering drawing number 83-669-01 dated June 16, 1996 entitled "Parcel of land to be leased to The Mulch Man", a copy of which is included as attachment A in the attached Lease, and

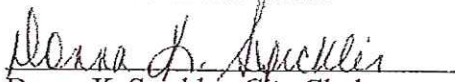
WHEREAS, the Mayor and City Council of the City of Hagerstown deem it in the best interest of the City to lease this parcel of land to James Harsh t/a The Mulch Man under terms more particularly set forth in the attached Lease Agreement.

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

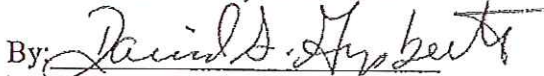
1. That the above recitals are incorporated herein.
2. That the City be and is hereby authorized to enter into the attached Lease Agreement with James Harsh t/a The Mulch Man pursuant to the terms of the Lease Agreement.
3. That the Mayor, City Clerk and/or City Administrator be and are hereby authorized to execute the foregoing Lease Agreement and any other documents necessary to effectuate the purpose of this Resolution.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL


Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

By: 
David S. Gysberts, Mayor

Date of Introduction: 10/22/2013
Date of Passage: 10/22/2013
Effective Date: 10/22/2013

PREPARED BY:
NAIRN & BOYER, CITY ATTORNEY

R-13-35

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 17th day of December 2013, by and between the City of Hagerstown, Maryland, a Municipal Corporation, existing under and by virtue of the laws of the State of Maryland, hereinafter referred as "City" and James Harsh, t/a The Mulch Man, a sole proprietorship, of Hagerstown, Maryland, hereinafter referred to as "Tenant".

RECITAL

"City" is the owner of all that parcel of land shown and designated on the City of Hagerstown Engineering Department Drawing No. 83-669-01, dated June 17, 1996, entitled "Parcel of Land to be leased to The Mulch Man, (Attachment A), which is attached hereto, incorporated herein and made a part hereof by reference.

It has been deemed by the Mayor and City Council for the City of Hagerstown, Maryland, that it would be in the best interest of the City of Hagerstown and the citizens in general to lease the parcel of land in question to the Tenant. The purpose of leasing said property is for the storage of mulch pursuant to the provisions of this Agreement.

Each and every clause, paragraph, and sentence included in this Recital is intended to be and is incorporated and made a part of the remainder of this Agreement by reference and each and every clause, paragraph, and sentence of this Agreement is made a part of this Recital.

WITNESSETH:

THIS IS NOT A CONTRACT TO BUY OR PURCHASE NOR
IS IT AN OPTION TO BUY OR PURCHASE

NOW, THEREFORE, in consideration of the mutual covenants, terms, provisions, conditions, and limitations hereinafter contained, "City" and "Tenant" mutually covenant and agree as follows:

I. LEASED PREMISES

"City" does demise and lease unto Tenant, and Tenant does hereby rent and lease and take as tenant from "City" as landlord, the following described premises:

All of that parcel of land more particularly shown and described on City of Hagerstown Engineering Department Drawing No. 83-669-01, dated June 17, 1996, and entitled, "Parcel of Land to be leased to The Mulch Man", (Attachment A). (The "Property" or "Premises").

Said Plat is incorporated herein and made a part hereof by reference.

R-13-35

II. TERM

The term of this lease shall be for a period of one year commencing on the 1st day of November 2013, and ending and terminating without renewing on the 31st day of October, 2014, at, for and subject to the terms and conditions hereinafter set forth, unless terminated or renewed as provided for herein.

III. RENTAL

The "Tenant" shall pay a total rental amount of Three Thousand Six Hundred Dollars (\$3,600.00), payable in equal monthly installments of Three Hundred Dollars (\$300.00), due on the 1st day of each month during the lease year.

IV. TERMINATION

This Contract shall terminate automatically upon the expiration of one year from the date of execution or the date of commencement set forth herein, whichever is applicable, unless terminated earlier as provided herein but Tenant shall have the option to renew for one year at the same rent upon giving notice to the City at least sixty (60) days prior to termination.

V. USE

Tenant agrees that the area herein leased shall be utilized only for the purpose of storage of mulch and such equipment as needed for said purpose. It is agreed that said premises shall be utilized only by the "Tenant".

Additional provisions for utilization and use of the property are as follows:

A. It is expressly understood and agreed between the parties to this Agreement that the leased premises shall not be utilized as a junk yard, vehicle or fleet storage or parking, or for storage of equipment not directly related to storage of mulch.

B. Tenant shall not construct any permanent structures on said premises. However, "Tenant" shall be permitted to install security lighting at the property, at its sole cost and expense, upon prior approval of such plans by "City".

C. No objects of any kind shall be placed over any inlets or manhole covers located on the premises owned by the "City".

D. Tenant shall be responsible for controlling any and all sediment that may exist on the premises or may develop on the premises during the lease term and prevent same from entering any inlets or manholes or utility areas of the "City".

E. "City" will be given a key to be able to enter upon the premises and have complete access for purposes of maintaining, constructing and repairing and/or replacing any utilities now located or to be placed on said premises or that may be constructed.

R-13-35

F. Tenant shall be responsible for complete maintenance of the area leased, including keeping property free of trash, car parts, debris and vegetation over 4" in height. Tenant shall keep fence line clear of all vegetation 12" beyond fence.

G. Tenant does hereby authorize and empower "City", its agents, servants, employees, contractors or representatives to come upon the premises at any time to inspect, repair, maintain, replace, improve, and operate any utilities or appurtenances or fixtures located either above or below the surface on the premises in question. If it becomes necessary for the accomplishment of work set forth in this paragraph, Tenant agrees to move any or all of its property or equipment at its expense in order to allow, facilitate or to expedite the completion of this work by "City".

VI. HOLD HARMLESS

Tenant does hereby agree to and does assume all responsibility for the maintenance and control of the premises leased, and waives all claims now and in the future against "City", for personal or property damage of whatsoever nature and kind arising directly or indirectly from the use of the premises in question.

Tenant does hereby agree to carry liability insurance in the amount of \$1,000,000 on said leased premises and to have the "City" names as an additional insured, and to provide certificates of said insurance to "City".

Tenant further agrees to hold the "City" harmless and indemnify "City" against any suits, demands, claims, expenses, fines, attorneys' fees, penalties or damages that may arise directly or indirectly either in law or in equity or as a result of any federal, state or county statutes, ordinances or regulations as a result of the occupancy and use by Tenant of the premises.

VII. COMPLIANCE WITH LAWS

Tenant shall duly obey and comply with all public laws, ordinances, rules or regulations relating to the use of the leased premises. Tenant shall at its costs, obtain any necessary licenses, and/or permits of whatsoever nature or kind to allow the utilization of the premises in question by Tenant for whatsoever purpose and for the purposes set forth herein.

VIII. ENVIRONMENTAL MATTERS

Tenant recognizes the fact that in the event that Tenant causes any environmental condition or concerns (i.e., pollution) as a result of its use of the property, that Tenant shall be responsible for any cost or expenses connected therewith and shall hold "City" harmless from same. Tenant shall not be responsible for any environmental conditions on the property existing prior to commencement of this lease.

IX. TAXES

The City will pay from the monthly rent the State, County and City property taxes on the leased property. The Tenant will forward the tax bills on receipt to the City. If the rent is not paid by the Tenant the City shall not be obligated to pay the taxes.

X. ASSIGNMENT

This lease is not assignable by Tenant. Tenant is not authorized to nor can it sublease or sublet.

XI. DEFAULT

It is further agreed and understood that in the event that any default is made either in payment of the rental fee or any other provision of this Agreement as herein provided, by Tenant, then the relationship of City and Tenant shall wholly cease and terminate without notice, at the option of the City.

The "City" its agents, servants, employees, contractors, representatives, or attorneys shall have and are given the absolute right to re-enter said premises and assume and take possession of same. Tenant waives service of any notice of intention to re-enter, notice to terminate this tenancy, or notice to quit or demand for possession.

XII. ADDITIONAL TERMINATION PROVISIONS

During the term of this lease, in the event that the "City" within its absolute discretion determines that the property is needed for a public purpose or service, then and in said event, the "City" is hereby given the right to terminate this lease. Provided the "City" shall give Tenant 90 days notice in writing to terminate same. In the event of termination for said reason, any prepaid rent shall be refunded or abated on a pro rata basis for the calendar rental year.

XIII. ENTIRE UNDERSTANDING

This Agreement contains the entire understanding of the parties and neither shall be bound and are not bound by any representation, warranties, promises, covenants or understandings other than those expressly set forth in this Agreement.

XIV. NOTICE

Any notice required under this Agreement shall be mailed or delivered to the parties as follows:

CITY: City Administrator
City of Hagerstown
One East Franklin Street, Room 202
Hagerstown, MD 21740

TENANT: The Mulch Man
c/o James Harsh
8859 Beagle Club Lane
Williamsport, MD 21795

R-13-35

XV. MISCELLANEOUS

The headings in this Agreement are solely for convenience and reference only, and are not intended to define or limit the scope of any provision of this Lease Agreement.

All references made, and all nouns and pronouns used herein, shall be construed in the singular or plural, and in such gender as the sense and circumstances require and shall be applicable to the parties as such sense and circumstances require.

If any part or portion of this Agreement shall be declared invalid by any court of competent jurisdiction, the remainder shall remain in full force and effect.

THIS IS NOT A CONTRACT TO BUY OR PURCHASE
NOR IS IT AN OPTION TO BUY OR PURCHASE

IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representative and designated signatories, executed this Lease Agreement the day and year first above written.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

Donna K. Spickler
Donna K. Spickler, City Clerk

WITNESS

Donna K. Spickler

CITY OF HAGERSTOWN

By: David Gysberts
David Gysberts, Mayor

TENANT

James Harsh
James Harsh

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE AUTHORIZING
THE EXECUTION OF A LEASE AGREEMENT WITH
THE MULCH MAN FOR 931 ELDRIDGE DRIVE**

WHEREAS, the City is the owner of that certain property located at 931 Eldridge Drive and utilized as an impound lot; and,

WHEREAS, the property is presently vacant; and,

WHEREAS, the City desires to lease the said property; and,

WHEREAS, James Harsh, t/a The Mulch Man, desires to lease the aforementioned premises from the City of Hagerstown for the purpose of storing mulch and materials; and,

WHEREAS, the Mayor and City Council find it in the best interests of the citizens of the City of Hagerstown to enter into the lease with James Harsh for that purpose.

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

1. That it adopts herein the foregoing recitals and authorizes the City of Hagerstown to enter into a Lease Agreement with James Harsh for the premises known as 931 Eldridge Drive, Hagerstown, Maryland pursuant to the terms of the Lease Agreement attached hereto and incorporated herein by reference.
2. That the Mayor and/or City Administrator shall be authorized to execute and deliver the Lease Agreement attached hereto and to execute any additional documentation required to effectuate the purpose of this Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this Ordinance shall become effective upon the expiration of 30 days after passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

Donna K. Spickler
Donna K. Spickler, City Clerk

MAYOR AND CITY COUNCIL OF
THE CITY OF HAGERSTOWN, MD

By: Robert E. Bruchey II
Robert E. Bruchey, II, Mayor

Date of Introduction: 4/24/07
Date of Passage: 5/01/07
Effective Date: 6/01/07

0-07-10

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 1ST day of JUNE, 2007, by and between the CITY OF HAGERSTOWN, MARYLAND, a Municipal Corporation, existing under and by virtue of the Laws of the State of Maryland, hereinafter referred as "CITY", and JAMES HARSH, t/a THE MULCH MAN, a sole proprietorship, of Hagerstown, Maryland, hereinafter referred to as "TENANT".

RECITAL

"CITY" is the owner of all that parcel of land shown and designated on the City of Hagerstown Engineering Department Drawing No. 83-669-01, dated June 17, 1996, entitled "Parcel of Land to be leased to The Mulch Man, (Attachment A), which is attached hereto, incorporated herein and made a part hereof by reference.

It has been deemed by the Mayor and City Council for the City of Hagerstown, Maryland, that it would be in the best interest of the City of Hagerstown and the citizens in general to lease the parcel of land in question to the Tenant. The purpose of leasing said property is for the storage of mulch pursuant to the provisions of this Agreement.

Each and every clause, paragraph, and sentence included in this Recital is intended to be and is incorporated and made a part of the remainder of this Agreement by reference and each and every clause, paragraph, and sentence of this Agreement is made a part of this Recital.

WITNESSETH:

THIS IS NOT A CONTRACT TO BUY OR PURCHASE NOR
IS IT AN OPTION TO BUY OR PURCHASE

NOW, THEREFORE, in consideration of the mutual covenants, terms, provisions, conditions, and limitations hereinafter contained, "CITY" and "TENANT" mutually covenant and agree as follows:

I. LEASED PREMISES

"CITY" does demise and lease unto TENANT, and TENANT does hereby rent and lease and take as tenant from "CITY" as landlord, the following described premises:

All of that parcel of land more particularly shown and described on City of Hagerstown Engineering Department Drawing No. 83-669-01, dated June 17, 1996, and entitled, "Parcel of Land to be leased to The Mulch Man", (Attachment A). (The "Property" or "Premises").

Said Plat is incorporated herein and made a part hereof by reference.

II. TERM

The term of this lease shall be for a period of one year commencing on the ____ day of _____, 2007, and ending and terminating without renewing on the ____ day of _____, 2008, at, for and subject to the terms and conditions hereinafter set forth, unless terminated or renewed as provided for herein.

III. RENTAL

The "TENANT" shall pay a total rental amount of Four Thousand Five Hundred Dollars (\$4,500.00), payable in equal monthly installment of Three Hundred Seventy-Five Dollars (\$375.00), due on the 1st day of each month during the lease year.

IV. SECURITY DEPOSIT

Tenant shall deposit with the "CITY" the amount of Three Hundred Seventy Five Dollars (\$375.00) upon the execution of this agreement to secure "TENANT'S" payment and performance of its obligation hereunder. Within 30 days after termination of the tenancy, "CITY" shall refund the security deposit to "TENANT" less any amount deducted to pay any damages sustained by City for unpaid rent, unpaid utilities or other charges, physical damage to the premises, and any extraordinary costs incurred by City as a result of "TENANTS" actions, or use of the premises.

V. TERMINATION

This Contract shall terminate automatically upon the expiration of one year from the date of execution or the date of commencement set forth herein, whichever is applicable, unless terminated earlier as provided herein.

VI. USE

TENANT agrees that the area herein leased shall be utilized only for the purpose of storage of mulch and such equipment as needed for said purpose. It is agreed that said premises shall be utilized only by the "TENANT".

Additional provisions for utilization and use of the property are as follows:

- A. It is expressly understood and agreed between the parties to this Agreement that the leased premises shall not be utilized as a junk yard, vehicle or fleet storage or parking, or for storage of equipment not directly related to storage of mulch.
- B. TENANT shall not construct any permanent structures on said premises. However, "TENANT" shall be permitted to install security lighting at the property, at its sole cost and expense, upon prior approval of such plans by "CITY".
- C. No objects of any kind shall be placed over any inlets or manhole covers located on the premises owned by the "CITY".

0-07-10

IX. ENVIRONMENTAL MATTERS

Tenant recognizes the fact that in the event that Tenant causes any environmental conditions or concerns (i.e., pollution) as a result of its use of the property, that Tenant shall be responsible for any costs or expenses connected therewith and shall hold "CITY" harmless from same. Tenant shall not be responsible for any environmental conditions on the property existing prior to commencement of this lease.

X. TAXES

It is agreed that the property is presently non-taxable by virtue of being utilized for municipal purposes. In the event that the use by Tenant for any reason causes same to be subjected to any type of tax, assessment, or levy as a result of the use, either directly or indirectly, Tenant agrees to pay same promptly upon notification by the "CITY" of said levy or assessment. If any such taxes are assessed against Tenant, Tenant shall have the right to terminate this agreement upon 30 days written notice to the City.

"CITY" agrees that it shall not levy any taxes or assessments effecting on the premises during the term of this lease.

XI. ASSIGNMENT

This lease is not assignable by Tenant. Tenant is not authorized to nor can it sublease or sublet.

XII. DEFAULT

It is further agreed and understood that in the event that any default is made either in payment of the rental fee or any other provision of this Agreement as herein provided, by Tenant, then the relationship of City and Tenant shall wholly cease and terminate without notice, at the option of the City.

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NOR IS IT AN OPTION TO BUY OR PURCHASE.**

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WITNESS AND ATTEST

AS TO CORPORATE SEAL

Donna K. Spickler
Donna K. Spickler, City Clerk

CITY OF HAGERSTOWN

By: Robert E. Bruchey, II
Robert E. Bruchey, II, Mayor

WITNESS

Michael A. Everhart

TENANT

James Harsh
James Harsh

0-07-10

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

Topic:

United States Postal Service Parking Contract Additional Information

Mayor and City Council Action Required:

The Mayor and Council tabled the approval of the United States Postal Service Contract (USPS) until they could receive additional information. The following is an attempt to answer their questions posed during the Tuesday February 28, 2017 regular work session.

Discussion:

Staff brought to council a proposed ground lease agreement with the USPS. The lease is for seventy-four (74) parking spaces in the Market House Parking Lot located at 25 W. Church St. for an initial five (5) year period. The spaces are for Postal Service employee parking.

There were two primary questions from the council. The first was to see if the Postal Service employees could park in the Church St. Parking Lot (the lot just north of the Market House Parking Lot) on Saturdays to allow for additional parking in the Market House Parking Lot.

The Church Street Parking Lot is currently leased to Potomac Building, LLC. This is essentially the main parking area for the employees that work at Social Services located at 122 North Potomac Street. Section VII, ACCESS, of that lease states the following “*Potomac Building LLC shall also allow access and free parking on the leased lot, to the general public on Saturdays, Sundays and on the holidays as observed by the Department of Social Services of the State of Maryland...*” The lease continues in Section X, ASSIGNMENT, which states “*This Agreement is not assignable. The parking spaces or parking areas or any part thereof are not to be assigned, or sublet, except as set forth in this Agreement.*”

City’s legal counsel would need to review the language but this would seem to imply that free parking of the spaces on weekends is acceptable but subletting is not. By accepting a lease with the USPS, this could be construed as subletting if they are directed in a lease to park in the Church Street Parking Lot.

Please keep in mind that parking on Saturdays is free at any metered parking location whether on the street or in a parking lot. There is also no parking enforcement on Saturdays since parking is free on the streets and lots. Parking is on a first-come, first-serve basis. Postal employees could simply park wherever they choose as there would be no enforcement to ensure they park in the Church Street Parking Lot.

The second question was in regard to paragraph 5, TERMINATION, of the proposed lease which states “*The Postal Service may terminate this Lease at any time by giving 120 days written notice to the Landlord.*” The option for the City to vacate the lease is non-existent. Council

expressed concern that the City did not have the same option especially if the Market operations were to expand.

During negotiations, the city's legal counsel expressed the same concern with the USPS representative. The response from the USPS was as follows: "*The change to Section 5 would not be feasible because Operations would not approve the five year funding commitment if the Landlord could terminate the lease unilaterally. The current agreement is already year to year but the proposed new lease would be a five year term terminable by USPS upon _____ day's written notice.*" USPS is referencing the current ground lease agreement approved by the Mayor and Council in 2001. In that lease, the agreement was year-to-year. USPS is looking to enter into a five (5) year agreement with an option to renew for an additional five (5) years.

They did allow the city to select the number of days of written notice required by the USPS for termination. The first draft of the lease had thirty (30) days and we requested one hundred twenty (120) days or about four (4) months for the city time to find other tenants.

Staff could request that the new lease continue as a year-to-year lease with termination language available by both parties. This could provide additional flexibility for the city should the operations expand at the market. It is undetermined at this time whether the USPS would be agreeable to a one (1) year lease.

The post office on West Franklin Street has no parking for Postal Service employees other than for a few supervisors. They have to seek out employee parking outside of their operations footprint. Short of closing the facility, Postal Service employee parking will be a necessity for the foreseeable future.

Maps

The council also noted it would be helpful to have a map. Attached are two maps and multiple photos to help council orient themselves to the area and to the specific parking. Map No. 1 is an overview of the area and adjacent parking to the Market House. As you can see, the Market House is outlined in YELLOW. The Church Street Parking Lot is just across the street and outlined in RED. The BLUE box represents the University District Parking Deck (UD Deck) and GREEN outlined space is the Central Parking Lot. Both the UD Deck and Central Lot are within one block of the Market House.

Map No. 2 is of just the Market Lot itself as it currently appears. There are designated parking spaces for handicap parking, Hagerstown Fire Department (HFD) personal, Washington County employees and Postal Service employees. This does not include the few spaces nestled along the building for the HFD staff or the ten (10) spaces available to the postal service employees in the alley between the Market House Lot and the Post Office. The breakdown on spaces is as follows:

Designated Parking	Number of Spaces
Total Parking Spaces	183
Hagerstown Fire Department	-8
Postal Service Employees	-20
Washington County Employees	-15
Handicap Parking	-6

Undesignated parking for Postal Service Employees	-44
Total Available Public Parking	96

On April 1, 2018, the fifteen (15) parking spaces designated for Washington County employees will revert back to public parking spaces. These fifteen (15) spaces were part of a 1998 agreement with Washington County that swapped parking spaces for property on Antietam Street. The agreement will not be renewed as the county plans to only pay for the parking they use. This will increase the total available public parking to one hundred eleven (111) spaces in the Market House Parking Lot.

The Church Street Parking Lot has one hundred twelve (112) spaces of which ninety-four (94) are leased to Potomac Building, LLC as noted earlier in this memorandum. These spaces are occupied Monday through Friday and available as free parking to the public on Saturday and Sunday.

Attached are photo pages number 1, 2 and 3 showing the Market House Parking Lot and the Church Street Parking Lot to provide some visual reference.

Potential Additional Parking

There are some potential additional areas that could increase parking availability. Adjacent to the Church Street Parking Lot is a gravel area owned by the City Light Department. The area is framed by alleys 1-137 and 1-138. The area has been set aside for a potential electrical substation. Public Works currently uses the space to haul snow from the downtown as necessary.

The lot has direct access from the Church Street Parking Lot and is fenced along the alleys. There appears to be enough space to park approximately twenty-four (24) vehicles. See photo page no. 5.

Further to the east, there is another stretch of property along alley 1-139 that is also owned by City Light. The potential is for another dozen vehicles to park at this location. See photo page no. 6.

The Director of Utilities, Mike Spiker, is agreeable to allowing these spaces to be used for parking should the need arise. Staff could sign the areas for parking if this becomes a viable option.

There is also the possibility of using private parking spaces. In the Parking Management Plan of 2012 commissioned by the City of Hagerstown there is a recommendation of utilizing private parking to enhance parking availability without incurring the costs of constructing new parking spaces. The city could enter into agreements with private property owners to use their existing parking spaces by renting their parking lots.

To the southeast of the Market House are several privately owned parking lots. At the rear of the Broad Axe and Hagerstown Construction Services is private parking consisting of thirty four (34) parking spaces. To the east of that lot is another nine (9) spaces owned by John Wesley United Methodist Church plus potentially more spaces further to the east. See photo page no.7.

Staff has not approached any private property owner for the potential of renting space. If initially the Market remains primarily a Saturday operation whereas it closes at noon or even shortly

thereafter, these private lots could potentially serve as overflow parking if these businesses and church are not in operation on Saturday morning.

Parking is currently available a bit further out with spaces along North and South Potomac Street. The UD Deck can easily be accessed less than one block away by walking the alleys or the Market House walk to Franklin St. and through the Franklin Plaza to the rear of the deck that provides over three hundred fifty (350) spaces every Saturday. The Central Lot is only a few steps further sitting across the street from the deck.

Financial Impact:

The lease agreement calls for an annual lease amount of Forty Thousand Dollars and No Cents (\$40,000.00) for the initial five year lease. The amount would rise to Forty Two Thousand Dollars and No Cents (\$42,550.00) per year during the five year renewal. Overall, the lease agreement has a value of Four Hundred Twelve Thousand Seven Hundred Fifty Dollars and No Cents (\$412,750.00) over a ten year period.

Recommendation:

Staff would make the following recommendations:

1. Direct the vendors at the Market to park in the Church Street Parking Lot on Saturdays. They can off load their goods and wares on site but their vehicle needs to park across the street. The spaces should be available for the customer's convenience and pleasant shopping experience.
2. Install additional signs on the Market House Parking Lot and the Church Street Parking Lot to educate everyone of the overflow parking across from the Market.
3. Be ready to negotiate with the private property owners to rent parking space should the need arise.
4. Work with the Hagerstown Fire Department to ensure that disruption to parking is kept at a minimum especially on a Saturday. A HFD trailer currently stored on site could possibly be stored elsewhere to provide additional parking space.

The Post Office has no employee parking on site. They are a major employer and anchor in the downtown requiring seventy four (74) parking spaces. An alternative solution for their employee parking is limited if not non-existent.

The initial agreement with the USPS is for five (5) years. By that time, there should be a good indication of where the Market operations are headed and the potential for expansion. Either way, the Post Office has a parking need that only the City of Hagerstown can meet at this time.

Motion:

NA

Action Dates:

NA

ATTACHMENTS:

File Name

USPS_additonal_information_on_contract_questions.pdf

Description

USPS Parking Contract
Additional Information



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

(301)739-8577 ext. 178

March 2, 2017

To: Valerie Means, City Administrator

From: Eric B. Deike, Director of Public Works *EAD*

Re: United States Postal Service Parking Contract
Additional Information

Action Requested

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There is also the possibility of using private parking spaces. In the Parking Management Plan of 2012 commissioned by the City of Hagerstown there is a recommendation of utilizing

private parking to enhance parking availability without incurring the costs of constructing new parking spaces. The city could enter into agreements with private property owners to use their existing parking spaces by renting their parking lots.

To the southeast of the Market House are several privately owned parking lots. At the rear of the Broad Axe and Hagerstown Construction Services is private parking consisting of thirty four (34) parking spaces. To the east of that lot is another nine (9) spaces owned by John Wesley United Methodist Church plus potentially more spaces further to the east. See photo page no.7.

Staff has not approached any private property owner for the potential of renting space. If initially the Market remains primarily a Saturday operation whereas it closes at noon or even shortly thereafter, these private lots could potentially serve as overflow parking if these businesses and church are not in operation on Saturday morning.

Parking is currently available a bit further out with spaces along North and South Potomac Street. The UD Deck can easily be accessed less than one block away by walking the alleys or the Market House walk to Franklin St. and through the Franklin Plaza to the rear of the deck that provides over three hundred fifty (350) spaces every Saturday. The Central Lot is only a few steps further sitting across the street from the deck.

Financial Impact

The lease agreement calls for an annual lease amount of Forty Thousand Dollars and No Cents (\$40,000.00) for the initial five year lease. The amount would rise to Forty Two Thousand Dollars and No Cents (\$42,550.00) per year during the five year renewal. Overall, the lease agreement has a value of Four Hundred Twelve Thousand Seven Hundred Fifty Dollars and No Cents (\$412,750.00) over a ten year period.

Recommendation

Staff would make the following recommendations:

1. Direct the vendors at the Market to park in the Church Street Parking Lot on Saturdays. They can off load their goods and wares on site but their vehicle needs to park across the street. The spaces should be available for the customer's convenience and pleasant shopping experience.
2. Install additional signs on the Market House Parking Lot and the Church Street Parking Lot to educate everyone of the overflow parking across from the Market.
3. Be ready to negotiate with the private property owners to rent parking space should the need arise.
4. Work with the Hagerstown Fire Department to ensure that disruption to parking is kept at a minimum especially on a Saturday. A HFD trailer currently stored on site could possibly be stored elsewhere to provide additional parking space.

The Post Office has no employee parking on site. They are a major employer and anchor in the downtown requiring seventy four (74) parking spaces. An alternative solution for their employee parking is limited if not non-existent.





The initial agreement with the USPS is for five (5) years. By that time, there should be a good indication of where the Market operations are headed and the potential for expansion. Either way, the Post Office has a parking need that only the City of Hagerstown can meet at this time.

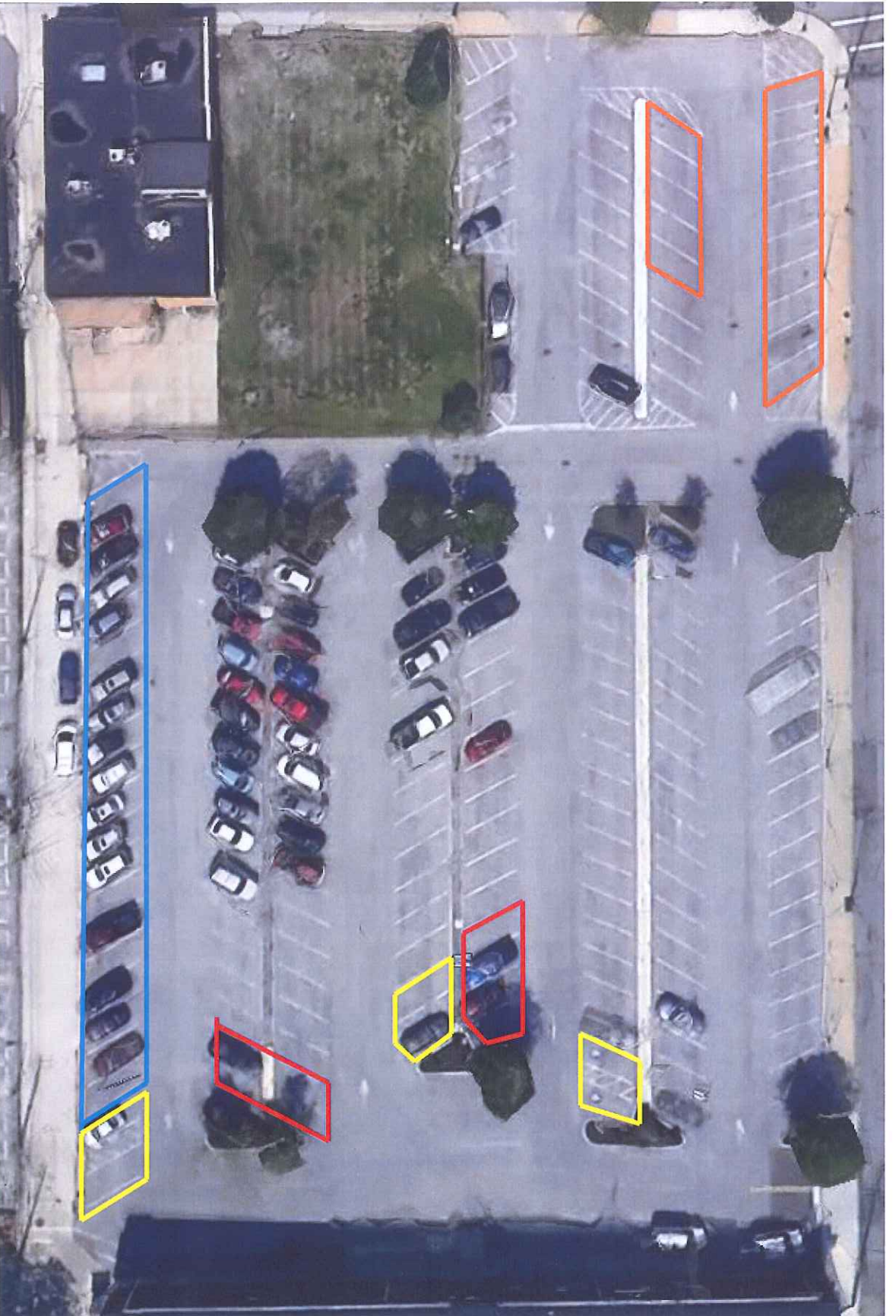
Staff looks forward to continuing this discussion with the Mayor and Council.

Cc: M. Hepburn
J. Rodgers
S. Lohr
J. Morton



MAP NO. 1: Overhead View of Downtown Hagerstown Including the Market House

-  Church Street Parking Lot (Red)
-  Market House Parking Lot (Yellow)
-  University District Parking Deck (Blue)
-  Central Parking Lot (Green)



MAP NO. 2: Market House Parking Lot

- Hagerstown Fire Dept. Personnel Designated Parking (Red)
- Designated parking for Postal Employees (Blue)
- Designated parking for WashCo Employee Parking (Rust)
- Designated Handicap Parking (Yellow)



PHOTO PAGE NO. 1: Market House looking west, face of the building, lot sign



PHOTO PAGE NO. 2: Market House, alley 1-136



PHOTO PAGE NO. 3: Market House lower lot, permit parking for Washington County employees



PHOTO PAGE NO. 4: Church Street Parking Lot



PHOTO PAGE NO. 5: Gravel lot congruent to the Church Street Parking Lot



PHOTO PAGE NO. 6: Gravel space along alley 1-139 at 28 W. Church Street



PHOTO PAGE NO. 7: Private property parking near Market House

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

Topic:

8TH SPECIAL SESSION

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Approval of an Ordinance: City of Hagerstown 2017 General Obligation Bonds

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

03.07.17_Motion_and_Adopt_of_Ordinance_2017_Bonds.pdf

Description

Motion and Adopt Ordinance
2017 Bonds

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 7, 2017

TOPIC: Adoption of an Ordinance: City of Hagerstown 2017 General
Obligation Bonds

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

MOTION:

I hereby move to adopt an enabling ordinance authorizing City of Hagerstown to issue and sell from time to time, upon its full faith and credit, general obligation bonds in one or more series in an aggregate principal amount not to exceed \$7,320,000. Proceeds of the bonds will be used to pay costs of the projects identified in Section 3(b) of the ordinance. Proceeds (par amount) are allocated by fund as follows:

General Fund	\$4,793,526
Water Fund	1,106,474
Wastewater Fund	1,300,000
Property Management Fund	<u>120,000</u>
Total	\$7,320,000

That portion of principal, interest and any allocated issuance costs associated with the Water Fund, the Wastewater Fund and the Property Management Fund will be payable in the first instance from revenues accounted for in those respective funds, but the bonds will be backed by a pledge of the City's full faith and credit and unlimited taxing power.

Staff is hereby directed to work with the City's Financial Advisor and Bond Counsel to determine the best financing options for the City, and to develop the necessary detailed resolution and other documents required to prepare for the sale of the bonds as contemplated by the ordinance. As specified in the ordinance, details and authorizations regarding the amount, timing, method of sale or sales, and other sale details will be outlined in a detailed resolution to be presented to this body for approval at a future date prior to the issuance of the bonds.

The ordinance also authorizes the issuance and sale from time to time, upon the City's full faith and credit, of (i) general obligation bond anticipation notes in one or more

series in an aggregate principal amount not to exceed \$7,320,000 to fund project costs on an interim basis, and (ii) general obligation refunding bonds in an aggregate principal amount not to exceed 130% of the aggregate principal amount of the bonds being refunded, in order to reduce debt service costs or achieve debt service restructuring. Details of any such general obligation bond anticipation notes or general obligation refunding bonds are authorized to be determined or provided for by resolution.

DATE OF INTRODUCTION: 02/28/2017

DATE OF PASSAGE: 03/07/2017

EFFECTIVE DATE: 04/07/2017

ORDINANCE NO. O-17-

AN ORDINANCE authorizing and empowering City of Hagerstown (the “City”) to issue and sell general obligation bonds in one or more series from time to time in an aggregate principal amount not to exceed Seven Million Three Hundred Twenty Thousand Dollars (\$7,320,000), the proceeds of the sale thereof to be used and applied for the public purposes of financing, reimbursing or refinancing costs (as defined in this Ordinance) of the projects identified herein as (i) General Fund – (A) Fire Department Replacement Vehicles, (B) City Park Lake Improvements, (C) Public Works Vehicles, (D) Public Works Operations Center Improvement Program, (E) Alley Reconstruction, (F) Prospect Street Wall, (G) Parks Vehicles and Equipment, (H) Marsh Run Walls Rehabilitation, (I) Downtown Redevelopment: MD Theatre, and (J) Vehicle Lifts; (ii) Water Fund – (A) Willson Treatment Plant, (B) Edgemont Reservoir Improvements, (C) Distribution System Rehabilitation - Main Replacement, and (D) Water System SCADA Improvements; (iii) Wastewater Fund – (A) Collection System Rehabilitation, (B) Sludge Storage Phase I Improvement (aka Synagro Facilities Improvements), and (C) Grinder Pump Replacement Program; and (iv) Property Management Fund – Elizabeth Hager Center; specifying the maximum principal amount of the bonds and the bond anticipation notes provided for herein to be allocated to such projects, subject to reallocation by the City in accordance with applicable budgetary procedures or law; determining that each series of the bonds be sold by the solicitation of competitive bids at public sale, unless by resolution the Council of the City (the “Council”) provides for the sale of any series of the bonds by negotiation at private sale without solicitation of competitive bids; authorizing the Council to determine or provide by resolution for various matters relating to the authorization, sale, security, issuance, delivery, payment and redemption of and for each series of the bonds, including the specific projects to be funded from such series of the bonds; authorizing the issuance and sale of general obligation bond anticipation notes in one or more series from time to time in an aggregate principal amount not to exceed Seven Million Three Hundred Twenty Thousand Dollars (\$7,320,000), prior to and in anticipation of the sale of any of the bonds authorized hereby, in order to fund project costs on an interim basis; authorizing the issuance and sale of general obligation bonds in one or more series from time to time in order to refund any of the bonds issued pursuant to the authority of this Ordinance (including paying costs of issuance and interest on such refunding bonds), provided that the aggregate principal amount of any such series of refunding bonds does not exceed one hundred thirty percent (130%) of the aggregate principal amount of the bonds refunded therefrom; authorizing the Council to determine or provide by resolution for various matters relating to any such bond anticipation notes or refunding bonds, and providing that any such series of bond anticipation notes or refunding bonds will be sold by private (negotiated) sale unless the Council provides otherwise by resolution; pledging the City’s full faith and credit and unlimited taxing power to payment of debt service on each series of the bonds, the bond anticipation notes and the refunding bonds authorized hereby (individually or collectively, the “obligations”) and providing for the imposition of ad valorem taxes sufficient for such purposes; providing that an allocable portion of debt service on the obligations may be

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payable in the first instance from Water Fund, Wastewater Fund or Property Management Fund revenues to the extent available for such purpose, as applicable; providing that the principal of and interest on the obligations also may be paid from any other sources of revenue lawfully available to the City for such purpose; providing that certain actions may be taken or provided for by resolution in connection with the reissuance of any obligation; providing that any of the bonds, bond anticipation notes or refunding bonds authorized hereby may be consolidated with any bonds, bond anticipation notes and/or refunding bonds authorized by the Council and issued as a single series of bonds, bond anticipation notes and/or refunding bonds, as applicable; authorizing, empowering and directing officials and employees of the City to take certain actions in connection with the obligations; authorizing modifications of the obligations to be made by resolution unless another action is required; providing that this title be deemed a fair summary of this Ordinance for all purposes; providing that the provisions of this Ordinance shall be liberally construed; and otherwise generally relating to the sale, issuance, delivery and payment of and for the obligations.

RECITALS

1. City of Hagerstown, a municipal corporation of the State of Maryland (the “City”) and a municipality within the meaning of the Enabling Act, the Bond Anticipation Note Act and the Refunding Act identified below, is authorized and empowered by Sections 19-301 to 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland (previously codified as Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland), as replaced, supplemented or amended (the “Enabling Act”), and Sections 717 and 719 of the Charter of the City of Hagerstown, as replaced, supplemented or amended (the “Charter”), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds.

2. The City has determined to undertake the public purpose projects identified in Section 3 of this Ordinance.

3. The City has determined to authorize the issuance from time to time of one or more series of its general obligation bonds in order to finance, reimburse or refinance all or a

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portion of the costs of any of the public purpose projects identified in Section 3 of this Ordinance.

4. The City has determined that each series of the general obligation bonds authorized hereby shall be sold by the solicitation of competitive bids at public sale unless the financial advisor to the City and the Director of Finance of the City (the “Director of Finance”) recommend that it would be more advantageous to the City to sell any such series by negotiation at private sale without solicitation of competitive bids due to fluctuating market conditions, the size of the issue, the ability to time the market and the ability to negotiate with potential purchasers in order to obtain a beneficial interest rate or rates and other beneficial terms, in which such case by resolution of the Council of the City (the “Council”) the City may provide for the sale of any such series of the bonds by negotiation at private sale without solicitation of competitive bids.

5. Prior to issuing any one or more series of the general obligation bonds authorized hereby, the City may need to obtain interim financing in order to finance or reimburse applicable project costs on a timely basis through the issuance from time to time of general obligation bond anticipation notes in one or more series pursuant to the authority of Sections 19-211 to 19-223, inclusive, of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 12 of Article 31 of the Annotated Code of Maryland), as replaced, supplemented or amended (the “Bond Anticipation Note Act”).

6. Subsequent to the issuance of any general obligation bonds provided for herein, the City may desire to currently refund or advance refund all or a portion of such bonds through the issuance from time to time of one or more series of its general obligation refunding bonds

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pursuant to the authority of Section 19-207 of the Local Government Article of the Annotated Code of Maryland (previously codified as Section 24 of Article 31 of the Annotated Code of Maryland), as replaced, supplemented or amended (the “Refunding Act”).

7. The City has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of the principal of and interest on the bonds, the bond anticipation notes and the refunding bonds authorized hereby; provided that, debt service on such obligations shall be payable in the first instance from the sources described in Section 9(b) of this Ordinance, to the extent lawfully available for such purposes, unless otherwise provided by the Council by resolution.

8. The City has determined to issue any series of the bonds, the bond anticipation notes and the bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council pursuant to the authority of the Enabling Act, the Bond Anticipation Note Act, the Refunding Act, Sections 717 and 719 of the Charter and this Ordinance, as applicable.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF CITY OF HAGERSTOWN, THAT:

SECTION 1. (a) The Recitals to this Ordinance are deemed a substantive part of this Ordinance and are incorporated by reference herein. Capitalized terms used in the Sections of this Ordinance and not otherwise defined herein shall have the meanings given to such terms in the Recitals.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter, the code of ordinances of the City (the “City Code”)

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or other applicable law or authority to act in such titled official's stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting capacity under the Charter, the City Code or other applicable law or authority, (iii) to any person who serves in a "deputy", "associate" or "assistant" capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the Charter, the City Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

(c) References in this Ordinance to the "principal amount" of any of the Bonds, the BANs, the Refunding Bonds or the Obligations (each as defined herein) shall be construed to mean the par amount of such Bonds, BANs, Refunding Bonds or Obligations, as applicable.

SECTION 2. Pursuant to the authority of the Enabling Act, Sections 717 and 719 of the Charter and any other applicable law, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing costs (as defined in Section 3(b) hereof) of the Projects identified in Section 3(b) hereof.

SECTION 3. (a) To evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the City, acting pursuant to the authority of the Enabling Act, Sections 717 and 719 of the Charter and any other applicable law, hereby determines to issue and sell from time to time, in one or more series, upon its full faith and credit, its general obligation bonds in an aggregate principal amount not to exceed Seven Million Three Hundred Twenty Thousand Dollars

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(\$7,320,000) (collectively, the “Bonds”). Any series of the Bonds may be issued as one or more bonds and any such bond may be issued in installment form and/or draw-down form.

(b) With respect to the projects listed below, the word “costs” as used in Section 2 hereof shall include, as applicable, costs of the following activities and expenses: land and right-of-way acquisition and development; site and utility improvements, including, without limitation, grading, landscaping, paving, sidewalk, curb, gutter, storm water, water, and sewer improvements, and related or similar activities and expenses; demolition, razing and removal and related or similar activities and expenses; acquisition, construction, expansion, reconstruction, replacement, renovation, rehabilitation, improvement, installation, furnishing and equipping activities and expenses, and related or similar activities and expenses; planning, design, engineering, architectural, feasibility, surveying, bidding, permitting, inspection, construction management, financial, legal and administrative activities and expenses, and related or similar activities and expenses; costs of issuance (which may include costs of bond insurance or other credit or liquidity enhancement); interest during construction and for a reasonable period thereafter (whether or not expressly so stated); and any such costs that may represent the City’s share or contribution to the financing, reimbursement or refinancing of costs of any such project. The maximum aggregate principal amount of the Bonds (or the BANs, as identified in Section 7 hereof) to be appropriated or applied to the costs of such projects (exclusive of any premium realized upon sale or investment earnings that may be applied for such purposes) shall be allocated among the following public purpose projects in the maximum principal amount set forth opposite each, except as otherwise herein provided:

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	<u>Project Description</u>	<u>Maximum Principal Amount</u>
<u>General Fund</u>		
1	Fire Department Vehicle Replacement	\$1,250,000
2	City Park Lake Improvements	1,100,000
3	Public Works Vehicles	306,000
4	Public Works Operations Center Improvement Program	160,326
5	Alley Reconstruction	769,000
6	Prospect Street Wall	155,540
7	Parks Vehicles and Equipment	80,000
8	Marsh Run Walls Rehabilitation	397,660
9	Downtown Redevelopment: MD Theatre (1)	500,000
10	Vehicle Lifts	75,000
	General Fund Subtotal	\$4,793,526
<u>Water Fund</u>		
11	Willson Treatment Plant	\$ 124,474
12	Edgemont Reservoir Improvements	357,000
13	Distribution System Rehabilitation - Main Replacement	550,000
14	Water System SCADA Improvements	75,000
	Water Fund Subtotal	\$1,106,474
<u>Wastewater Fund</u>		
15	Collection System Rehabilitation	\$ 200,000
16	Sludge Storage Phase I Improvement (2)	1,000,000
17	Grinder Pump Replacement	100,000
	Wastewater Fund Subtotal	\$1,300,000
<u>Property Management Fund</u>		
18	Elizabeth Hager Center	\$ 120,000
	Property Management Fund Subtotal	
	TOTAL	<u>\$7,320,000</u>

(1) The MD Theatre is a component of a project identified in the Capital Improvement Program for fiscal years 2017 through 2021 as “Downtown Redevelopment”; by appropriate action the Council has determined to apply proceeds of the Bonds (or of any applicable BANs) to such component of the overall project.

(2) The project name identified in this line item is the name used in the Capital Improvement Program for fiscal years 2017 through 2021 as of the date of introduction of this Ordinance. The City also commonly refers to such project as “Synagro Facilities Improvements”, and it is anticipated that such project shall be referred to as “Synagro Facilities Improvements” or by a similar name in subsequent Capital Improvement Programs and City budget materials.

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The projects identified in line items 1-18 above are collectively referred to herein as the “Projects”. Except as indicated in the footnotes above, the Projects described in line items 1 through 18 above are identified by approximately the same names and fund references as such Projects are identified in City budget materials. The City, without notice to or the consent of any registered owners of the Bonds (or the registered owners of any of the BANs, as applicable), may reallocate the maximum principal amount of the Bonds (and of any of the BANs, as applicable) (exclusive of any premium realized upon sale or investment earnings that may be applied for such purposes) to be spent among any of the Projects identified herein in compliance with applicable budgetary procedures or applicable law. Further, it is the intention of the City that proceeds of the Bonds (or of any of the BANs, as applicable) may be spent on any applicable costs (as defined above) relating to the Projects, notwithstanding the descriptive names for such Projects in the table above, including, without limitation, costs related to changes in the scopes of and/or names of any of the Projects identified above effected through applicable budgetary procedures or applicable law.

(c) In the event the City issues any series of the BANs pursuant to Section 7 of this Ordinance, proceeds of the Bonds of any series in anticipation of which such BANs were issued may also be applied to prepay or pay principal, premium and/or interest on such series of the BANs in accordance with the provisions of the Bond Anticipation Note Act, and such application shall be deemed the payment of “costs” for purposes of this Ordinance.

SECTION 4. The proceeds of the Bonds shall be used and applied by the City exclusively and solely for the public purposes described in Section 3 of this Ordinance, unless a

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supplemental ordinance is enacted by the City to provide for the use and application of such proceeds for some other proper public purpose authorized by the Enabling Act, the Charter or other applicable law; provided that, no such supplemental ordinance shall be required if changes in the scope of or name of any Project are otherwise made as contemplated in Section 3(b) of this Ordinance.

SECTION 5. Pursuant to the authority of the Enabling Act, Sections 717 and 719 of the Charter and any other applicable law, the City hereby determines that it is in the best interests of the City to sell each series of the Bonds by the solicitation of competitive bids at public sale unless pursuant to the Resolution (as defined in Section 6 hereof), based on the recommendation of the financial advisor to the City and the Director of Finance that it would be more advantageous to the City to sell any series of the Bonds by negotiation at private sale without solicitation of competitive bids due to fluctuating market conditions, the size of such series of the Bonds, the ability to time the market and the ability to negotiate with potential purchasers in order to achieve a beneficial interest rate or rates and other beneficial terms, the Council provides for the sale of any series of the Bonds by negotiation at private sale without solicitation of competitive bids.

SECTION 6. Pursuant to the authority of the Enabling Act, Sections 717 and 719 of the Charter, any other applicable law and this Ordinance, the Council, prior to the sale, issuance and delivery of each series of the Bonds, shall adopt a resolution or resolutions (in each such case and, collectively, the “Resolution”) specifying, prescribing, determining or providing for the determination of, providing for, approving, or providing for the approval of, such matters, details, forms (including, without limitation, the forms of the Bonds of such series and the form

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of notice of sale of such series of the Bonds, or, if such series of the Bonds are to be sold by negotiation at private sale without solicitation of competitive bids, any bond purchase agreement or any similar agreement with the purchaser or purchasers of such series of the Bonds, if deemed necessary or desirable), documents or procedures as may be required by the Enabling Act, the Charter, any other applicable law or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or redemption of or for such series of the Bonds. The Resolution shall set forth, determine or provided for the determination of, approve or provide for the approval of, among other matters, as applicable, the designation of such series of the Bonds; the date of issuance of such series of the Bonds; the aggregate principal amount of such series of the Bonds; the denominations of such series of the Bonds; the maturity or maturities of such series of the Bonds; the principal installments (including, without limitation, serial maturities and/or mandatory sinking fund installments) payable on such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, payable on such series of the Bonds, which may be fixed or variable; provisions for the payment of late fees, additional interest and/or penalties payable with respect to such series of the Bonds and/or adjustments to interest rates in appropriate circumstances; the purchase price payable for such series of the Bonds; provisions relating to the redemption or prepayment of such series of the Bonds at the City's option or by mandatory sinking fund payments; provisions allowing the registered owners such series of the Bonds to put or cause the redemption or prepayment of the Bonds of such series at their option; the components of the Projects (and related maximum principal amounts) on which the proceeds of such series of the Bonds shall be expended and provisions for appropriation, disposal and investment of such proceeds; provisions

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for the application of unexpended proceeds, any premium paid upon sale and/or investment earnings on such series of the Bonds of such series, which may include, without limitation, on costs of the Projects or on debt service payable on such series of the Bonds, to the extent permitted by applicable law; the procedure for the sale of such series of the Bonds by the solicitation of competitive bids at public sale, unless the Resolution shall provide for the sale of such series of the Bonds by negotiation at private sale without solicitation of competitive bids; the selection of any bond registrar, paying agent, investment bidding agent or other appropriate service providers in connection with such series of the Bonds; certifications, representations, determinations, designations or elections relating to the tax-exempt or taxable status of interest payable on such series of the Bonds; and all other terms and conditions pursuant to which such series of the Bonds will be sold, issued and delivered. Among other matters, the Council, pursuant to the Resolution, may authorize, approve or otherwise provide for (i) payment of any commitment fee or similar fee and any other costs (including other parties' legal costs) payable in connection with any series of the Bonds and any compensation payable to the purchaser of such series of the Bonds in the event the City fails to deliver such series of the Bonds, (ii) the obtaining of credit enhancement or liquidity enhancement for any series of the Bonds (and the execution and delivery of any agreements or documents relating thereto), and (iii) any other agreements, documents, instruments or determinations necessary or desirable to enhance the marketability of or as security for any series of the Bonds, including, without limitation, any ratings, any official statement or similar disclosure document or any continuing disclosure undertaking required to satisfy the requirements of Securities and Exchange Commission Rule 15c2-12. References to providing for determinations or approvals or similar matters pursuant to

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the Resolution shall be construed to permit the Council to delegate to one or more officials the authority to make or provide on behalf of the City any of the determinations, approvals or other decisions contemplated by this Section 6. Any Resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized in this Section 6 for more than one series of the Bonds.

SECTION 7. (a) Pursuant to the authority of the Bond Anticipation Note Act, Sections 717 and 719 of the Charter and any other applicable law, the City is hereby authorized and empowered to issue and sell, upon its full faith and credit, its general obligation bond anticipation notes in one or more series from time to time in an aggregate principal amount not to exceed Seven Million Three Hundred Twenty Thousand Dollars (\$7,320,000) (collectively, the “BANs”), prior to and in anticipation of the sale of any series of the Bonds, for the public purpose of financing or reimbursing costs of the Projects (within the meaning of Section 3 hereof) on an interim basis. Any such series of the BANs may consist of one or more notes and any note may be issued in installment form and/or draw-down form. Prior to the sale, issuance and delivery of each series of the BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Act, the Charter, any other applicable law and this Ordinance authorizing such series of the BANs and specifying, prescribing, determining or providing for the determination of, providing for, approving, or providing for the approval of, with respect to such series of the BANs, the same types of matters, details, forms, documents, procedures or determinations detailed in Section 6 hereof that may be made or addressed with respect to each series of the Bonds, to the extent applicable with respect to such series of the BANs, and as otherwise may be authorized or required by applicable law. Unless the Council determines

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otherwise in a resolution providing for any series of the BANs, pursuant to the authority of the Bond Anticipation Note Act, each series of the BANs shall be sold by private negotiation. Any such sale at private sale is hereby determined to be in the public interest due to the ability to time the market, negotiate with potential purchasers and thereby achieve a beneficial interest rate or rates and other beneficial terms by undertaking a sale by private negotiation and, with respect to a private sale that involves a private placement with a bank, the lower costs of issuance typically incurred with such a private placement. By resolution the Council may delegate to one or more City officials the authority to make any final determinations, approvals or decisions with respect to a series of the BANs. Any resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized by this Section 7 for more than one series of the BANs.

(b) The City hereby covenants (i) to pay from the proceeds of one or more series of the Bonds the principal of any series of the BANs actually issued, (ii) to the extent that interest on any series of the BANs is not paid from proceeds of the BANs, the interest on such series of the BANs, and (iii) to issue the applicable series of the Bonds as soon as there is no longer a reason for deferring its issuance. This covenant shall not be construed to prevent the City from paying principal of and/or interest on any series of the BANs from sources of funds other than proceeds of the Bonds, to the extent such other proceeds are available for such purpose.

(c) As authorized by the Bond Anticipation Note Act, by resolution the Council may provide for the renewal of any series of the BANs at maturity with or without resale, together with any amendments or modifications to such series of the BANs and any related documentation.

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SECTION 8. Pursuant to the authority of the Enabling Act, the Refunding Act, Sections 717 and 719 of the Charter and any other applicable law, the City is hereby authorized and empowered to issue and sell from time to time, in one or more series, upon its full faith and credit, its general obligation bonds (collectively, the “Refunding Bonds”) for the purpose of currently refunding or advance refunding in whole or in part any of the Bonds authorized hereby then outstanding, including paying all or any portion of the following: outstanding principal, any redemption or prepayment premium, and/or interest accrued or to accrue to the date or dates of redemption, prepayment, purchase or maturity of the Bonds to be refunded, costs and expenses incurred in connection with the sale, issuance and delivery of such Refunding Bonds, and, to the extent determined by the Council by resolution, interest on such Refunding Bonds, for the public purpose of (A) realizing savings in the total cost of debt service on a direct comparison or present value basis, or (B) debt restructuring that reduces the total cost of debt service or is determined by the Council to be in the best interests of the City, to be consistent with the City’s long-term financial plan, and to realize a financial objective of the City, including improving the relationship of debt service to any source of payment such as taxes, assessments or other charges, or for any other purpose then authorized by the Refunding Act or other applicable law, and as to be determined by resolution of the Council; provided that, the aggregate principal amount of any such series of the Refunding Bonds shall not exceed one hundred thirty percent (130%) of the outstanding aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any such bond may be issued in installment form and/or draw-down form. Prior to the sale, issuance and delivery of each series of the Refunding Bonds, the Council shall adopt a resolution or resolutions pursuant to the authority of the Refunding

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Act, the Charter, any other applicable law and this Ordinance authorizing such series of the Refunding Bonds and specifying, prescribing, determining or providing for the determination of, providing for, approving, or providing for the approval of, with respect to such series of the Refunding Bonds, the same types of matters, details, forms, documents, procedures or determinations detailed in Section 6 above that may be made or addressed with respect to each series of the Bonds, to the extent applicable with respect to such series of the Refunding Bonds, and as otherwise may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution providing for any series of the Refunding Bonds, pursuant to the authority of the Refunding Act, each series of the Refunding Bonds shall be sold at a private sale, without soliciting bids. Any such sale on a private basis is hereby determined to be in the public interest due to the ability to time the market, negotiate with potential purchasers and thereby achieve a beneficial interest rate or rates and other beneficial terms (including restructuring terms, if applicable) by undertaking a private (negotiated) sale and, with respect to a sale by private negotiation that involves a private placement with a bank, the lower costs of issuance typically incurred in such a private placement. By resolution the Council may delegate to one or more City officials the authority to make any final determinations, approvals or decisions with respect to a series of the Refunding Bonds. Any resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized by this Section 8 for more than one series of the Refunding Bonds.

SECTION 9. (a) The full faith and credit and unlimited taxing power of the City are hereby pledged to the prompt payment of the principal of and interest on each series of the Bonds, the BANs or the Refunding Bonds, as applicable (collectively, the “Obligations”), when

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due and to the imposition of the taxes hereinbelow described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of each series of the Obligations. Subject to the further provisions of this Section 9, the City hereby covenants with the registered owners of the Obligations of each series to impose ad valorem taxes on all real and tangible personal property in the City that is subject to assessment for unlimited municipal taxation at a rate and in an amount sufficient to pay the principal of and the interest on the Obligations in each fiscal year in which any of the Obligations are outstanding and to take any further action that may be lawfully appropriate from time to time during the period that the Obligations of such series remain outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon. If the proceeds from the taxes so levied in any such fiscal year are inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up such deficiency.

(b) Notwithstanding the provisions of subsection (a) of this Section 9, that portion of the principal of and interest on any series of the Obligations allocated to the costs of the Projects identified in line items 11 to 14, inclusive, under the subheading “Water Fund” in Section 3(b) of this Ordinance, together with allocable costs of issuance (if applicable), shall be payable in the first instance from revenues accounted for in the Water Fund, to the extent available for such purpose; that portion of the principal of and interest on any series of the Obligations allocated to the costs of the Projects identified in line items 15 to 17, inclusive, under the subheading “Wastewater Fund” in Section 3(b) of this Ordinance, together with allocable costs of issuance (if applicable), shall be payable in the first instance from revenues accounted for in the Wastewater Fund, to the extent available for such purpose; and that portion of the principal of

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and interest on any series of the Obligations allocated to the costs of the Project identified in line item 18 under the subheading “Property Management Fund” in Section 3(b) of this Ordinance, together with allocable costs of issuance (if applicable), shall be payable in the first instance from revenues accounted for in the Property Management Fund, to the extent available for such purpose; in each case unless otherwise provided in a resolution of the Council. To the extent of any funds received or receivable as described in the first sentence of this Section 9(b) in any fiscal year, the taxes hereby required to be imposed in accordance with subsection (a) of this Section 9 may be reduced proportionately.

(c) The foregoing provisions shall not be construed so as to prohibit the City from paying the principal of and interest on the Obligations of any series from the proceeds of the sale of any other obligations of the City or from any other funds legally available for that purpose (including, without limitation, with respect to any BANs, from the proceeds of any Bonds and, with respect to any Bonds, from the proceeds of any Refunding Bonds). Within the limitations of any applicable Maryland or federal law (including, without limitation, the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder), the City may apply to the payment of the principal of or interest on the Obligations of any series any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the City for the purpose of assisting the City in accomplishing the types of projects which the Obligations of such series are issued to finance or refinance or are otherwise available for such purpose, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be imposed may be reduced proportionately.

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(d) By resolution, the Council may provide that all or a portion of the principal of and interest on any series of the Obligations may be payable in the first instance from any other source or sources designated in such resolution, to the extent such moneys are available for such purpose.

SECTION 10. By resolution, the Council may make any appropriate arrangements (including, without limitation, by authorizing one or more appropriate officials to make any elections, designations, determinations or filings on the City's behalf) in the event any right of the registered owner of an Obligation to put or cause the prepayment or redemption of such Obligation at its option, or any change in the interest rate of an Obligation, or any other modification to an Obligation could lead to a reissuance of such Obligation for purposes of the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

SECTION 11. By resolution the Council may determine that any of the Bonds, the BANs or the Refunding Bonds authorized hereby may be consolidated with any bonds, bond anticipation notes and/or refunding bonds authorized by the Council and issued as a single series of bonds, bond anticipation notes and/or refunding bonds, as applicable.

SECTION 12. By resolution the Council may make or authorize any modifications to (i) any series of the Obligations once issued, and (ii) any related documentation, certificates or instruments, unless under applicable law the proposed modifications require action by ordinance in addition to or in place of a resolution.

SECTION 13. The Mayor of the City (the "Mayor"), the City Administrator of the City, the Director of Finance, the City Clerk of the City, as appropriate, and all other appropriate officials and employees of the City are hereby authorized, empowered and directed to (i) take any and all

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action necessary to complete and close the sale, issuance and delivery of the Bonds, the BANs and the Refunding Bonds authorized hereby, (ii) negotiate, approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection with any such sale, issuance and delivery, and (iii) carry out the transactions contemplated by this Ordinance and any resolution adopted in furtherance of this Ordinance.

SECTION 14. The title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 15. The provisions of this Ordinance shall be liberally construed in order to effectuate the transactions contemplated by this Ordinance.

SECTION 16. This Ordinance shall become effective at the expiration of thirty (30) calendar days following the date of its approval by the Mayor or its passage by the Council over the Mayor's veto in accordance with Charter Sections 208 and 209, subject to the petition-to-referendum rights set forth in Section 210 of the Charter.

[CONTINUED ON FOLLOWING PAGE]

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INTRODUCED before the Council on the _____ day of _____, 2017,
and passed _____ [as introduced] _____ [as amended] by the Council by a vote of
_____ yeas, _____ nays and _____ abstentions on the _____ day of
_____, 2017.

Donna K. Spickler, City Clerk

(SEAL)

Approved by the Mayor this _____ day of _____, 2017.

Robert E. Bruchey, II, Mayor

Effective: _____, 2017 (31st day after date of Mayor's approval, unless the
effective date is determined in accordance with other applicable provisions of the Charter)

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

Topic:

Approval of a Resolution: Ground Lease Agreement with United States Postal Service for Portion of the Market House Parking Lot

(Tabled 02/28/2017 - A motion to remove from table must be made to discuss this item)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Resolution_-_Ground_Lease_with_Postal_Service.pdf

Description

Resolution - Parking Lease
with U. S. Postal Service

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 7, 2017

TOPIC: Approval of a Resolution: Authorizing the Approval of a Ground Lease Between the City of Hagerstown and United States Postal Service (Postal Service) for a Portion of the Market House Parking Lot, Hagerstown, Maryland for Postal Service Employee Parking

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

MOTION: I move to take from the table the motion relating to the approval of a resolution authorizing the approval of a Ground Lease with the United States Postal Service (Postal Service) for a portion of the Market House Parking Lot for Postal Service employee parking.

DATE OF INTRODUCTION: March 7, 2017

DATE OF PASSAGE: March 7, 2017

EFFECTIVE DATE: March 7, 2017

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE APPROVAL OF A GROUND LEASE
BETWEEN THE CITY OF HAGERSTOWN AND
UNITED STATES POSTAL SERVICE (POSTAL SERVICE)
FOR A PORTION OF THE MARKET HOUSE PARKING LOT, HAGERSTOWN, MARYLAND
FOR POSTAL SERVICE EMPLOYEE PARKING**

RECITALS

WHEREAS, the City of Hagerstown currently owns real property located at the corner of Jonathan and Church Streets in Hagerstown, Washington County, Maryland and known as the Market House Parking Lot; and

WHEREAS, a portion of said property has been utilized by the United States Postal Service ("Postal Service") for seventy-four (74) paved parking spaces for its employees, pursuant to a lease which has expired; and

WHEREAS, the Postal Service has requested, and the City of Hagerstown desires to enter into a new lease to permit Postal Service employees to continue to use seventy-four (74) paved parking spaces at the said premises; and

WHEREAS, the Postal Service desires to enter into a five (5) year ground lease beginning March 1, 2017, with one (1) five-year renewal option available to it, with the option, if exercised, concluding on February 28, 2027; and

WHEREAS, the Mayor and Council of the City of Hagerstown find it to be in the best interests of the citizens of the City of Hagerstown to do so;

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

1. That the City shall rent to the Postal Service seventy-four (74) paved parking spaces for its employees at the Market House Parking Lot, pursuant to the Ground Lease, which consists of three (3) pages total, plus an additional three (3) pages of "General Conditions", all of which are attached hereto and incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Ground Lease attached hereto to the Postal Service.
3. That the Mayor be and is hereby authorized to execute and deliver any other necessary documentation in order to effectuate the purpose of this Resolution.

BE IT FURTHER RESOLVED THAT this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: *March 7, 2017*
Date of Passage: *March 7, 2017*
Effective Date: *March 7, 2017*

Prepared by:
SALVATORE & MORTON, LLC
City Attorneys

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

Topic:

5:10 P.M.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

5:15 P.M.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates: