

Mayor and Council Executive Session, Special Session (26th Voting Session), and Work Session November 16, 2021 Agenda

"The City of Hagerstown will promote a diverse, business-friendly, and sustainable community with clean, safe, and strong neighborhoods."

"The City of Hagerstown shall be the model provider of the most efficient and highest quality customer services to be known as the municipal location of choice for all"

**The agenda and meeting packet is available
at www.hagerstownmd.org/government/agenda**

"The ability of a group of people to do remarkable things hinges on how well those people can pull together." -Simon Sinek

EXECUTIVE SESSION

1. **The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.**

3:00 PM 2. Executive Session Agenda

4:00 PM SPECIAL SESSION

1. Approval of Revised Application and Guidelines for the Historic City Farmers Market
2. Approval of Incentive for City Farmer's Market Vendors
3. Introduction of an Ordinance: Authorizing the Sale of Property Located at 25 W. Church Street, Hagerstown, Maryland
4. Approval of a Resolution: Lease Agreement with The Foundry Pop-Ups LLC for the Property Located at 6 N Potomac Street

4:00 PM WORK SESSION

4:10 PM 1. Proclamation: Small Business Saturday

4:15 PM 2. Proclamation: Transgender Day of Remembrance

4:20 PM 3. Preliminary Agenda Review

4. Public Art Projects Update - *Rodney Tissue, City Engineer*

4:45 PM 5. Wheaton Park Improvement Concepts ~ *Rodney Tissue, City Engineer*

6. FY23 Imagine Hagerstown ~ *Kitty Clark, Community Events Coordinator*

5:15 PM 7. American Recovery Plan Act - Project Review ~ *Scott Nicewarner, City Administrator; Michelle Hepburn, Chief Financial Officer; Brooke Garver, Accounting Manager; and Stacey Pierre-Louis, Grants Administrator*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

The Mayor and Council will meet in Open Session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Executive Session Agenda

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

November_16__2021_Executive_Session.pdf

Description

Executive Session Agenda



EXECUTIVE SESSION

MAYOR & CITY COUNCIL

NOVEMBER 16, 2021

AGENDA

3:00 p.m. EXECUTIVE SESSION

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, (#1)
**Hagerstown Planning Commission Membership*
2. 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*
3. To consult with legal counsel to obtain legal advice; (#7)
**Review of potential contract*

***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: November 16, 2021

PLACE: Room 407, 4th floor, City Hall

TIME: 3:00 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 one 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

EXECUTIVE SESSION AGENDA

City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617

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

Topic:

Approval of Revised Application and Guidelines for the Historic City Farmers Market

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move for the Mayor and City Council approval of the attached revised Application and Guidelines for the Historic City Farmers Market, dated November 16, 2021. Staff may make administrative edits from time to time with the approval of the City Administrator.

Action Dates:

DATE OF INTRODUCTION: 11/16/2021

DATE OF PASSAGE: 11/16/2021

EFFECTIVE DATE: 11/16/2021

ATTACHMENTS:

File Name

111621_MCC_SS_FM_Guideline_Changes.pdf

Description

111621_Approval Revised
Guidelines Farmers Marker

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: November 16, 2021

TOPIC: **Approval of Revised Application and Guidelines for the Historic City Farmers Market**

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

MOTION: I hereby move for the Mayor and City Council approval of the attached revised Application and Guidelines for the Historic City Farmers Market, dated November 16, 2021. Staff may make administrative edits from time to time with the approval of the City Administrator.

DATE OF INTRODUCTION:	11/16/2021
DATE OF PASSAGE:	11/16/2021
EFFECTIVE DATE:	11/16/2021



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

Dear Vendor,

Thank you for your services as a vendor at the Historic City Farmers Market.

Attached are the (1) Hagerstown Hold Harmless Agreement; and (2) Historic City Farmers Market Guidelines, both revised as of November 16, 2021. An extra copy of each document is being provided to you at the time of your signature.

As a condition of your remaining a vendor, please counter-sign this letter and return it to me by November 27, 2021.

Again, thank you for interest in the City Farmers' Market. If you have any questions or concerns, please call 240-675-5965 or email cmiller@hagerstownmd.org.

Sincerely,

CITY OF HAGERSTOWN

Cathleen Miller
Farmers Market Coordinator
240-675-5965
cmiller@hagerstownmd.org

I have read, fully understand, and agree to abide by the Historic City Farmers Guidelines (revised as of November 16, 2021), as well as any future additions, modifications and/or amendments to these Guidelines. I understand that my failure to comply with any and all Guidelines may result in the loss of all Market privileges, and termination of the Vendor Agreement.

Printed Name of Vendor:

Printed Name of Person Signing:

Signature

Date

14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
301-739-8577 ext 111 DCED@hagerstownMD.org



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

Dear Prospective Vendor,

Thank you for your interest in becoming a vendor at the Historic City Farmers Market. ~~The application and guidelines are attached.~~

Attached are the (1) Vendor Application and Agreement; (2) Hagerstown Hold Harmless Agreement; and (3) Market Guidelines, both revised as of November 16, 2021. An extra copy of each document is being provided to you at the time of your signature.

The Historic City Farmers Market is an indoor, year-round, rent-free market located at 25 West Church Street. It offers booth space to vendors who sell locally grown and locally produced products. The Market hours are from 6 am-12 pm every Saturday.

When filling out the application, please be specific about your products and list all of the items you intend to sell at the Market. We ask for photographs of your items and of your merchandising setups so that we can understand your product.

Again, thank you for interest in the City Farmers' Market. We look forward to reviewing your application. If you have any questions or concerns, please call 240-675-5965 or email cmiller@hagerstownmd.org.

Sincerely,

City of Hagerstown

Cathleen Miller
Farmers Market Coordinator
240-675-5965
cmiller@hagerstownmd.org

Rev. November 16, 2021

**City of Hagerstown, Maryland
Historic City Farmers Market**

VENDOR APPLICATION and AGREEMENT

Please complete this application in full. Market staff will review the entire application and notify you when a decision has been made on your application.

Date: _____ Desired Market Start Date: _____

Name: _____

Name of Business (if applicable): _____

Address: _____

City/State/Zip: _____

Phone: _____ Cell: _____

Email: _____

Website: _____

Social Media: _____

Maryland Business Registration #: _____
(Number from Department of Assessments & Taxation)

Check the vendor categories that apply to the products you intend to sell:

☐ **Farmer** (grows and/or produces agricultural products)

☐ **Farmer Representative** (resells agricultural products that have been purchased directly from farmers; representatives must be able to show verification of purchase from farmer, including name and contact information of farmer)

☐ **Artisan Foods** (hand-crafted products such as cheese, bread, preserves, beverages, baked goods)

☐ **Ready-to-Eat Food** (locally prepared, including meals prepared at Market)

☐ **Flowers/Plants** (cut or living plants)

☐ **Arts and Crafts** (handcrafted items)

Do you intend to cook in the Market House? ____ Yes ____ No

Do you wish to be placed on the wait list for a hood space? ____ Yes ____ No

Number of Booth Spaces Desired: No. of 6 ft lengths ____ No. of 3 ft lengths ____

Will you require electrical use at your stall? ____ Yes ____ No

If YES, please explain what for: _____

List any other equipment you intend to use at the Market House:

List all the products you intend to sell. Attach additional pages if necessary. We encourage the submission of photographs to show your products. Vendors are only permitted to sell that which is listed on this application.

Why do you want to sell your products at the City Market?

Are the items you intend to sell at the market made and/or grown by you?

If not, where and by whom are they made or grown? Do they contain local products or components? Are they unique from products found in retail stores? Please describe fully.

Are you able to supply products year-round?

Please tell us ways in which you intend to promote your business.

REQUIRED ATTACHMENTS:

- ☐ Photos of the products you intend to sell and photos of your booth setup at other events, if available.
- ☐ Hold Harmless Agreement (signed)
- ☐ Copy of current Washington County Health Department Permit (if applicable)
- ☐ Copy of Maryland Sales and Use Tax License
- ☐ Certificate of Insurance (food vendors only)

We will notify you when we have made a decision on your application.

I have read, fully understand, and agree to abide by the Historic City Farmers Market ~~Rules and Regulations~~ Guidelines (attached to this application), as well as any future additions, modifications and/or amendments to the Guidelines. I understand that my failure to comply with any and all ~~Rules and Regulations~~ Guidelines may result in the loss of all Market privileges, and termination of the Vendor Agreement.

Signature

Date

This application becomes an accepted Agreement when countersigned by the City of Hagerstown.

City of Hagerstown
Cathleen Miller

Date

Return this application and the Hold Harmless Agreement to:

Cathleen Miller, Farmers Market Coordinator
cmiller@hagerstownmd.org
14 N. Potomac St., Suite 200A
Hagerstown, MD 21740

Rev. ~~January, 2021~~ November 16, 2021

**CITY OF HAGERSTOWN
HOLD HARMLESS AGREEMENT**

Lessee/User Vendor: _____
Event/Use: Hagerstown City Farmers' Market
Location: 25 W. Church St. (Market House) and ~~all related special~~ any future Market locations
Dates of Use: Saturday (Market Days) and all other special Market times

The ~~Lessee/User~~ Vendor agrees that it shall indemnify the City of Hagerstown and Hagerstown City Farmers' Market and hold harmless the City of Hagerstown and Hagerstown City Farmers' Market against any and all fines, suits, claims, demands, expenses, actions, losses, alleged losses, or liabilities of whatsoever nature or kind incurred either directly or indirectly either in law or equity, paid, suffered or incurred as a result of the acts, activities, or omissions of the ~~Lessee/User~~ Vendor, its agents, servants, or employees, due to the operation and use of the premises. It is further agreed that the ~~Lessee/User~~ Vendor shall in addition to holding the City of Hagerstown and Hagerstown City Farmers' Market harmless from any and all liabilities or damage or injury to both persons and property, occurring as a result of the use of said premises, shall defend The City of Hagerstown and Hagerstown City Farmers' Market at ~~Lessee's/User's~~ Vendor's expense against any and all claims, suits, demands, of whatsoever nature or kind.

~~Lessee/User~~ Vendor: _____
(print)

Signed: _____
(signature)

Address: _____

Email: _____

Telephone: _____

Witness: _____

Return to:

Cathleen Miller
Farmers Market Coordinator
14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
cmiller@hagerstownmd.org

Historic City Farmers Market

~~Application and~~ Guidelines

Rental Rates

1. The Historic City Farmers Market is a rent free market. Booth space is assigned on a first come, first served basis, at no charge.

Allowed Market Products

2. The City Market provides the community with the opportunity to shop for a wide variety of locally grown and produced products. We accept vendors selling:
 - o Locally grown fruits and vegetables
 - o Locally raised meat
 - o Locally baked goods
 - o Locally made artisan foods
 - o Local dairy products
 - o Handcrafted arts and crafts items
 - o Locally prepared, ready-to-eat food (including meals prepared at the Market)
3. Vendors may only sell those items specified on their application. Vendors wishing to make changes to the products they sell must notify the Market Staff in writing by filling out a "Vendor Communication & Change Form" (attached). These changes must be approved by Market Staff BEFORE the new changes may be implemented. Each vendor is limited to TWO changes in inventory per calendar year. Frequencies greater than 2 will be reviewed by Market Staff.

Criteria for Selection of Vendors

4. The following criteria will be used to select vendors for the Market:
 - o Proposed products fit in one or more of the following categories:
 - i. **Farmer:** grows and/or produces agricultural products
 - ii. **Farmer Representative:** resells agricultural products that have been purchased directly from farmers; representatives must be able to show verification of purchase from farmer, including name and contact information of farmer
 - iii. **Artisan Foods:** hand-crafted products including cheese, bread, preserves, beverages, baked goods
 - iv. **Ready-to-Eat Food:** locally prepared, including meals prepared at Market
 - v. **Flowers/Plants:** cut or living plants
 - vi. **Arts and Crafts:** handcrafted items
 - o Availability of products throughout the year
 - o Community needs
 - o Uniqueness of the product
 - o The manner in which the product will be presented
 - o Ability of vendor to promote their business

Market Hours of Operation

5. Market hours are 6:00 am-12:00 pm, every Saturday, year round.

6. All vendors are required to be at Market between 8:00 am and 12:00 pm and have the option of being present from 6:00-8:00 am..

Booth Assignment

7. Booths are assigned at no cost to vendors for Saturdays only. Booths are assigned on a first come, first served basis. Vendors may request particular booths and Market Staff will try to accommodate requests.
8. As a courtesy, the City permits vendors to leave things at the Market House during the week. All merchandise left at the Market House shall be removed from top of booth or covered at conclusion of business hours. No merchandise shall be left uncovered on top of booths.
9. Vendors may be required to remove their merchandise from booths if the City needs the space for an event held at a time other than Saturdays, 6 am-12pm. Vendors will be given at least 1 week's notice to remove their merchandise if this is required. The City is not responsible for vendors' wares if they are not removed.
10. Stalls are not transferable. Allowing adjacent vendors use of a Market stall when absent is not permitted, unless approved by Market Staff. If use of empty stall is allowed by Market Staff, unassigned booths must be cleared within 24 hours of notice from Market Staff.
11. Vendors bringing children under the age of 12 to Market must keep them in their own stall area, unless accompanied by an adult.

Booth Relocation

12. The City reserves the right to relocate a vendor from one stall to another. Vendor will be notified verbally and in writing of such a move and provided with a reason for the move.

Booth Termination

13. The City reserves the right to terminate the Vendor Agreement for violation of the Market ~~Rules and Regulations~~ Guidelines. Vendor will be notified verbally and in writing of termination and provided with reason for termination.

14. The City reserves the right to terminate Vendor Agreements at any time, and for any reason, with at least 30-days' notice. Vendor will be notified verbally and in writing of termination. Vendor shall remove all of its equipment, wares and supplies from the Market on or before the expiration of the thirty (30) day period, or such items will be disposed of by the City.

- 13,15. The City reserves the right to suspend or discontinue the operation of the Farmer's Market. In the event the City suspends or discontinues the Farmer's Market, the City will terminate all Vendor Agreements with at least 30-days' notice, and all Vendors shall remove their equipment, wares and supplies in accordance with Paragraph 14, above.

- 14,16. Except as set forth in Paragraphs 14 and 15, in the event of termination of Vendor Agreement for any reason, all property shall be removed by the vendor within twenty-four (24) hours of receipt of notice to so remove. If not removed, the City shall dispose of said property in whatever manner it deems appropriate at vendor's cost.

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Prohibited Activities / Activities Requiring Permission

- ~~15-17.~~ Solicitation or electioneering of any kind, including campaigning, distribution of election or religious literature, or panhandling, is not permitted in the Market House, loading dock, or within five feet of the Market House Door.
- ~~16-18.~~ Vendors are required to make all sales at their assigned booth area. Selling outside the Market House (in parking lot or on loading dock) is prohibited, except with permission from Market Staff.
- ~~17-19.~~ Alcoholic beverages are not allowed on the premises at any time.
- ~~18-20.~~ Fastening or affixing things to walls is prohibited, except by permission from Market Staff.
- ~~19-21.~~ Defacing, damaging, or theft of City property shall not be permitted and shall result in loss of Market privileges and/or legal action.

Attendance Policy

- ~~20-22.~~ Vendors are permitted up to 6 absences per year. After 6 absences, vendors may be asked to leave the Market.
- ~~21-23.~~ Vendors must notify Market Staff of absences in advance. After two 2 weeks of consecutive absences without notification, the booth may be considered abandoned and provided to another vendor.
- ~~22-24.~~ Vendors are permitted to have substitutes tend their booths in their absence, and should notify Market Staff of this situation. In the event of absence, and without a substitute person tending the booth, vendors must place a sign on their stall notifying customers when they expect to return to Market.

Market House Maintenance, Cleanliness, and Booth Displays

- ~~23-25.~~ Vendors are responsible for maintenance and cleanliness of their booth and booth area, including floors. Vendors shall keep vendor areas in a neat, clean, and sanitary condition.
- ~~24-26.~~ All places where food is stored, sold, sampled, or handled shall be maintained and operated in a sanitary manner in accordance with applicable local, state, and federal regulations.
- ~~25-27.~~ All stall tops are to be covered with a cloth or plastic-type covering (not newspaper or contact paper).
- ~~26-28.~~ Product displays and signage must be within designated vendor space and may not impede access to adjoining booths or pedestrian access in the walkways. All aisles must be kept open and clear.
- ~~27-29.~~ All trash (including food trash) must be placed in the outside dumpster at the end of the market day. The dumpster key is available in the Market House by the sinks nearest the

women's bathroom. Vendors who do not remove their trash may be charged for vermin control or be expelled from the Market.

~~28-30.~~ All recycling must be placed in the recycling containers inside the Market House.

~~29-31.~~ Hand-sinks must be kept clean by adjoining stall renters. Do not allow any food items or residue to remain in sinks. Towel and soap dispensers must be kept clean.

~~30-32.~~ The maintenance worker on duty during Market hours is there to maintain the Market house. The maintenance worker cannot assist individual vendors in loading or unloading vehicles.

~~31-33.~~ In the event of pest control fogging, vendors will be given notice of fogging no later than the preceding Saturday, and all stalls must be covered by the vendor for the fogging. Market Staff will not cover exposed stalls, and the City is not responsible for vendors' wares if they are not covered.

Parking, Unloading, Loading

~~32-34.~~ All vehicles must be unloaded and moved from the loading dock area immediately upon unloading and no later than 8:00 am.

~~33-35.~~ Long-term parking in the fire lane behind Market building is not allowed. Please obey all posted signs.

~~34-36.~~ Market cart shall be returned to the front of the Market as soon as merchandise has been carted to the stall. Carts shall be kept at individual stalls or on the loading dock.

~~35-37.~~ Vendors using their own hand carts and wagons are asked to use the hooks to hold doors open, rather than pushing their carts/wagons into the door.

Security

~~36-38.~~ The Market House doors are programmed to unlock at 5:55 am and to lock at 12:00 pm each Saturday.

~~37-39.~~ It is the responsibility of vendors to ensure that Market House doors are closed properly when leaving the building.

~~38-40.~~ Key fobs are available upon request and approval by City staff for vendors who need necessary, regular, and frequent access to the Market House outside of Market hours (e.g., weekly re-stocking of perishables, pre-cooking). Other vendors who require occasional access to the Market House outside of Market hours may contact Market Staff to arrange to be met at the Market House.

A request form to obtain a key fob must be completed by vendor and will be reviewed by City staff. Upon approval, a signed vendor key fob form is required, prior to issuance of the fob. Key fobs are not guaranteed for every vendor.

The Department of Community and Economic Development reserves the right to request the return of the key fob. A key fob is not to be shared with other vendors, family members, or

friends. Only the person who has signed the Farmers Market agreement is allowed in the building outside of Market hours.

Health Permit

[39-41.](#) All vendors selling food items shall comply with all applicable Health Department Regulations. Please contact the Washington County Health Department directly about obtaining a permit:

Washington County Health Department
Environmental Health Division
1302 Pennsylvania Avenue, Hagerstown, MD 21742
240-313-3400

The Health Permit needs to be kept current and displayed at all times in your stall in the Market. A copy of the permit needs to be provided to Market Staff.

Cooking and Fire Safety

[40-42.](#) The Market currently has three hood spaces for on-site cooking. If you are interested in cooking on-site, please note that you will need one of these hood spaces (a wait list is maintained) or you will need to show Market Staff that you have gained approval from the Hagerstown Fire Marshal to use alternate cooking methods inside the Market House.

[41-43.](#) All vendors cooking at the Market shall comply with all Fire Safety Codes.

Please contact the Fire Marshal directly to ensure compliance:

Hagerstown City Fire Marshal's Office
25 Church Street, Hagerstown, MD 21740
301-790-2476

Business Requirements

[42-44.](#) All vendors shall comply with state and county business regulations, as set forth by the Maryland Department of Assessments and Taxation (business registration), the Maryland Comptroller's Office (sales tax collection), and the Washington County Circuit Court (trader's license). Specific details about Business Registration, Sales Tax Collection, and Trader's Licenses can be found on the attached **BUSINESS RESOURCES** page.

Annual Good Standing Check

[43-45.](#) Once a year, Market staff will check that Market vendors are compliant with state and county business regulations and Health Department requirements (if applicable). Those businesses not found in compliance with State and County regulations and requirements will be notified and given 30 days to become compliant. See **BUSINESS RESOURCES** section attached here for more information.

Insurance

[44-46.](#) All vendors selling food of any type are required to carry product liability insurance and

provide proof of said insurance upon request. All vendors are encouraged to obtain business insurance but this is not currently a requirement to be a City Farmers Market vendor. All vendors must sign a hold harmless agreement, attached at the end of this document.

Photographic and Video Consent

[45-47.](#) The City of Hagerstown reserves the right to photograph or videotape vendors and their products for the purpose of promoting the Historic City Farmers Market via Facebook, the City of Hagerstown website, or newsletter. Any images or video may be retained by, and will only be accessed by, Market or City of Hagerstown Staff.

Business Promotion

[46-48.](#) The City of Hagerstown does general promotion of the Historic City Farmers Market. However, vendors are highly encouraged to promote their individual businesses through social media, websites, and via other forms of promotion and advertisements.

Communication

[47-49.](#) Market Staff will update vendors on special events at the Market House as well as other business issues that may affect vendors. Notifications will be made by the email address we have on file and by hard copies left at each vendor's stall.

City Limits of Responsibility

[48-50.](#) The City of Hagerstown is NOT responsible for any accidents on the premises or for damage to vendor merchandise. Vendors operate at their own risk. Any items left in stalls are left at vendors' own risk. All vendors are required to sign a Hold Harmless Agreement with the City, and will not be permitted to vend without a signed form on file.

[49-51.](#) The City of Hagerstown reserves the right to refuse vendor space to, as well as suspend and/or expel, violators of the Market Guidelines and/or local, state, or federal ordinances and laws.

BUSINESS RESOURCES

Below is information on establishing your business within the State of Maryland.

Business Registration:

All vendors must register with the Maryland Department of Assessments and Taxation:
www.dat.maryland.gov; 410-767-1170.

Sole proprietors can go to www.dat.maryland.gov, click on **FORMS**, and scroll down to **CREATE OR START A BUSINESS IN MARYLAND**. Click on **Application for Sole Proprietorship and/or General Partnership**. Completing this application will generate an 'L' number (L followed by 8 digits). There is no cost to register.

The number that you receive upon registration must be listed on your application.

To incorporate your business into an LLC or corporation, see the resources also available at www.dat.maryland.gov or call 410-767-1170.

The number that you receive upon registration must be listed on your application. Numbers for a sole proprietor will begin with L; numbers for LLCs will begin with W or Z; numbers for corporations will begin with D.

Numbers beginning with T are trade name registrations, which are different than business registrations.

If you want to register a trade name, that form is also available on the 'FORMS' page. The cost is \$25 and is good for 5 years.

Maryland State Sales Tax:

All businesses, regardless of whether incorporated or operating as a sole proprietor, are required have a Maryland Sales & Use tax account and may be required to collect Maryland state sales tax. The only exception is agricultural products sold by farmers, which are exempt from sales tax.

To apply for a Sales and Use tax account, visit the Maryland Comptroller's Office, www.marylandtaxes.gov, click on the **SEARCH** field, and type **Maryland Combined Registration Online Application**; or phone 410-260-7980 or 800-638-2937.

Your Sales and Use Tax license must be displayed at your booth.

Trader's License:

Some businesses may need to obtain a Trader's License from the Washington County Circuit Court. Please call 301-733-8660 or visit 24 Summit Avenue, Hagerstown, MD, to get more information about what is required for your particular business.

If you are required to have a Trader's License, it must be displayed at your market stall. Trader's Licenses must be renewed annually.

Washington County Health Department:

All vendors selling food items shall comply with all applicable Health Department Regulations. Contact the Health Department directly to find out which permits you may need.

Washington County Health Department
1302 Pennsylvania Avenue, Hagerstown, MD 21742
www.washcohealth.org
240-313-3400

STARTING, GROWING, AND PROMOTING YOUR BUSINESS

The following organizations may be helpful in the growth of your business and in maintaining compliance with Farmers Market ~~regulations~~[Guidelines](#):

City of Hagerstown Fire Marshal's Office
25 Church Street, Hagerstown, MD 21740
301-790-2476

Maryland Business Express
Maryland Department of Assessments & Taxation
<https://businessexpress.maryland.gov>
410-767-1170

Maryland Comptroller's Office
www.marylandtaxes.gov
800-638-2937

SCORE
www.hagerstown.score.org
14 N Potomac St., Suite 200B, Hagerstown, MD 21740
(301) 766-2043

Small Business Development Center (Western Maryland)
888-237-9007
www.mdsbdc.umd.edu

The Washington County Chamber of Commerce
<http://hagerstown.org>
1 South Potomac St., Hagerstown, MD 21740
(301) 739-2015

Washington County Circuit Court
24 Summit Avenue, Hagerstown, MD 21740
www.mdcourts.gov/clerks/washington/business
301-733-8660

Washington County Health Department
1302 Pennsylvania Avenue, Hagerstown, MD 21742
www.washcohealth.org
240-313-3400

HISTORIC CITY FARMERS' VENDOR COMMUNICATION & CHANGE FORM
25 West Church Street
Hagerstown, MD 21740

Business/Vendor Name: _____

Mailing Address: _____

Telephone Number: _____

Email Address: _____

Date: _____

Type of Change:

- ☐ Change in Contact Information
- ☐ Other Change or Communications
- ☐ Change in Products to be Sold

Requested change of products must be approved by Market Staff BEFORE the new changes may be implemented. Each vendor is limited to TWO changes in inventory per calendar year. Frequencies greater than 2 will be reviewed by Market Staff.

Please describe your change and/or communications:

Return to:

Farmers Market Coordinator
City of Hagerstown
Department of Community & Economic Development
14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
cmiller@hagerstownmd.org

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

Topic:

Approval of Incentive for City Farmer's Market Vendors

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move for the Mayor and City Council to approve the attached Guidelines and Application Form for an incentive for existing City Farmer's Market vendors, to be offered only following notice that the City is terminating Vendor Agreements due to the sale of the property at 25 W. Church Street. Staff may make administrative edits with the approval of the City Administrator. The incentive will be funded from the Department of Community and Economic Development Economic Incentives line item.

Action Dates:

DATE OF INTRODUCTION: 11/16/2021

DATE OF PASSAGE: 11/16/2021

EFFECTIVE DATE: 11/16/2021

ATTACHMENTS:

File Name

111621_MCC_SS_Vendor_Incentive.pdf

Description

111621_Approval Incentive
Farmers Market Vendors

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 16, 2021

TOPIC: Approval of Incentive for City Farmer's Market Vendors

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

MOTION: I hereby move for the Mayor and City Council to approve the attached Guidelines and Application Form for an incentive for existing City Farmer's Market vendors, to be offered only following notice that the City is terminating Vendor Agreements due to the sale of the property at 25 W. Church Street.

Staff may make administrative edits with the approval of the City Administrator. The incentive will be funded from the Department of Community and Economic Development Economic Incentives line item.

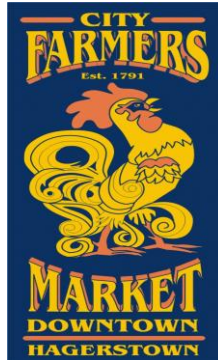
DATE OF INTRODUCTION:	11/16/2021
DATE OF PASSAGE:	11/16/2021
EFFECTIVE DATE:	11/16/2021



Community & Economic Development

Advancing the Economy, Image and Quality of Life

FARMER'S MARKET INCENTIVE FOR VENDORS - DRAFT



The City of Hagerstown's Department of Community and Economic Development is accepting grant applications from existing Farmer's Market vendors following notice that the City is terminating Vendor Agreements due to the sale of the property at 25 W. Church Street. This incentive is being made to assist those vendors who may be interested in relocating to their own commercial location within the city's corporate limits.

An incentive will be provided in the amount of \$1,500.00 to any current vendor provided that:

- The business executes a lease with a landlord within 120 days of receiving the notice to vacate the Market House.
- Leased space must reside within the city of Hagerstown's corporate limits.
- The lease must be for a minimum of 12 months.
- Payment will be made directly to the business to assist with costs associated with rental expense, moving, or utilities.
- The vendor must be in good standing with the City and State of Maryland.

Application Process

- Complete the attached application and provide signed/executed lease agreement.
- Return the application and attachments, along with **the attached W9 and Vendor Form** to the Department of Community & Economic Development.
 - Email to dced@hagerstownmd.org
 - OR, mail/deliver to 14 N. Potomac St., Suite 200A, Hagerstown, MD 21740.

QUESTIONS: Chris Siemerling, 301-739-8577, X. 822; csiemerling@hagerstownmd.org



Community & Economic Development

Advancing the Economy, Image and Quality of Life

FARMER'S MARKET INCENTIVE FOR VENDORS

COMMERCIAL RELOCATION INCENTIVE APPLICATION

Applicant/Business Name: _____

Contact Name: _____

Applicant's Address: _____

Phone Number: _____

Email Address: _____

Business's New Address: _____

- Are you a current operating Farmer's Market Vendor? [] Yes [] No
- Have you executed a commercial lease within the City's corporate limits? [] Yes [] No
 - If Yes, please attach a copy of your executed lease.

Please describe the type of business you will be opening a commercial space for, and what products you may sell:



Community & Economic Development

Advancing the Economy, Image and Quality of Life

Applicant Signature:

By signing below, I certify that the information above is true and correct, and that my business must be in good standing with the City and State to receive funding.

Applicant's Signature

Date

Return to:

City of Hagerstown
Department of Community & Economic Development
14 N. Potomac, Suite 200A, Hagerstown, MD 21740
Phone: 301-739-8577 ext 111 Email: dcled@hagerstownmd.org

City of Hagerstown

Zoning

November 2020



- Engineering/SDE City Parcels
- Corporate Boundary
- Street
- Funkstown Corporate Boundary
- Zoning District
- AT (Agricultural Transitional)
- RMOD (Residential - Moderate Density)
- RMED (Residential - Medium Density)
- RH (Residential - High Density)
- RO (Residential - Office)
- CC-MU (City Center - Mixed Use)
- MMU (Neighborhood - Mixed Use)
- CO (Commercial Local)
- CO (Commercial General)
- CR (Regional Shopping Center)
- POM (Professional Office Mixed)
- IMU (Industrial/Mixed Use)
- IR (Industrial Restricted)
- IG (Industrial General)
- INST (Institutional)
- Overlay
- Conversion District
- Landmark
- Local Conversion District
- Planned Unit Development
- Historic District
- Downtown Historic District
- Oak Hill Historic District
- Potomac/Broadway Historic District
- Prospect Street Historic District

Case No.	Zoning Overlay	Address
ZK-1993-01	Landmark	5841 Security Rd
ZK-1993-02	Landmark	414 W Washington St
ZK-2003-02	Landmark	1025-1011 E Pennsylvania Ave
ZK-2005-01	Landmark	289 N Locust St
ZK-2008-02	Landmark	593 Maryland Ave
ZK-2010-03	Local Conversion District	287 N Locust
ZK-2011-01	Local Conversion District	287 N Locust
ZK-2016-01	Local Conversion District	480 N Jonathan St
ZK-2017-02	Local Conversion District	1301 Potomac Ave
ZK-2020-01	Local Conversion District	202 Howard St
ZK-2020-02	Landmark	Schiller House at Kears Park
A-2001-01	Landmark	12810 Shirk Farm Way
A-2005-07	Landmark	17513 W Washington St





Vendor Application

Phone 301-739-8577 Fax 301-733-1205

Date: _____

Vendor Information

Employer Identification #/SSN# _____ Contractor's License #: _____

Individual Taxpayer Identification Number (ITIN) _____
(only if you are a Permanent Resident Alien without a Social Security Account No.)

Individual or Company Name: _____

Legal Name: _____
(If different from above Individual/Company Name)

Address: _____

City: _____ State: _____ Zip: _____

Contact Name: _____ Phone: () _____ Fax: _____

E-Mail Address: _____ Web Address: _____

Remit to Address: _____

Terms: _____

Legal Structure

☐ Sole Proprietor Independent ☐ Incorporated ☐ Limited Liability Company/
Partnership ☐ Non-Profit ☐ Other _____

Are you or have you been an employee of the City of Hagerstown? ☐ Yes ☐ No

References-Provide References of Companies to Whom You Have Supplied Your Goods and/or Services

Company Name: _____ Telephone No.: _____

Location: _____ Value \$: _____

Company Name: _____ Telephone No.: _____

Location: _____ Value \$: _____

☐

Minority Business Enterprise? (If so, please indicate the applicable criteria for your certification as such.)

- | | | |
|---|---|--|
| ☐ Alaskan/Aleut Female | ☐ Black Male | ☐ Hispanic Female |
| ☐ Alaskan/Aleut Male | ☐ Disabled Female | ☐ Hispanic Male |
| ☐ American Indian Female | ☐ Disabled Male | ☐ Near Eastern Female |
| ☐ American Indian Male | ☐ Far Eastern Female | ☐ Near Eastern Male |
| ☐ Black Female | ☐ Far Eastern Male | ☐ White Female |

** Informational purposes only

For Purchasing & Materials Management Division Use Only

Date Received	Date Entered	Entered by	Vendor Number
---------------	--------------	------------	---------------

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. ☐ Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
					-				

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

***Note.** Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

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

Topic:

Introduction of an Ordinance: Authorizing the Sale of Property Located at 25 W. Church Street, Hagerstown, Maryland

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move to introduce an ordinance authorizing the sale of property located at 25 W. Church Street, Hagerstown, MD to Marketplace, LLC for a purchase price of \$400,001. The sale will provide the opportunity for new investment and redevelopment at 25 W. Church Street. The sale will be in accordance with all of the terms and conditions outlined in the attached Purchase Agreement.

Action Dates:

DATE OF INTRODUCTION: 11/16/2021

DATE OF PASSAGE: 11/23/2021

EFFECTIVE DATE: 12/24/2021

ATTACHMENTS:

File Name

111621_Intro_Ordinance_CNS_Market_House_Final.pdf

Description

111621_Intro Ordinance
Authorizing Sale of 25 W
Church Street

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: November 16, 2021

TOPIC: **Introduction of an Ordinance: Authorizing the Sale of Property
Located at 25 W. Church Street, Hagerstown, Maryland**

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

MOTION: I hereby move to introduce an ordinance authorizing the sale of property located at 25 W. Church Street, Hagerstown, MD to Marketplace, LLC for a purchase price of \$400,001. The sale will provide the opportunity for new investment and redevelopment at 25 W. Church Street. The sale will be in accordance with all of the terms and conditions outlined in the attached Purchase Agreement.

DATE OF INTRODUCTION:	11/16/2021
DATE OF PASSAGE:	11/23/2021
EFFECTIVE DATE:	12/24/2021

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO APPROVE THE SALE
OF A PROPERTY KNOWN AS
25 WEST CHURCH STREET,
HAGERSTOWN, MARYLAND
AND AUTHORIZING EXECUTION AND DELIVERY OF A
PURCHASE AGREEMENT BETWEEN THE
CITY AND MARKETPLACE, LLC**

RECITALS

WHEREAS, the City of Hagerstown, hereinafter called “the City,” is the owner of certain improved real property consisting of multiple parcels of land located in Hagerstown, Washington County, Maryland known as 25 West Church Street located in Hagerstown, Washington County, Maryland (“the Property”);

WHEREAS, the Property is more particularly described as follows, to the best of the City’s knowledge, on the drawing attached as Exhibit 1 to the Purchase Agreement which is attached hereto and incorporated herein. The Property is improved with a building situated on the easternmost five (5) parcels (“the Market House”) and a parking lot situated on the western balance (“the Parking Lot.”), as shown on said Exhibit 1;

WHEREAS, Marketplace LLC, a Maryland limited liability company, (“Marketplace”) desires to purchase the Property, as well as all improvements thereon;

WHEREAS, in exchange for conveyance of the Property, Marketplace agrees to (i) pay the City the monetary consideration of FOUR HUNDRED THOUSAND AND ONE DOLLARS and 00/100 CENTS (\$400,001.00), which price shall be paid over a period of four (4) years, but shall not be secured by a mortgage or other security; and

WHEREAS, the City has determined that the Property is no longer needed for a public purpose; and

WHEREAS, the introduction of this Ordinance shall constitute the twenty (20)-day notice of the proposed transfer as required by law; and

WHEREAS, attached hereto and incorporated herein is a Purchase Agreement, for the purchase of the Property; and

WHEREAS, the Purchase Agreement requires Marketplace to lease a portion of the Market House to the City for use by its Fire Department for a period of two (2) years and also to execute a Right of First Refusal in the event that Marketplace should decide to sell the Market House; and

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to enter into said Purchase Agreement.

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

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim.
2. That the Mayor and Council find that the Property is not needed for any public purpose.
3. That the sale of the Property pursuant to the terms of the attached Purchase Agreement is hereby approved.
4. That the Mayor be and is hereby authorized to execute and deliver the Purchase Agreement with Marketplace, LLC, a copy of which is attached hereto and incorporated herein by reference.
5. That City Staff be and are hereby authorized to execute and deliver any additional documentation and take any additional steps necessary to effectuate the purpose of this ordinance and satisfy the terms of the aforesaid Purchase Agreement.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED THAT this ordinance shall become effective at the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler,
City Clerk

Emily N. Keller, Mayor

Date of Introduction: November 16, 2021
Date of Passage: November 23, 2021
Effective Date: December 24, 2021

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "**Agreement**") is made as of the ___ day of 2021, (the "**Effective Date**") by the City of Hagerstown, a Maryland municipal corporation ("**Seller**"), and Marketplace, LLC, a limited liability company formed and existing under the laws of the State of Maryland ("**Buyer**").

RECITALS

Seller is the owner in fee simple of certain improved real property consisting of multiple parcels of land located in Hagerstown, Maryland known as 25 West Church Street and described, to the best of Seller's knowledge, on the drawing attached hereto as Exhibit 1 and highlighted in yellow, and incorporated herein. The foregoing real property is referred to herein as the "Property." The Property is improved with a building situated on the easternmost five (5) parcels ("the Market House") and a parking lot situated on the western balance ("the Parking Lot."), as shown on Exhibit 1. The Market House is highlighted in red, and the Parking Lot is highlighted in blue on Exhibit 1.

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

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

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

2. Purchase and Sale of the Property. Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property in accordance with the terms of this Agreement.

3. Purchase Price: Terms of Payment.

3.1 Purchase Price. The purchase price for the Property ("Purchase Price") shall be FOUR HUNDRED THOUSAND ONE DOLLARS and 00/100 CENTS (\$400,001.00) of which \$1 is for the Market House and \$400,000 is for the Parking Lot, to be deeded to Buyer in as two (2) separate tracts.

3.2 Terms of Payment. The Purchase Price shall be paid to Seller in immediately available funds by cash, certified check or wire transfer, in a timeframe not more than as follows:

- (a) \$1 at closing;
- (b) \$100,000.00 due on or before January 1, 2023;
- (c) \$100,000.00 due on or before January 1, 2024;
- (d) \$100,000.00 due on or before January 1, 2025; and
- (e) \$100,000.00 due on or before January 1, 2026.

The parties agree that Seller shall not take back a mortgage or other security for the payments set forth in (b) – (e); however, the Seller shall have available to it all other remedies available to it by law, should Purchaser fail to make any payment in accordance with this Agreement. The obligations, representations and warranties of the Purchaser contained in Section 3.2 hereof shall survive the Closing for the applicable statute of limitations.

4. Closing. The closing of the purchase and sale of the Property shall be held on or before April 1, 2022, at a mutually agreeable date and place in Washington County, Maryland.

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

4.1.1 a deed without warranty to the Real Property, duly executed and acknowledged by Seller and in proper form for recording, conveying fee simple title to the Real Property to Buyer or its designee subject to all conditions, restrictions, rights of way and easements of record and any Permitted Exceptions.

4.1.2 a certificate updating the representations and warranties made pursuant to Section 7;

4.1.3 a FIRPTA affidavit;

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

4.1.5. usual and customary Closing Affidavits as required by the Buyer's title insurance carrier;

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

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

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

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

4.2.1 Buyer's Proof of Good Standing with the Maryland State Department of Assessments and Taxation and related LLC documentation;

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

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

4.2.4. A personal guaranty signed by all members of Market Place, LLC, and their respective spouses, if any, in the form attached hereto as Exhibit 2.

5. Closing Adjustments/Costs.

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

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

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

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

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

6. Title. Within sixty (60) days from the date upon which Seller introduces an ordinance for the sale of the Property ("Examination Period"), Buyer shall obtain, at its expense, a title report covering the Property from a licensed title insurance company selected by Buyer. Title to the Property shall be free and clear of all liens, encumbrances and restrictions (collectively, "Encumbrances"), except for real property taxes applicable to the period after the date of Settlement ("Permitted Matters"). Such title shall be insurable at regular rates by a reputable title insurance company. Buyer shall examine the title to the Property, inspect the Property and take any other action the Buyer deems is necessary to determine the condition of title to the Property. Buyer shall provide Seller with a copy of the title commitment, survey and all exception documents referred to in the title commitment. Buyer shall provide Seller with written notification, within the Examination Period, of any objections to the title ("Buyer's Title Notice"). Seller, at its expense, shall have the option of curing any objection raised by Buyer's Title Notice. In the event Seller elects to cure any objection raised by Buyer's Title Notice, *including the filing of a quiet title action, if reasonably needed to establish Seller's ownership of the Property*, Seller shall notify Buyer within ten (10) days of its receipt of Buyer's Title Notice (the "Title Response Period"). In the event Seller is unable to cure Buyer's title objections within thirty (30) days from the date of Buyer's Title Notice ("Title Cure Period") (the Examination Period and Title Cure Period, if any, together the "Title Period"), or Seller elects not to cure the objections raised by Buyer's Title Notice, Buyer shall have the option either (i) of taking such title as the Seller can give without abatement of the price or (ii) terminating this Agreement and being immediately repaid the Deposit, and in the latter event there shall be no further liability or obligation on either of the parties hereto, except as expressly stated to survive herein. Buyer shall make such election either (i) in the event Seller elects not to attempt to cure any objections raised by Buyer, within ten (10) days after the expiration of the Title Response Period, or (ii) in the event Seller elects to attempt to cure objections raised by Buyer's Title Notice, within ten (10) days after the expiration of the Title Cure Period. If Buyer does not notify Seller of any objections to the title within the Examination Period, Buyer shall waive its rights to object to title defects or the exceptions which are of record prior to the date of the introduction of an ordinance for the sale of the Property. As used in this Agreement, the phrase "of record," shall mean matters recorded and properly indexed in the land records in the County in which the Property is located as of the date of the introduction of an ordinance for the sale of the Property.

Other than as anticipated herein, Seller shall not create or permit to be created any lien, easement or other encumbrance on the Property from the date of the introduction of an ordinance for the sale of the Property. Buyer hereby expressly assumes the risk that restrictive covenants, zoning laws or other recorded documents may restrict or prohibit the use of the Property for the purpose(s) intended by the Buyer. The delivery of the deed by Seller and the acceptance thereof by Buyer shall be deemed the full performance and discharge of every obligation on the part of

Seller to be performed hereunder, except those obligations, if any, of Seller which are expressly stated in this Agreement to survive Settlement.

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

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

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

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

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

7.5 Leases. The following lease exists on the Property: March 17, 2017 Ground Lease with United States Postal Service, a copy of which is attached hereto as Exhibit 3, and incorporated herein. At closing, the parties shall enter into a lease for the benefit of the City's Fire Department in the form set forth on Exhibit 4, a copy of which is attached hereto and incorporated herein.

7.6 Other Agreements. A June 9, 1980 Easement Exchange Agreement with the United States Postal Service, a copy of which is attached hereto as Exhibit 5.

7.7 Condemnation, Violation of Laws, Etc. Seller has not received notice of, and, to Seller's knowledge, there are no existing violations of any federal, state, county or municipal laws, ordinances, orders, codes, regulations or requirements affecting all or any portion of the Property, including, without limitation, violations of housing, building, safety, health, environmental, fire or

zoning ordinances, codes and regulations of the respective jurisdictions within which the Property is located or any certificate(s) of occupancy issued for the Property.

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

7.9 Environmental Condition. Seller makes no representations as to the environmental condition of the Property and no representation as to the presence of any Hazardous Conditions in and around the Property. "Hazardous Conditions" shall mean the presence on, in or about the Property (including ground water) of Hazardous Materials, the concentration, condition, quantity, location or other characteristic of which fails to comply with applicable Environmental Laws. "Hazardous Material" shall mean any chemical, substance, waste, material, equipment or fixture defined as or deemed hazardous, toxic, a pollutant, a contaminant, or otherwise regulated under any Environmental Law, including but not limited to, petroleum and petroleum products, waste oil, halogenated and non-halogenated solvents, PCBs, asbestos and asbestos containing materials.

7.10 Litigation. No proceeding, suit or litigation relating to Seller or the Property or any part thereof is pending or, to Seller's knowledge, threatened in any court or other tribunal or before any Governmental Authority. Seller is not the subject of, nor has Seller received any written notice of or threat that it has or will become the subject of, any actions or proceedings under the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. ("Bankruptcy Code"), or under any other federal, state or local laws affecting the rights of debtors and/or creditors generally, whether voluntary or involuntary and including, without limitation, proceedings to set aside or avoid any transfer of any interest in property or obligations, whether denominated as a fraudulent conveyance, preferential transfer or otherwise, or to recover the value thereof or to charge, encumber or impose a lien thereon.

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

7.12 Mechanic's Liens. There are no claims for labor performed, materials furnished or services rendered in connection with the development, construction, improvement, renovation or repair of the Property with respect to which liens may or could be filed against the Property, either pending or threatened.

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

7.14 Re-Zoning. Seller is not a party to, nor does Seller have any actual knowledge of, any threatened proceeding for the rezoning of the Property or any portion thereof, or the taking of any other action by governmental authorities that would have an adverse or material impact on the value of the Property or use thereof.

7.15 Condemnation. Seller has not received any written notice advising it of any pending or threatened condemnation or other governmental taking proceedings affecting all or any part of the Property and knows of no plans on the part of any governmental entity to institute any such proceeding.

7.16 Right of First Refusal. At closing, the parties will enter into a Right of First Refusal in the form attached hereto as Exhibit 6.

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

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

9. Seller Covenants.

9.1 Inspection and Right of Entry. Seller shall make available to Buyer during normal business hours prior to the Closing Date all information in Seller's or its management agent's possession or control concerning the Property, including, without limitation, all books and records and plans and specifications. Upon the introduction of an ordinance for the sale of the Property, and for a period of sixty (60) days thereafter, Seller hereby grants to Buyer, Buyer's engineers and other agents the right to enter upon the Property upon reasonable notice to inspect the Property and to make such measurements, surveys, or non-invasive tests on the Property as Buyer may deem advisable. Buyer agrees to indemnify and hold harmless Seller from any claims, or liability, including, by way of example only, costs of defense and reasonable attorney fees, arising out of Buyer or the agents or invitees entering on the Property pursuant to this paragraph. Prior to any entry, Buyer shall provide Seller with evidence of public liability insurance with liability limits reasonably acceptable to Seller. In addition and prior to any entry, any contractor or third party hired to perform investigations or due diligence upon the Property shall provide Seller with evidence of general liability insurance including, but not limited to, coverage for products/completed operations, premises/operations, contractual and personal/advertising injury liabilities with commercially reasonable limits of coverage on a per occurrence basis for bodily

injury and property damage, containing an endorsement insuring against damage to the Property and to or from underground utilities, and naming Seller as a named insured. Buyer further agrees to restore or have the Property restored to its condition on the date hereof after the completion of any measurements, surveys, or non-invasive tests conducted by the Buyer. Buyer shall have the right to terminate this Agreement based upon information obtained by it during the sixty-day period. In such event, it shall immediately inform Seller in writing and furnish Seller with all measurements, surveys, non-invasive tests and other documentation supporting its decision. This paragraph shall survive termination or Settlement.

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

9.3 Contracts. Seller shall not enter into any Contracts of any kind with respect to the Property or any portion thereof, except as mutually agreed.

9.4 Leases. Seller shall not enter into any leases or other occupancy agreements of any kind with respect to the Property or any portion thereof. The parties do agree to enter into a Lease Agreement for the use of Seller's Fire Department, pursuant to Paragraph 7.5, above.

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

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

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

9.8 Payment of Taxes. Subject to proration in Paragraph 5, Seller shall pay all federal, state, county, local and foreign income, excise, real and personal property, sales and other taxes, if any, which first become due and payable prior to or on the Closing Date.

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

10. Buyer Covenants.

10.1. For a period of six (6) months after closing, Seller shall operate, at its expense, the streetlights on the Parking Lot. During this period, Purchaser shall connect and meter all streetlights to the Market House and establish an electric account in its own name for said streetlights. At the conclusion the six (6) month period, Purchaser shall be solely responsible for the maintenance of the streetlights in the Parking Lot and the cost of operating them.

10.2. No sidewalk on the Property shall be constructed, reconstructed, repaired or altered, except in accordance with City Code.

10.3. The representations and warranties of Purchaser contained in Section 10 hereof shall survive the Closing for the applicable statute of limitations.

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

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

(ii) All of Seller's representations and warranties in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date and Seller shall have executed and delivered to Buyer, upon written Request by Buyer, a certificate, dated as of the Closing Date, to the foregoing effect;

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

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

12. Condemnation and Casualty. If prior to the Closing Date Seller receives written notice of any pending or threatened condemnation proceedings or actions or if there occurs any damage, destruction or casualty with respect to all or any portion of the Property, Seller shall promptly notify Buyer thereof in writing. In the event there occurs: (i) any actual or pending condemnation of any portion of the Property; or (ii) any casualty, Buyer shall have the right to terminate this Agreement by giving notice to Seller within thirty (30) days after receipt of Seller's notice advising Buyer of the occurrence of any casualty or condemnation. If: (i) Buyer fails to notify Seller of Buyer's election to terminate this Agreement within such 30-day period; or (ii) Buyer elects to proceed to closing and not terminate this Agreement, then Buyer shall proceed to closing, without adjustment of the Purchase Price, subject to such condemnation or casualty, in which event at closing, Seller shall, as applicable: (A) assign to Buyer any condemnation award or rights thereto paid or payable or otherwise accruing to Seller on account of such condemnation; or (B) assign to Buyer all of Seller's right, title and interest in and to the proceeds of any casualty insurance payable to Seller on account of such casualty and pay to Buyer an amount equal to any deductible or coinsurance applicable to the casualty insurance under such insurance policies. If Buyer timely elects to terminate this Agreement as aforesaid, the Deposit shall be returned to the Buyer and neither Buyer nor Seller shall have any further rights or liability under this Agreement except for such rights and liabilities as expressly survive termination hereof.

13. Breach/Termination.

13.1 Breach by Seller. If Seller shall fail to perform its covenants or agreements hereunder and such failure shall continue for five (5) days after written notice from Buyer, or if any of Seller's representations and warranties set forth in this Agreement are not true and correct in all material respects on the date hereof or on the Closing Date, Buyer shall have the sole right, at its option, to terminate this Agreement with neither party having any further rights or obligations to the other under this Agreement except for (a) return of the Deposit to the Buyer and (b) such rights and obligations as expressly survive termination of this Agreement, .

13.2 Breach by Buyer. If Buyer shall fail to perform any of the covenants or agreements to be performed by it hereunder and such failure shall continue for five (5) days after written notice from Seller, or if any of Buyer's representations and warranties set forth herein shall not be true and correct in all material respects as of the date made or deemed made, Seller's remedy, at its option, shall be to: (i) terminate this Agreement with neither party having any further rights or obligations to the other under this Agreement except such rights and obligations as expressly survive termination of this Agreement; and also retain the Buyer's deposit; or (ii) pursue any legal or equitable remedies to which Seller may be entitled on account of the foregoing, including, without limitation, specific performance, recovery of consequential damages and actual third party costs and expenses incurred by Seller with respect to this Agreement.

13.3 Litigation Costs. In the event of any litigation between the parties with respect to this Agreement, including any action for specific performance that may be brought as provided above, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses.

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

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

16. Miscellaneous.

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

16.2 Governing Law: Venue. The provisions of this Agreement shall be governed by the laws of the state of Maryland, without regard to the conflicts of laws provisions thereof. Any suit involving any dispute or matter arising under this Agreement shall be brought in the Circuit Court for Washington County, Maryland, except that in an action for money damages only and in which the amount in controversy does not exceed THIRTY THOUSAND DOLLARS (\$30,000.00), the action shall be brought in the District Court of Maryland for Washington County. All parties hereto consent to such jurisdiction.

16.3 Notices. Any notice, demand, consent/election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and delivered (i) personally, or (ii) sent by certified or registered mail, postage prepaid, return receipt requested, or (iii) by a nationally recognized overnight courier. A notice must be addressed to a party as indicated below. Any notice hereunder shall be deemed duly delivered (a) when delivered,

with written receipt, if personally delivered or delivered by nationally recognized overnight courier, or (b) three (3) days after mailing, if mailed by certified mail, return receipt requested, postage prepaid. Any party may designate a change of address by written notice to the other in accordance with the provisions set forth above, which notice shall be given at least ten (10) days before such change of address is to become effective.

Sellers's notice address:

Scott A. Nicewarner
City Administrator
City of Hagerstown
1 East Franklin Street
Hagerstown, MD 21740

With a copy to:

Jason Morton
Salvatore & Morton, LLC
82 West Washington Street, Ste 100
Hagerstown, MD 21740

Buyer's notice address:

Marketplace, LLC
PO Box 112
Brunswick, Maryland 21716
Attn: David Scott Blackmon, Member
203 Washington Street
Frederick, MD 21701

With a copy to:

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

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

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

16.7 Seller shall vacate the basement/exit storage space of the Market House upon closing, and leave that portion of the Market House in broom-clean condition.

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

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

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

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

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

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

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

24. Approvals. This Agreement is subject to and contingent on the passage of any Ordinance required by State and/or municipal law, and upon adoption of this Agreement by formal action of the Mayor and Council.

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

ATTEST:

SELLER:

CITY OF HAGERSTOWN
A Maryland municipal corporation

Name:

By: _____
Emily N. Keller
Mayor

WITNESS:

BUYER:
MARKETPLACE, LLC
A Maryland limited liability company

Name:

By: _____
David Scott Blackmon
Managing Member

GUARANTEE OF PURCHASE AGREEMENT

As a material inducement of the City to execute the foregoing Purchase Agreement (the "Agreement") by and between The City of Hagerstown, a Maryland Municipal Corporation ("City"), and Marketplacce, LLC, a Maryland Limited Liability Company ("Marketplace"), for the sale of the real property located at 25 West Church Street, Hagerstown, Maryland, the undersigned David Scott Blackmon and spouse _____ (collectively "Guarantor") hereby unconditionally and absolutely guarantees unto City, its successors and assigns, the full, prompt, faithful and complete performance and observance by Marketplace of all of the terms, covenants and conditions of the Agreement to be performed or observed by Marketplace (the "Guarantee").

Guarantor hereby waives (i) notice of any and all defaults by Marketplace, (ii) all demands for payment and/or performance, and (iii) all rights of indemnification, recourse or reimbursement for any liability under this Guarantee. Guarantor agrees that no delay by City in enforcing any of its rights or remedies, nor any extension of time, nor any modification to the Agreement, shall limit, affect or impair the liability of Guarantor, and Guarantor expressly consents to any such delays, extensions, and modifications with the same force and effect as though its consent had been given to each of them.

This Guarantee is independent of and in addition to any security or other remedies which City may have for the performance or satisfaction of any of the Marketplace's obligations under the Agreement. City shall not be required to resort to any other security or other remedies before proceeding upon this Guarantee. City may proceed against Guarantor at any time it sees fit, independently of or concurrently with any other remedies.

Guarantor agrees to pay City, on City's request, any costs (including, but not limited to, reasonable attorney's fees) incurred by City to enforce this Guarantee. In addition, Guarantee agrees to promptly acknowledge and confirm, in such form as City may request from time to time, Guarantor's obligations under this Guarantee.

This Guarantee shall be binding upon the undersigned, his/her heirs and personal representatives, and shall inure to the benefit of City, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Guarantee on the ____ day of _____, 2021, intending it to be both legally binding and an instrument under seal.

WITNESS:

WITNESS:

GUARANTOR:

_____(SEAL)
David Scott Blackmon

GUARANTOR:

_____(SEAL)
XXXXXXXXXXXXXXXXXX



STATE OF _____, COUNTY OF _____

I hereby certify that on _____, 2021, before me, a Notary Public of the above-referenced jurisdiction, personally appeared David Scott Blackmon and ~~XXXXXXXXXXXXX~~, known to me or satisfactorily proven to me to be the persons whose names are subscribed to the within instrument, who acknowledged the he/she executed the same for the purposes contained herein.

WITNESS my hand and Notarial Seal.

My Commission Expires:

_____, Notary Public



Ground Lease

HAGERSTOWN - EMPLOYEE PARKING (234068-003)
JONATHAN STREET & CHURCH STREET, HAGERSTOWN, MD 21740-9998





Ground Lease

Facility Name/Location

HAGERSTOWN - EMPLOYEE PARKING (234068-003)

County: Washington

JONATHAN STREET & CHURCH STREET, HAGERSTOWN, MD 21740-9998

Lease: QU0000489751

This Lease made and entered into by and between THE CITY OF HAGERSTOWN, MD hereinafter called the Landlord, and the United States Postal Service, hereinafter called the Postal Service:

In consideration of the mutual promises set forth and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. The Landlord hereby leases to the Postal Service and the Postal Service leases from the Landlord the following premises, hereinafter legally described in paragraph 7, in accordance with the terms and conditions described herein and contained in the 'General Conditions to USPS Ground Lease,' attached hereto and made a part hereof:
74 Paved Parking Spaces at the Market House Parking Lot

2. RENTAL: The Postal Service will pay the Landlord an annual rental of: \$40,000.00 (Forty Thousand and 00/100 Dollars) payable in equal installments at the end of each calendar month. Rent for a part of a month will be prorated.

Rent checks shall be payable to:

CITY OF HAGERSTOWN

PUBLIC WORKS

51 W MEMORIAL BLVD

HAGERSTOWN, MD 21740-4915

3. TO HAVE AND TO HOLD the said premises with their appurtenances for the following term:

FIXED TERM: The term becomes effective March 01, 2017 with an expiration date of February 28, 2022, for a total of 5 Years.

4. **RENEWAL OPTIONS:** The Lease may be renewed at the option of the Postal Service, for the following separate and consecutive terms and at the following annual rentals:

EFFECTIVE DATE	EXPIRATION DATE	PER ANNUM RENTAL
03/01/2022	02/28/2027	\$42,550.00

provided that notice is sent, in writing, to the Landlord at least 30 days before the end of the original lease term and each renewal term. All other terms and conditions of this Lease will remain the same during any renewal term unless stated otherwise herein.

5. **TERMINATION:**

The Postal Service may terminate this Lease at any time by giving 120 days written notice to the Landlord.

6. **OTHER PROVISIONS:** The following additional provisions, modifications, riders, layouts, and/or forms were agreed upon prior to execution and made a part hereof:

Landlord shall be solely responsible for all maintenance, taxes, insurance, utilities, landscaping and custodial services incurred by Lessor during the operation, maintenance and/or repair of the Premises.

The attached General Conditions are incorporated herein by reference with the exception of Section 7 (Alterations) which is hereby deleted in its entirety.

7. **LEGAL DESCRIPTION:**

74 paved parking spaces on a municipal parking lot located at the corner of Jonathan Street and Church Street in Hagerstown, Washington County, MD commonly known as the Market House Parking Lot.



Ground Lease

EXECUTED BY LANDLORD this 1st day of March, 2017.

GOVERNMENTAL ENTITY

By executing this Lease, Landlord certifies that Landlord is not a USPS employee or contract employee (or an immediate family member of either), or a business organization substantially owned or controlled by a USPS employee or contract employee (or an immediate family member of either).

Name of Governmental Entity: CITY OF HAGERSTOWN, MD

Name & Title: Robert E. Brackley, II

Name & Title: _____

Name & Title: _____

Name & Title: _____

Landlord's Address: PUBLIC WORKS 51 W MEMORIAL BLVD
HAGERSTOWN, MD 21740-4915

Landlord's Telephone Number(s): _____

Federal Tax Identification No.: XX-XXX0794

Witness

Witness

- Where the Landlord is a governmental entity or other municipal entity, the Lease must be accompanied by documentary evidence affirming the authority of the signatory(ies) to execute the Lease to bind the governmental entity or municipal entity for which he (or they) purports to act.
- Any notice to Landlord provided under this Lease or under any law or regulation must be in writing and submitted to Landlord at the address specified above, or at an address that Landlord has otherwise appropriately directed in writing. Any notice to the Postal Service provided under this Lease or under any law or regulation must be in writing and submitted to "Contracting Officer, U.S. Postal Service" at the address specified below, or at an address that the Postal Service has otherwise directed in writing.

ACCEPTANCE BY THE POSTAL SERVICE

Date: 03/17/2017

Esther M Tinort
Contracting Officer

Signature of Contracting Officer

FACILITIES REAL ESTATE 7029 ALBERT PICK ROAD, GREENSBORO, NC 27498-1103
Address of Contracting Officer

1. CHOICE OF LAW

This Lease shall be governed by federal law.

2. RECORDING

Not Required

3. MORTGAGEE'S AGREEMENT

If there is now or will be a mortgage on the property which is or will be recorded prior to the recording of the Lease, the Landlord must notify the contracting officer of the facts concerning such mortgage and, unless in his sole discretion the contracting officer waives the requirement, the Landlord must furnish a Mortgagee's Agreement, which will consent to this Lease and shall provide that, in the event of foreclosure, mortgagee, successors, and assigns shall cause such foreclosures to be subject to the Lease.

4. ASSIGNMENTS

a. The terms and provisions of this Lease and the conditions herein are binding on the Landlord and the Postal Service, and all heirs, executors, administrators, successors, and assigns.

b. If this contract provides for payments aggregating \$10,000 or more, claims for monies due or to become due from the Postal Service under it may be assigned to a bank, trust company, or other financing institution, including any federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any assignment or reassignment must cover all amounts payable and must not be made to more than one party, except that assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in financing this contract. No assignment or reassignment will be recognized as valid and binding upon the Postal Service unless a written notice of the assignment or reassignment, together with a true copy of the instrument of assignment, is filed with:

1. the contracting officer; and
2. the surety or sureties upon any bond.

c. Assignment of this contract or any interest in this contract other than in accordance with the provisions of this clause will be grounds for termination of the contract for default at the option of the Postal Service.

d. Nothing contained herein shall be construed so as to prohibit transfer of ownership of the demised premises, provided that:

1. such transfer is subject to this Lease agreement;

2. both the original Landlord and the successor Landlord execute the standard *Certificate of Transfer of Title to Leased Property and Lease Assignment and Assumption* form to be provided by the USPS Contracting Officer.

5. APPLICABLE CODES AND ORDINANCES

The Landlord, as part of the rental consideration, agrees to comply with all codes and ordinances applicable to the ownership and operation of the parcel on which the premises are situated and to obtain all necessary permits and related items at no cost to the Postal Service. When the Postal Service or one of its contractors (other than the Landlord) is performing work at the premises, the Postal Service will be responsible for obtaining all necessary and applicable permits, related items, and associated costs.

6. SUBLEASE

The Postal Service may sublet all or any part of the premises or assign this lease but shall not be relieved from any obligation under this lease by reason of any subletting or assignment.

7. ALTERATIONS

~~The Postal Service shall have the right to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises hereby leased (provided such alterations, additions, structures, or signs shall not be detrimental to or inconsistent with the rights granted to other tenants on the property on which said premises are located); which fixtures, additions or structures so placed in, upon or attached to the said premises shall be and remain the property of the Postal Service and may be removed or otherwise disposed of by the Postal Service.~~

8. CLAIMS AND DISPUTES

a. This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) ("the Act").

b. Except as provided in the Act, all disputes arising under or relating to this contract must be resolved under this clause.

c. "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Landlord seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph d below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a



General Conditions to USPS Ground Lease

claim under the Act. The submission may be converted to a claim under the Act by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

d. A claim by the Landlord must be made in writing and submitted to the contracting officer for a written decision. A claim by the Postal Service against the Landlord is subject to a written decision by the contracting officer. For Landlord claims exceeding \$100,000, the Landlord must submit with the claim the following certification:

"I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief, that the amount requested accurately reflects the contract adjustment for which the Landlord believes the Postal Service is liable, and that I am duly authorized to certify the claim on behalf of the Landlord."

The certification may be executed by any person duly authorized to bind the Landlord with respect to the claim.

e. For Landlord claims of \$100,000 or less, the contracting officer must, if requested in writing by the Landlord, render a decision within 60 days of the request. For Landlord-certified claims over \$100,000, the contracting officer must, within 60 days, decide the claim or notify the Landlord of the date by which the decision will be made.

f. The contracting officer's decision is final unless the Landlord appeals or files a suit as provided in the Act.

g. When a claim is submitted by or against a Landlord, the parties by mutual consent may agree to use an alternative dispute resolution (ADR) process to assist in resolving the claim. A certification as described in subparagraph d of this clause must be provided for any claim, regardless of dollar amount, before ADR is used.

h. The Postal Service will pay interest on the amount found due and unpaid from:

1. the date the contracting officer receives the claim (properly certified if required); or
2. the date payment otherwise would be due, if that date is later, until the date of payment.

i. Simple interest on claims will be paid at a rate determined in accordance with the Act.

j. The Landlord must proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the contracting officer.

9. HAZARDOUS/TOXIC CONDITIONS CLAUSE

"Asbestos containing building material" (ACBM) means any material containing more than 1% asbestos as determined by using the method specified in 40 CFR Part 763, Subpart E, Appendix E. "Friable asbestos material" means any ACBM that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

The Landlord must identify and disclose the presence, location and quantity of all ACBM or presumed asbestos containing material (PACM) which includes all thermal system insulation, sprayed on and troweled on surfacing materials, and asphalt and vinyl flooring material unless such material has been tested and identified as non-ACBM. The Landlord agrees to disclose any information concerning the presence of lead-based paint, radon above 4 pCi/L, and lead piping or solder in drinking water systems in the building, to the Postal Service.

Sites cannot have any contaminated soil or water above applicable federal, state or local action levels or undisclosed underground storage tanks. Unless due to the act or negligence of the Postal Service, if contaminated soil, water, underground storage tanks or piping or friable asbestos material or any other hazardous/toxic materials or substances as defined by applicable Local, State or Federal law are subsequently identified on the premises, the Landlord agrees to remove such materials or substances upon notification by the U. S. Postal Service at Landlord's sole cost and expense in accordance with EPA and/or State guidelines. If ACBM is subsequently found which reasonably should have been determined, identified, or known to the Landlord, the Landlord agrees to conduct, at Landlord's sole expense, an asbestos survey pursuant to the standards of the Asbestos Hazard Emergency Response Act (AHERA), establish an Operations and Maintenance (O&M) plan for asbestos management, and provide the survey report and plan to the Postal Service. If the Landlord fails to remove any friable asbestos or hazardous/toxic materials or substances, or fails to complete an AHERA asbestos survey and O&M plan, the Postal Service has the right to accomplish the work and deduct the cost plus administrative costs, from future rent payments or recover these costs from Landlord by other means, or may, at its sole option, cancel this Lease. In addition, the Postal Service may proportionally abate the rent for any period the premises, or any part thereof, are determined by the Postal Service to have been rendered unavailable to it by reason of such condition.

The Landlord hereby indemnifies and holds harmless the Postal Service and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense, fees and/or liability resulting from, brought for, or on account of any violation of this clause.

The remainder of this clause applies if this Lease is for premises not previously occupied by the Postal Service.

By execution of this Lease the Landlord certifies:

- a. the property and improvements are free of all contamination from petroleum products or any hazardous/toxic or unhealthy materials or substances, including friable asbestos materials, as defined by applicable State or Federal law;



General Conditions to USPS Ground Lease

- b. there are no undisclosed underground storage tanks or associated piping, ACBM, radon, lead-based paint, or lead piping or solder in drinking water systems, on the property; and
- c. it has not received, nor is it aware of, any notification or other communication from any governmental or regulatory entity concerning any environmental condition, or violation or potential violation of any local, state, or federal environmental statute or regulation, existing at or adjacent to the property.

10. FACILITIES NONDISCRIMINATION

- a. By executing this Lease, the Landlord certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform services at any location under its control where segregated facilities are maintained.
- b. The Landlord will insert this clause in all contracts or purchase orders under this Lease unless exempted by Secretary of Labor rules, regulations, or orders issued under Executive Order 11246.

11. CLAUSES REQUIRED TO IMPLEMENT POLICIES, STATUTES, OR EXECUTIVE ORDERS

The following clauses are incorporated in this Lease by reference. The text of incorporated terms may be found in the Postal Service's Supplying Principles and Practices, accessible at www.usps.com/publications.

Clause 1-1, Privacy Protection (July 2007)

Clause 1-5, *Gratuities or Gifts* (March 2006)

Clause 1-6, *Contingent Fees* (March 2006)

Clause 4-2, Contract Terms and Conditions Required to Implement Policies, Statutes or Executive Orders (July 2009)

Clause 9-3, *Davis-Bacon Act* (March 2006)¹

Clause 9-7, *Equal Opportunity* (March 2006)²

Clause 9-13, *Affirmative Action for Handicapped Workers* (March 2006)³

Clause 9-14, *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era* (March 2006)⁴

Clause B-25, *Advertising of Contract Awards* (March 2006)

Note: For purposes of applying the above standard clauses to this Lease, the terms "supplier," "contractor," and "lessor" are synonymous with "Landlord," and the term "contract" is synonymous with "Lease."

¹ For premises with net interior space in excess of 6,500 SF and involving construction work over \$2,000.

² For leases aggregating payments of \$10,000 or more.

³ For leases aggregating payments of \$10,000 or more.

⁴ For leases aggregating payments of \$25,000 or more.

Facility Name: HAGERSTOWN, MD EMPLOYEE
PARKING

Fin/Sub No: 234068-003

Real Estate Conflict of Interest Certification

To avoid actual or apparent conflicts of interest, the United States Postal Service ("Postal Service") requires the following certification from you as a potential Landlord/Supplier/Contractor to the Postal Service. Please check all that apply in item A below. Further, please understand that the Postal Service will be relying on the accuracy of the statements made by you in this certification in determining whether to proceed with any possible transaction with you.

I, City of Hagerstown hereby certify to the Postal Service as follows:
[PRINT: Name of potential Landlord/Supplier/Contractor]

A. (Check all that apply) I am:

- (i.) ☐ A Postal Service employee;
(ii.) ☐ The spouse of a Postal Service employee;
(iii.) ☐ A family member of a Postal Service employee; (Relationship)
(iv.) ☐ An individual residing in the same household as a Postal Service employee;
(v.) ☐ I am one of the individuals listed in (i) through (iv) above AND a controlling shareholder or owner of a business organization leasing space or intending to lease space to the Postal Service; OR
(vi.) ☒ None of the above.

B. (Complete as applicable):

- i. I have the following job with the Postal Service
(Title) _____ (Location) _____
ii. My Spouse who works for the Postal Service holds the following job:
(Title) _____ (Location) _____
iii. My family member who works for the Postal Service holds the following job:
(Title) _____ (Location) _____
iv. My household member who works for the Postal Service holds the following job:
(Title) _____ (Location) _____

C. If you have checked "none of the above" and during the lease term or any renewal term, you do fall into any of the categories listed in A (i) through (v) above, you shall notify the Postal Service Contracting Officer in writing within 30 days of the date you fall into any of the such categories and shall include an explanation of which of the above categories now applies.

D. The person signing this certification has full power of authority to bind the potential Landlord / Supplier / Contractor named above.

Executed this 7th day of March, 20 17

BY: [Signature]
[Insert Signature]

BY: Robert E. Bruchey, II Mayor
[PRINT: Name of entity or person]

Title: Mayor
[Insert Title]

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") entered into on ____ day of _____, 2021, by and between THE CITY OF HAGERSTOWN, a Maryland Municipal Corporation, existing under and by virtue of the laws of the State of Maryland, hereinafter called "City" or "Tenant", and Marketplace, LLC, a limited liability company organized and existing under the laws of the State of Maryland, hereinafter called "Landlord" or "Marketplace."

WHEREAS, Marketplace owns a certain property located in Hagerstown, Washington County, Maryland, known as 25 West Church Street (the "Property"); and

WHEREAS, Marketplace desires to Lease a portion of the aforesaid Property to the Tenant; and

WHEREAS, the City presently occupies and desires to enter into a lease for a portion of the Property for the operation of its Fire Department pursuant to the terms hereof;

NOW THEREFORE, in consideration of the obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

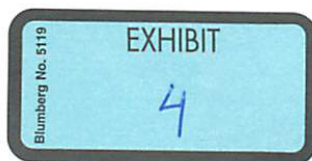
SECTION 1 **DEMISE OF PREMISES**

Landlord, for and in consideration of the payment of the rent and performance of the covenants and agreements hereinafter mentioned, hereby leases to Tenant and tenant hereby leases from Landlord all of the following space located at 25 West Church Street, Hagerstown, Maryland, consisting of approximately 9100 total square feet, more particularly identified as the shaded portion on the attached **Exhibit A**, together with twelve (12) designated parking spaces in the parking lot west of the Property (said portion of the Property and parking spaces are hereinafter call the "Premises").

SECTION 2 **TERM**

The Premises described herein are leased by Landlord to Tenant for an initial term of two (2) years (24 months) beginning on the 1st day of _____, 2022 and terminating on the 31st day of _____, 2024 at and for rental as set forth in Section 3 – Rent. Upon the expiration of the term and/or any renewal thereof (collectively the "term"), the rights of the Parties shall be construed pursuant to Section 17 hereof.

Thereafter, the Tenant is given and shall have the option to renew this Lease for one (1) additional two-year terms, so long as Tenant is in compliance with the terms of this Lease, and is utilizing the Premises described herein as contemplated hereunder.



In order to renew this Lease as outlined above Tenant must give Landlord notice in writing ninety (90) days prior to the expiration of the initial term of its desire to renew pursuant to the terms and conditions contained in this Lease Agreement. In the event Tenant fails to give any such notice to the City, it shall be presumed that Tenant has elected to terminate this Lease. **Tenant's option to renew is subject to Landlord's approval in its sole discretion. Landlord shall notify Tenant of its decision regarding renewal within ten (10) days of Tenant giving notice.**

SECTION 3 **RENT**

The annual rental shall be ONE DOLLAR and 00/100 CENTS (\$1.00). Tenant shall pay on or before the ____ day of _____ each year, beginning the first payment on _____, 2022.

SECTION 4 **USE FEES; UTILITIES**

Tenant shall be responsible for paying for water, sewer, electricity, gas, heating, and all utilities except as provided herein. To the extent possible, Tenant shall place the account for said utilities in its name and same shall be payable directly by Tenant to the applicable utility provider. Tenant shall be responsible for all trash removal services.

TENANT SHALL NOT BE RESPONSIBLE FOR OR PAY REAL ESTATE PROPERTY TAXES. Tenant shall be responsible for any other applicable taxes or fees.

SECTION 5 **COMPLIANCE TO MAINTAIN PROPERTY** **IN COMPLIANCE WITH INSURANCE**

Tenant covenants that it will not do nor permit to be done, nor keep nor permit to be kept upon the Premises, anything which will contravene the policy or policies of insurance against loss by fire or other causes, or which will increase the rate of fire or other insurance on the Property beyond the current rate. Should any act of Tenant so increase the rate, then, in addition to the rent hereinabove provided for, Tenant shall be liable for such additional premium, which shall be payable when billed as additional rent, collectible in the same manner as the annual rent. Tenant covenants that under no circumstances will it keep or permit to be kept, do or permit to be done, in or about the Premises, anything of a character so hazardous as to render it difficult, impracticable, or impossible to secure such insurance in companies acceptable to Landlord. Tenant further covenants, immediately upon notice, to remove from the Premises and/or to desist from any practice deemed by the insurance companies or the Fire Marshall as so affecting the insurance risk or otherwise presenting a hazard.

SECTION 6 **MAINTENANCE**

Tenant agrees to keep the interior of the Premises, including the fixtures, equipment and personalty and appurtenances thereto in good repair and will make all ordinary and replacement

repairs as its expense. Tenant agrees to be responsible for all interior and exterior window cleaning. Tenant shall be responsible for snow removal and cleaning on front sidewalk on the north side of the Premises as needed. Tenant shall maintain the Premises in a neat and clean condition and upon the expiration of the term of this Agreement surrender the entire premises in as good a state and condition as they were in at the commencement of the term, ordinary wear and tear excepted. If Tenant refuses or neglects to repair or replace the fixtures, equipment or personal property as required hereunder to the reasonable satisfaction of Landlord within a reasonable time following written demand to Tenant by Landlord, Landlord may make such repairs or replacements, and upon completion, Tenant shall pay Landlord's costs for making such repairs or replacements upon presentation of bills therefore, payable and collectible as additional rent.

Tenant shall be responsible and pay for all janitorial and cleaning services as may be required for the Premises. Tenant shall be responsible and pay for all pest/insect/rodent control services for the Premises.

Landlord agrees to keep and maintain in good order and repair the exterior, the roof and all structural parts of the Premises and the Property. Landlord shall maintain in good condition and repair the electrical, heating, cooling and plumbing systems which serve the Premises.

SECTION 7 **USE OF EQUIPMENT AND PERSONALTY**

N/A

SECTION 8 **ALTERATIONS**

Tenant further covenants that it will not make any alterations, additions, or changes of any kind to the Premises, without first securing the written consent of Landlord, after submission of the plans therefor to Landlord for review and prior approval. Any alterations, additions, or changes as Landlord shall permit in writing shall be made at Tenant's expense. This shall not be construed to deny the Tenant the right to do usual and customary decorating of the Premises. Tenant agrees that all improvements to the Premises shall become the property of the Landlord at the time of installation.

SECTION 9 **USE**

The demised Premises shall be used by the Tenant solely for the purpose of operating a fire department and any related business activities incidental thereto. No other use may be made of the premises unless approved in writing by the Landlord.

SECTION 10 **SIGNS**

Tenant shall be permitted to maintain existing signs on the exterior walls, and on any interior walls. The Tenant may not erect or place any additional signs on the exterior of the Premises or Property or which are visible from the exterior of the building unless same are in compliance with all applicable regulations and have been approved in writing by the Landlord. Said approval shall not be unreasonably or arbitrarily withheld.

SECTION 11

ASSIGNMENT AND SUBLEASE

Tenant shall not assign this Lease nor sublet all or any portion of the Premises to any person or entity without prior written approval from Landlord. Said approval shall be in the sole and absolute discretion of the Landlord. Landlord shall not assign this Lease to any person or entity without prior written approval from Tenant. Said approval shall be in the sole and absolute discretion of the Tenant.

SECTION 12

INDEMNITY AND LIABILITY INSURANCE

Tenant shall save and hold harmless and indemnify Landlord, its agents, servants, employees, officers and representatives from any and all claims of whatsoever nature or kind arising directly or indirectly from Tenant's use of the Premises including any suits, demands, claims or fines of whatsoever nature or kind including personal injuries and property damage arising directly or indirectly under any circumstances by the exercise of the Tenant in the use of the premises.

Tenant agrees to maintain general liability, fire and casualty and property damage insurance with an insurance company acceptable to Landlord in the minimum amount of \$1,000,000.00 per occurrence. The insurer must be approved or acceptable to the Landlord. Such policy shall cover the demised Premises only. Said policies shall provide for at least 30 days' notice to the Landlord before cancellation and an endorsement shall be delivered to Landlord. A certificate of insurance shall be furnished to Landlord upon the execution of this Lease, and annually thereafter.

SECTION 13

QUIET ENJOYMENT

Provided Tenant is not in default hereunder, Landlord agrees to permit Tenant quiet enjoyment of the Premises.

SECTION 14

INSPECTION OF PREMISES

Tenant agrees that Landlord shall have the right to inspect the Premises at reasonable times during business hours, upon reasonable advance notice to Tenant.

SECTION 15
FIRE DAMAGE/CONDEMNATION

In the event the Premises is damaged by fire, storm, the elements, act of God, unavoidable accident and/or the public enemy, to such an extent as to render it partially untenable, Landlord shall restore such portion of the Premises so injured or damaged as speedily as possible. The rent shall abate proportionately on such part of the Premises as may have been rendered untenable until such time as such part shall be fit for use, and after which time, the full amount of rent reserved in this Lease shall be payable as hereinabove set forth. If the Premises is injured or damaged by any of the aforesaid causes to such an extent as to render the same wholly untenable, then this Lease shall thereupon become null and void, and all liability of Tenant shall terminate upon payment of all rent and additional rent or other charges due and payable to the date of such happening.

Should the Premises or any part thereof be condemned, appropriated and/or required for public use, then this Lease Agreement at the option of Landlord, shall terminate upon the date when the Premises or any part thereof shall be taken. Rent shall be apportioned as of the date of such termination. Tenant shall not be entitled to any portion of a damage award.

In the event of partial or entire untenability or condemnation, Landlord shall not be responsible for relocation costs and/or loss of business or income to Tenant. The term untenable shall be defined as meaning the premises are unable to be used for a restaurant business.

SECTION 16
DEFAULT OF TENANT; REMEDIES OF LANDLORD

If any default is made in the payment of the rental or any other provisions as herein agreed by the Tenant, then the Landlord shall have any and all such rights as are available to it by law.

SECTION 17
TENANT HOLDING OVER

This agreement shall terminate automatically upon the expiration of the initial term or any validly exercised renewal thereof. However, if Tenant does not immediately surrender possession of the Premises upon the termination, and there is a holding over by Tenant, then and in said event, the tenancy of this lease shall be a periodic tenancy, the Parties hereto agree that said periodic tenancy shall be month-to-month, terminable by either party upon 30 days' written notice.

SECTION 18
CONTINGENCY

It is recognized by and between the parties that it is necessary for the Landlord to pass a resolution approving the execution of this Lease and the provisions hereof. It is agreed that the necessary resolution required by the Tenant shall be introduced as expeditiously as possible.

SECTION 19
SMOKING

No smoking will be permitted on the Premises by the public or the guests, invitees, agents, servants or employees of Tenant. No candle, incense or open flame shall be permitted on the Premises.

SECTION 20
NOTICES

Any notice required or permitted by this Lease to be given by either party may be personally delivered or sent by certified mail, properly addressed and prepaid, to the addresses of the parties herein given, unless another address shall have been substituted for such address by notice in writing. The date of delivery, being taken as the date of the receipt of such notice.

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

Copy to: Fire Chief
 Hagerstown Fire Department
 25 West Church Street
 Hagerstown, Maryland 21740

Tenant: Marketplace, LLC
 PO Box 112
 Brunswick, Maryland 21716
 Attn: Mr. David S. Blackmon, Managing Member

SECTION 21
ADDITIONAL DOCUMENTS

The parties agree to execute, acknowledge and deliver, any and all further documents and instruments that may be required or necessary to carry out and effectuate the purpose of this Agreement or any provisions contained herein.

SECTION 22
PARTIAL INVALIDITY

If any term, covenant or condition of this Agreement shall be deemed invalid or unenforceable, then the remainder of this Agreement shall not be affected and same shall remain in full force and effect.

SECTION 23
GOVERNING LAW

This Agreement shall be construed, interpreted and enforced according to the Laws of the State of Maryland, without regard to principles of conflict of law. The parties hereto agree to the exclusive jurisdiction and venue of the State Courts of Maryland located in Washington County. THE PARTIES HEREBY WAIVE THE RIGHT TO TRIAL BY JURY.

SECTION 24
PERMITS

In the event that it becomes necessary for any special permits, licenses or anything that may be requisite for the Tenant to occupy and use the Premises for the purposes set forth herein or as hereinafter may be agreed upon, then in said event, Tenant shall be responsible for the application and payment of any such permit or license fee if required.

SECTION 25
MISCELLANEOUS

The headings in the Agreement are solely for convenience and reference only and are not intended to define or limit the scope of any provisions of this Agreement, nor affect the interpretation thereof.

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

This Agreement shall enure to the benefit of and be binding upon the parties hereto, their grantees, successors and assigns, if applicable.

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

This Agreement contains the final and entire Agreement between the parties and they shall not be bound by any terms, conditions, statements, or representations, oral or written, not herein contained. Any subsequent amendment to the Agreement shall be valid only if executed in writing by the parties or their grantees, successors or assigns, if applicable.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date and year first above written.

**WITNESS AND ATTEST
AS TO CORPORATE SEAL**

Donna Spickler, City Clerk

CITY OF HAGERSTOWN

By:_____
Emily N. Keller, Mayor

**WITNESS AND ATTEST
AS TO CORPORATE SEAL**

MARKETPLACE, LLC

BY:_____(SEAL)
David S. Blackmon, Managing Member

*of 10 is retained
by City*

Received for record June 20th, 1980
at 3:45 p.m. Liber #702

THIS AGREEMENT, entered into this 9th day of June 1980, by and between the UNITED STATES POSTAL SERVICE, an independent establishment of the executive branch of the Government of the United States (hereinafter, Postal Service), and the CITY OF HAGERSTOWN, MARYLAND, a Municipal Corporation of the State of Maryland (hereinafter, the City).

WITNESSETH, that the parties hereto, in consideration of the mutual covenants and agreements contained herein, and of the mutual benefits derived thereof, hereby give, grant, quit-claim and exchange certain perpetual and permanent easements unto each other as more particularly described and under the terms and conditions hereinafter set forth.

1. A perpetual and permanent easement from the City to the Postal Service as follows:

(a) The exclusive use of an area comprising of ten (10) parking spaces on the Municipal Market House Parking Lot as shown and designated on City of Hagerstown, Maryland Engineering Department Drawing Number 83-490-03 on file in the Office of the City Engineer, a copy of which is attached hereto and made a part hereof; being portions of the land that was conveyed to The City of Hagerstown, Maryland (formerly The Mayor and Council of Hagerstown), by Anna H. K. Findlay be deed dated October 23, 1926, and recorded in Liber 175, Folio 665, and by Florence Harmon, Widow, by deed dated June 17, 1927, and recorded in Liber 177, Folio 436 and by Clarine V. Warner and Richard Warner, her husband, by deed dated November 6, 1926, and recorded in Liber 175, Folio 167, of the Land Records of Washington County, Maryland.

(b) The non-exclusive use of a gate and steps, both to be constructed and maintained by the City, so as to permit pedestrian access to the aforesaid Parking Lot, together with the nonexclusive use of such additional space in the Parking Lot as is reasonably necessary for pedestrian access to the hereinabove described parking spaces, and also such additional space as is reasonably necessary for vehicles which use those parking spaces to enter and exit the aforesaid Parking Lot.

2. A perpetual and permanent easement from the Postal Service to the City as follows:

An easement, privilege and/or right-of-way for the construction, improvement, operation, and maintenance of a public pedestrian thoroughfare, with respect to a strip of land twelve (12) feet wide, for a depth of two hundred and forty feet (240+) more or less, running from the north marginal line of West Franklin Street to the south marginal line of the alley north of West Franklin Street and being the eastern most twelve (12) feet of the property of the said Postal Service, together with an easement, privilege and/or right-of-way in perpetuity for the purpose of constructing, reconstructing, inspecting, operating and maintaining an underground electric system and lighting system, including all necessary poles, bases, anchors, wires, trenches, conduits, pull boxes, and other such related facilities under, over

- 2 -

and upon said strip of land, and to permit the installation of wires, cable or other facilities as may be required, said strip of land being more particularly shown and described on City of Hagerstown, Maryland Drawing Number 83-490-02, on file in the Office of the City Engineer, a copy of which is attached hereto and made a part hereof, and being a portion of the land that was conveyed to the United States of America by deed dated April 29, 1933, and recorded in Liber 193, Folio 372 of the Land Records of Washington County, Maryland.

3. Hold Harmless Agreement:

(a) The Postal Service shall save harmless and indemnify the City and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense and/or liability resulting from, brought for, or on account of any personal injury or property damage received or sustained by any person, persons, or property growing out of, occurring, or attributable to the easement described in Clause 1(a) hereof.

(b) The City shall save harmless and indemnify the Postal Service and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense and/or liability resulting from, brought for, or on account of any personal injury or property damage received or sustained by any person, persons, or property growing out of, occurring, or attributable to the easement described in Clause 2 hereof.

4. Erection of Buildings or Other Structures:

Except as expressly provided by this Agreement, neither party shall erect or permit the erection of any building or permanent structure on the land within the scope of the easements described herein.

5. Construction Work to be Performed by City:

The City shall perform the following construction items concerned with the Market House Walk and West Franklin Street Redevelopment Project, all as shown on the drawings incorporated herein.

(a) Remove portion of existing fence along the Municipal Parking Lot, to provide access to Postal Service employees to the land described in Clause 1(a) hereof.

(b) Install a pedestrian gate between the alley and the Postal Service parking lot, including steps from the parking lot down to alley level to provide access to the land described in Clause 1(a) hereof.

(c) Relocate existing 8' high chain link security fence along the Market House walk on the ease side of the Postal Service property.

(d) Construct a standard brick sidewalk to replace the existing concrete sidewalk of the Market House Walk.

- 3 -

(e) Relocate existing USPS parking lot light standard that is within the proposed 12' walkway at a point approximately 50' from rear property line to a parallel location just outside the 12' walkway.

(f) Replace existing 4 1/2" high chain link fence with a solid brick wall approximately 30" high.

(g) Install and maintain appropriate number of no parking signs along east side of USPS property which abuts the property described in Clause 2 hereof.

(h) Install underground electrical duct banks under the brick sidewalk together with walkway light poles and bases, pull boxes, wiring and related items.

6. Maintenance of Improvements on Easement Land:

The City shall maintain the paving and all other improvements upon the land which is within the scope of the easements described herein.

IN WITNESS WHEREOF, the parties have hereunto set their respective hands the day and year first above written.

UNITED STATES POSTAL SERVICE

By: B. W. Wright
B.W. WRIGHT
Acting Regional Director
Real Estate & Buildings Dept.

CITY OF HAGERSTOWN, MARYLAND

By: Varner L. Paddack
Varner L. Paddack

Its: Mayor

COMMONWEALTH OF PENNSYLVANIA)
) SS:
 COUNTY OF PHILADELPHIA)

On this the 9th day of June, 1980,
 before me appeared Billy W. Wright, to me personally
 known, who being by me duly sworn, did say that he
 is the ^{Acting} Regional Director, Real Estate and Buildings
 Department, Eastern Region of the United States
 Postal Service, and that the seal affixed to the
 foregoing instrument is the seal of the United
 States Postal Service, Eastern Region, and that
 the instrument was signed and sealed in behalf of
 the United States Postal Service, and the said
 Billy W. Wright acknowledged said instrument to
 be the free act and deed of the United States
 Postal Service

Elmira A. Ruffin
 Notary Public

ELMIRA A. RUFFIN, NOTARY PUBLIC
 PHILADELPHIA, PHILADELPHIA COUNTY
 MY COMMISSION EXPIRES MAY 18, 1981
 Member, Pennsylvania Association of Notaries

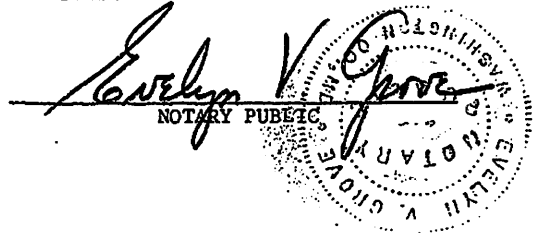
STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

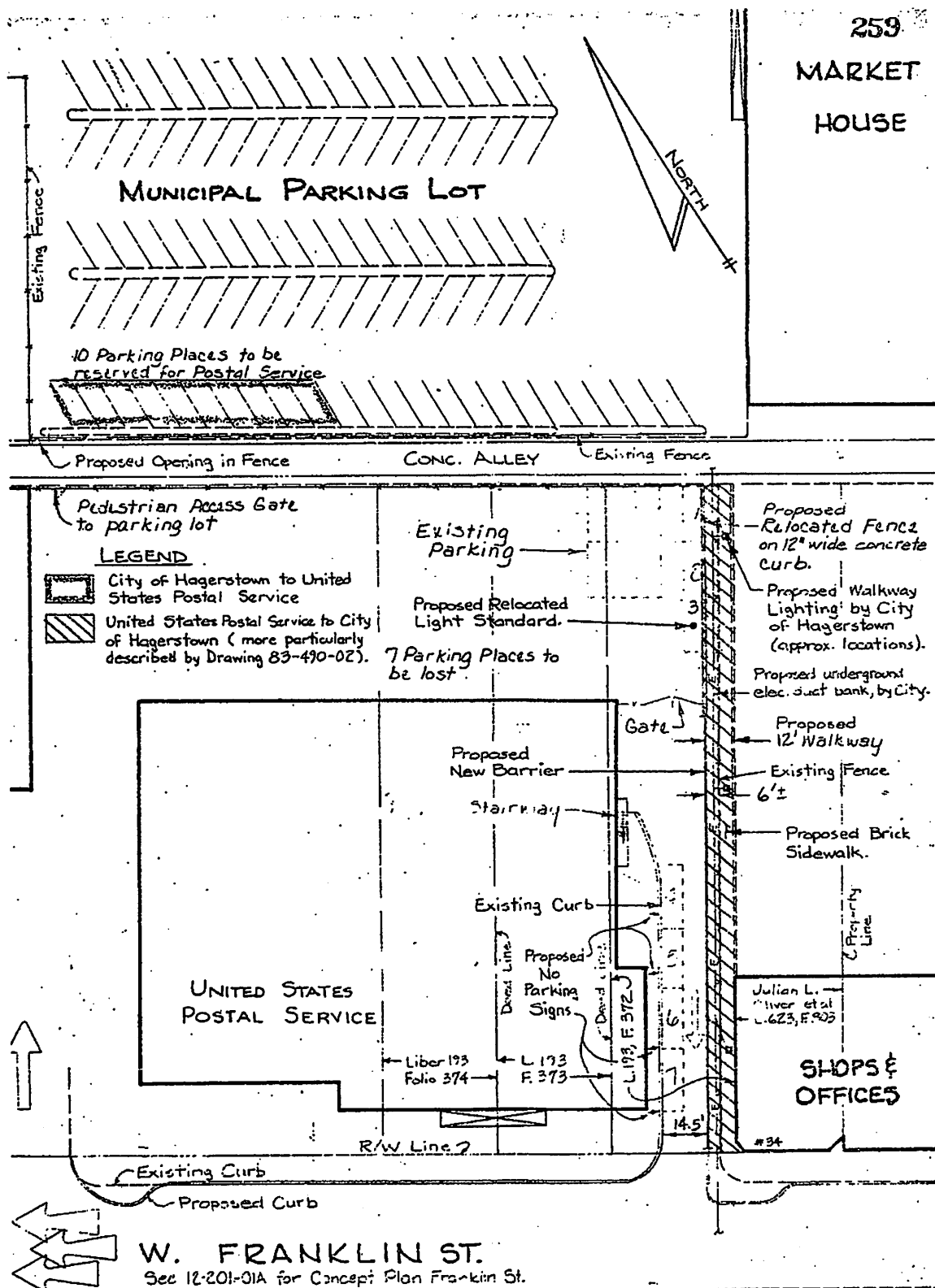
I HEREBY CERTIFY, That on this 16th day of June, 1980,
before me, the subscriber, a Notary Public in and for the State and
County aforesaid, personally appeared Varner L. Paddack, Mayor of the
City of Hagerstown, and made oath in due form of law that the
consideration mentioned in the foregoing Easement Exchange Agreement
is true and bona fide as therein set forth and further made oath that
he is the Mayor for said City of Hagerstown and is duly authorized to
make this affidavit.

WITNESS my hand and Official Notarial Seal.

My Commission Expires:

July 1, 1982





NOT TO SCALE

PROPOSED AGREEMENT BETWEEN
THE CITY OF HAGERSTOWN AND
THE UNITED STATES POSTAL SERVICE

Drawn by: A.W.
Date: March 11, 1980
Revised 3-28-80, by A.W.
Revised 4-1-80, by A.W.
Revised 6-13-80, by T.J.Y.

DRAWING No.
82-490-02

RIGHT OF FIRST REFUSAL

THIS RIGHT OF FIRST REFUSAL AGREEMENT is made on this the ____ day of _____, 2021, by and between Marketplace, LLC a limited liability company formed and existing, hereinafter referred to as the "SELLER" and the City of Hagerstown, under the laws of the State of Maryland, a Maryland Municipal Corporation, and its assigns, hereinafter referred to as the "PURCHASER".

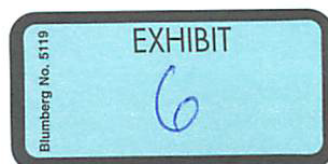
Seller is the owner in fee simple of certain improved real property consisting of multiple parcels of land located in Hagerstown, Maryland known as 25 West Church Street and described, to the best of Seller's knowledge, on the drawing attached hereto as Exhibit 1, and incorporated herein. The foregoing real property is referred to herein as the "Property." The Property is improved with a building ("the Market House") and a parking lot ("the Parking Lot.")

The Seller desires to grant to the Purchaser, for a period of five (5) years beginning on the date hereof and expiring on the fifth anniversary of the date hereof, a right of first refusal to purchase the Market House on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid by the Purchaser to the Seller and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. If, at any time after the date of this Agreement, the Seller shall desire to offer to sell the Market House or any part thereof, or shall receive from a third party a *bona fide* offer to purchase the Market House or any part thereof which the Seller desires to accept, the Seller, before making or accepting the offer, as the case may be, shall send the written notification from the Seller of Seller's intention to make or accept the offer embodied in the contract, as the case may be. The Purchaser shall have the right, within ninety (90) days of the receipt of the contract and the written notice, to purchase the Market House or such part thereof on the terms and conditions set forth in the contract, **except that the purchase price shall be ONE DOLLAR and 00/100 CENTS (\$1.00)**. In the event the Purchaser elects to accept the offer embodied in the contract, the Purchaser must do so by executing one copy of the contract (*with the one revision noted in bold in the previous sentence*) and returning it to the Seller within the ninety (90) day period.

2. If the Purchaser does not accept the offer embodied in the contract within the ninety (90) day period provided in paragraph 1 hereof, then the offer embodied in the contract shall be deemed withdrawn and the Seller shall be free for a period of three (3) months from the expiration of the ninety (90) day period to sell or offer to sell the Market House or such part thereof to third parties on terms not less favorable to the Seller than those set forth in the contract free and clear of this Right of First Refusal. In the event the Market House or such part



thereof is not sold to a third party within the three (3) month period, then any further offer to sell or the purchase the Market House or any part thereof must first be submitted to the Purchaser in accordance with the provisions of paragraph 1.

3. In the event the Seller shall, during the aforesaid three (3) month period (or during a subsequent three (3) month period as in this paragraph 3 provided), decide to revise the terms of its offer so that the Market House or any part thereof shall be offered for sale upon terms less favorable to the Seller than those contained in any contract previously submitted to the Purchaser, or shall receive from a third party a *bona fide* offer to purchase the Market House or any part thereof on less favorable terms, which offer the Seller is willing to accept (such less favorable terms being hereinafter referred to as "New Offer"), then the Seller shall, with respect to each such New Offer, before offering the Market House or such part thereof for sale to others on the terms embodied in the New Offer, or accepting the New Offer, as the case may be, offer to sell the Market House or such part thereof to the Purchaser on the terms contained in the then current New Offer, **except that the purchase price shall be ONE DOLLAR and 00/100 CENTS (\$1.00)**. The terms of the New Offer shall be embodied in a new contract for the sale of the Market House or such part thereof, which shall be submitted to the Purchaser in accordance with the requirements of paragraph 1 above.

If the Purchaser shall not accept the New Offer within ninety (90) days after the receipt of the new contract and the written notice referred to in paragraph 1 above, then the Seller shall be free for a period of one (1) month from the expiration of the ninety (90) day period to sell or offer to sell the Market House or such part thereof to third parties on terms not less favorable to the Seller than those contained in the New Offer free and clear of this Right of First Refusal. Provided, however, that in the event the Market House or such part thereof is not sold to a third party within the ninety (90) period, then any further offers with respect to the Market House or any part thereof must be submitted to the Purchaser in accordance with the provisions of paragraph 1.

4. Within fifteen (15) days after the Purchaser has exercised its right of first refusal, the Seller shall deliver to the Purchaser a Certificate of Title or title abstract covering the Market House described in paragraph 1 above which shall reflect that marketable fee simple title to the subject Market House is vested in Seller and that same is insurable by a title insurance company licensed to do business in the State of Maryland . Said Certificate or abstract shall be subject only to taxes for the current year, easements, and rights of way of record, and prior mineral reservations. Should said Certificate or Abstract reflect any other exceptions to the title unacceptable to Purchaser, Purchaser shall notify the Seller in writing of any defects within fifteen (15) days (the title review period) and the Seller shall have a reasonable time (but not more than 25 days) in which to make the title good and marketable or insurable, and shall use due diligence in an effort to do so. If after using due diligence the Seller is unable to make the title acceptable to Purchaser within such reasonable time, it shall be the option of the Purchaser either to accept the title in its existing condition with no further obligation on the

part of the Seller to correct any defect, or to cancel this Agreement. If this Agreement is thus cancelled, all money paid by the Purchaser to the Seller upon the execution of this Agreement or upon any extension shall be returned to the Purchaser, and this Agreement shall terminate without further obligation of either party to the other.

This Agreement shall be subordinate and junior to the legal operation and effect of any present or future mortgage or deed of trust which is now or hereafter becomes a lien on the Market House.

5. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs and assigns.

6. All notices pursuant to this Agreement shall be in writing and delivered (i) personally, or (ii) sent by certified or registered mail, postage prepaid, return receipt requested, or (iii) by a nationally recognized overnight courier. A notice must be addressed to a party as indicated below. Any notice hereunder shall be deemed duly delivered (a) when delivered, with written receipt, if personally delivered or delivered by nationally recognized overnight courier, or (b) three (3) days after mailing, if mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

Purchaser's notice address:

City Clerk
City of Hagerstown
1 East Franklin Street
Hagerstown, MD 21740

With a copy to:

Fire Chief
25 West Church Street
Hagerstown, MD 21740

Seller's notice address:

Marketplace, LLC
PO Box 112
Brunswick, Maryland 21716
Attn: Mr. David S. Blackmon, Managing Member

With a copy to:

Either party may change its address for the purposes of this section by giving notice of the changed address to the other party in the manner provided for above.

IN WITNESS WHEREOF the parties executed this Agreement and affixed their seals as of the date and year first above written.

ATTEST:

BUYER:

CITY OF HAGERSTOWN
A Maryland municipal corporation

Name:

By: _____
Emily N. Keller
Mayor

ATTEST:

SELLER:
MARKETPLACE, LLC

Name:

By: _____
David S. Blackmon, Managing Member

STATE OF MARYLAND, WASHINGTON COUNTY, TO WIT:

I HEREBY CERTIFY, That on this _____ day of _____, 2021, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Emily N. Keller, Mayor of the City of Hagerstown, and acknowledged that she, as such officer, being authorized to do so, executed the foregoing instrument as the voluntary act and deed of said municipal corporation and did make oath that the within instrument is not a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the municipal corporation.

WITNESS my hand and Official Notarial Seal.

My Commission Expires:

Notary Public

STATE OF MARYLAND, WASHINGTON COUNTY, TO WIT:

I HEREBY CERTIFY, That on this _____ day of _____, 2021, before me, the subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared David Scott Blackmon, Managing Member of Market Place, LLC, and acknowledged that he, as such member, being authorized to do so, executed the foregoing instrument as the voluntary act and deed of said limited liability company and did make oath that the within instrument is not a transaction in which there is a sale, lease, exchange or other transfer of all or substantially all of the property and assets of the limited liability company.

WITNESS my hand and Official Notarial Seal.

My Commission Expires:

Notary Public

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

Topic:

Approval of a Resolution: Lease Agreement with The Foundry Pop-Ups LLC for the Property Located at 6 N Potomac Street

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move that the Mayor and City Council to approve the attached resolution authorizing the Lease Agreement with The Foundry Pop-Ups LLC at the City of Hagerstown property located at 6 North Potomac Street, in Hagerstown, MD. The term of the lease shall be November 17, 2021 through December 31, 2021. The approval provides that the City Administrator and/or the City Attorney may make administrative edits to attached Agreement if necessary prior to execution.

Action Dates:

DATE OF INTRODUCTION: N/A

DATE OF PASSAGE: 11/16/2021

EFFECTIVE DATE: 11/16/2021

ATTACHMENTS:

File Name

111621_MCC_SS_TheFoundryPop-UpsLLC_(003).pdf

Description

111621_Approval Lease
The Foundry

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 16, 2021

TOPIC: **Approval of a Resolution: Lease Agreement with The Foundry Pop-Ups LLC for the City of Hagerstown property located at 6 N Potomac St, Hagerstown, Maryland.**

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

MOTION: I hereby move that the Mayor and City Council to approve the attached resolution authorizing the Lease Agreement with The Foundry Pop-Ups LLC at the City of Hagerstown property located at 6 North Potomac Street, in Hagerstown, MD. The term of the lease shall be November 17, 2021 through December 31, 2021. The approval provides that the City Administrator and/or the City Attorney may make administrative edits to attached Agreement if necessary prior to execution.

DATE OF INTRODUCTION:	N/A
DATE OF PASSAGE:	11/16/2021
EFFECTIVE DATE:	11/16/2021

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO A NEW LEASE AGREEMENT WITH
THE FOUNDRY POP-UPS LLC
FOR A PORTION OF THE PROPERTY KNOWN AS
6 NORTH POTOMAC STREET**

RECITALS

WHEREAS, the City of Hagerstown owns property known as 6 North Potomac Street in Hagerstown, Maryland; and

WHEREAS, a portion of the said property is available for lease (“the Premises”) for the period from November 17, 2021 and ending on December 31, 2021; and

WHEREAS, the City of Hagerstown desires to lease said Premises to The Foundry Pop-Ups LLC; and

WHEREAS, The Foundry Pop-Ups, LLC, is a limited liability company organized and existing under the laws of the State of Maryland, desires to lease the Premises from the City and operate its business at said location; and

WHEREAS, the Mayor and Council find it to be in the best interests of the citizens 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 it adopts herein the foregoing Recitals and authorizes the City of Hagerstown to enter into a Lease Agreement with The Foundry, LLC for the Premises, pursuant to the terms of the Lease Agreement attached hereto and incorporated herein by reference.
2. That upon The Foundry Pop-Ups LLC providing written proof that it has a valid trader’s license, and all other applicable licenses and approvals, the Mayor be and is hereby authorized to execute and deliver the Lease Agreement attached hereto, and to execute any additional documentation required 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

Emily Keller, Mayor

Date of Introduction: November 16, 2021
Date of Passage: November, 16, 2021
Effective Date: November 16, 2021

Prepared by:
SALVATORE & MORTON, LLC
City Attorneys

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") entered into on ____ day of _____, 2021, by and between THE CITY OF HAGERSTOWN, a Maryland Municipal Corporation, existing under and by virtue of the laws of the State of Maryland, hereinafter called "City" or "Landlord," and The Foundry Pop-Ups LLC, a limited liability company organized and existing under the laws of the State of Maryland, hereinafter called "Tenant".

WHEREAS, the City owns a certain property located in Hagerstown, Washington County, Maryland, known as 6 North Potomac Street, (the "Property"); and

WHEREAS, the City desires to Lease a portion of the aforesaid Property to the Tenant; and

WHEREAS, Tenant desires to enter into a lease of a portion of the Property pursuant to the terms hereof;

NOW THEREFORE, in consideration of the obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

SECTION 1 **DEMISE OF PREMISES**

Landlord, for and in consideration of the payment of the rent and performance of the covenants and agreements hereinafter mentioned, hereby leases to Tenant and tenant hereby leases from Landlord all of the following space located at 6 North Potomac Street, Hagerstown, Maryland, consisting of approximately 1,400 total square feet, more particularly identified on the highlighted portion of the floor plan attached **Exhibit 1** ("the Premises").

SECTION 2 **TERM**

The Premises described herein are leased by Landlord to Tenant for an initial term beginning on the 17th day of November, 2021 and terminating on the 31st day of December, 2021 at and for rental as set forth in Section 3 – Rent. Upon the expiration of the term, the rights of the Parties shall be construed pursuant to Section 17 hereof. In no event shall the tenancy be extended or renewed absent an express written agreement between the Parties.

SECTION 3 **RENT**

A. For the period of November 17, 2021 to December 31, 2021, the annual rental shall be Zero and 00/100 Dollars (\$0.00).

SECTION 4 **USE FEES; UTILITIES**

Tenant shall be responsible for paying for electricity, gas, heating, and all utilities except as provided herein. Tenant shall place the account for said utilities in its name and same shall be payable directly by Tenant to the applicable utility provider. Tenant shall be responsible for all trash removal services.

TENANT SHALL NOT BE RESPONSIBLE FOR OR PAY REAL ESTATE PROPERTY TAXES. TENANT SHALL NOT BE RESPONSIBLE FOR WATER/SEWER WATER FEES. Tenant shall be responsible for any other applicable taxes or fees.

SECTION 5 **COMPLIANCE TO MAINTAIN PROPERTY** **IN COMPLIANCE WITH INSURANCE**

Tenant covenants that it will not do nor permit to be done, nor keep nor permit to be kept upon the Premises, anything which will contravene the policy or policies of insurance against loss by fire or other causes, or which will increase the rate of fire or other insurance on the Property beyond the current rate. Should any act of Tenant so increase the rate, then, in addition to the rent hereinabove provided for, Tenant shall be liable for such additional premium, which shall be payable when billed as additional rent, collectible in the same manner as the annual rent. Tenant covenants that under no circumstances will it keep or permit to be kept, do or permit to be done, in or about the Premises, anything of a character so hazardous as to render it difficult, impracticable, or impossible to secure such insurance in companies acceptable to Landlord. Tenant further covenants, immediately upon notice, to remove from the Premises and/or to desist from any practice deemed by the insurance companies or the Fire Marshall as so affecting the insurance risk or otherwise presenting a hazard.

SECTION 6 **MAINTENANCE**

Tenant agrees to keep the interior of the Premises, including the fixtures, equipment and personalty and appurtenances thereto in good repair and will make all ordinary and replacement repairs as its expense. Tenant agrees to be responsible for all interior and exterior window cleaning. Tenant shall be responsible for snow removal and cleaning on front sidewalk as needed. Tenant shall maintain the Premises in a neat and clean condition and upon the expiration of the term of this Agreement surrender the entire premises in as good a state and condition as they were in at the commencement of the term, ordinary wear and tear excepted. If Tenant refuses or neglects to repair or replace the fixtures, equipment or personal property as required hereunder to the reasonable satisfaction of Landlord within a reasonable time following written demand to Tenant by Landlord, Landlord may make such repairs or replacements, and upon completion, Tenant shall pay Landlord's costs for making such repairs or replacements upon presentation of bills therefore, payable and collectible as additional rent.

Tenant shall be responsible and pay for all janitorial and cleaning services as may be required for the Premises. Tenant shall be responsible and pay for all pest/insect/rodent control services for the Premises.

Landlord agrees to keep and maintain in good order and repair the exterior, the roof and all structural parts of the Premises and the Property. Landlord shall maintain in good condition and repair the electrical, heating, cooling and plumbing systems which serve the Premises.

SECTION 7

TERMINATION OF LEASE IN CASE OF TENANT'S EXPANSION

If Tenant has the *bona fide* need for additional space, and if Tenant finds alternative premises consisting of 2,500 square feet or more, and enters into a written lease (or purchase agreement) for same within limits of the City of Hagerstown, the Tenant may terminate this Lease Agreement after the initial term of the Lease upon ninety (90) days' written notice to the Landlord. As a condition of this Section, Tenant must furnish to Landlord a true and accurate copy of the written lease or purchase agreement, as the case may be, at the time that Tenant provides notice.

SECTION 8

ALTERATIONS

Tenant further covenants that it will not make any alterations, additions, or changes of any kind to the Premises, without first securing the written consent of Landlord, after submission of the plans therefor to Landlord for review and prior approval. Any alterations, additions, or changes as Landlord shall permit in writing shall be made at Tenant's expense. This shall not be construed to deny the Tenant the right to do usual and customary decorating of the Premises. Tenant agrees that all improvements to the Premises shall become the property of the Landlord at the time of installation.

SECTION 9

USE

The demised Premises shall be used by the Tenant solely for the purpose of conducting a retail business and any related business activities incidental thereto. No other use may be made of the premises unless approved in writing by the Landlord.

Tenant shall at all times during the term hereof remain in good standing with the State of Maryland, maintain its trader's license, and all other applicable licenses and approvals current and valid. Failure to cure a violation of this provision within thirty (30) days of written notice to do so shall constitute an event of default hereunder.

Tenant's agents, servants, employees, invitees, or other persons upon the Premises under the control and direction of the Tenant shall not engage in any criminal activity upon the Premises. Tenant, its agents, servants and employees shall not engage in any act intended to facilitate criminal activity upon the Premises or permit the Premises to be used for any such criminal activity. Any violation of this warranty shall be deemed an event of default hereunder.

SECTION 10 **SIGNS**

Tenant shall be permitted to install the name of Tenant and/or its trade name, on any interior walls. The Tenant may not erect or place any signs on the exterior of the Premises or Property or which are visible from the exterior of the building unless same are in compliance with all applicable regulations and have been approved in writing and in advance by the Landlord. Said approval shall not be unreasonably withheld.

SECTION 11 **ASSIGNMENT AND SUBLEASE**

Tenant shall not assign this Lease nor sublet all or any portion of the Premises to any person or entity without prior written approval from Landlord. Said approval shall be in the sole and absolute discretion of the Landlord.

SECTION 12 **INDEMNITY AND LIABILITY INSURANCE**

Tenant shall save and hold harmless and indemnify Landlord, its agents, servants, employees, officers and representatives from any and all claims of whatsoever nature or kind arising directly or indirectly from Tenant's use of the Premises including any suits, demands, claims or fines of whatsoever nature or kind including personal injuries and property damage arising directly or indirectly under any circumstances by the exercise of the Tenant in the use of the premises.

Tenant agrees to maintain general liability, fire and casualty and property damage insurance with an insurance company acceptable to Landlord and to protect Landlord as an additional insured in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000 in the aggregate. The insurer must be approved or acceptable to the Landlord. Such policy shall cover the demised Premises only and shall name Landlord as an additional insured. Said policies shall provide for at least 30 days' notice to the Landlord before cancellation and an endorsement shall be delivered to Landlord. A certificate of insurance shall be furnished to Landlord upon the execution of this Lease, and annually thereafter.

SECTION 13 **QUIET ENJOYMENT; SUBORDINATION TO MORTGAGES**

Provided Tenant is not in default hereunder, Landlord agrees to permit Tenant quiet enjoyment of the Premises. Tenant agrees that this Lease is and shall be subordinate to any existing or future liens or encumbrances of the Premises either by Landlord or its successors or assigns.

SECTION 14

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 Property, where Landlord shall choose, "For Sale" or "For Rent" signs at any time during the term of this agreement.

SECTION 15

FIRE DAMAGE/CONDEMNATION

In the event the Premises is damaged by fire, storm, the elements, act of God, unavoidable accident and/or the public enemy, to such an extent as to render it partially untenable, Landlord shall restore such portion of the Premises so injured or damaged as speedily as possible. The rent shall abate proportionately on such part of the Premises as may have been rendered untenable until such time as such part shall be fit for use, and after which time, the full amount of rent reserved in this Lease shall be payable as hereinabove set forth. If the Premises is injured or damaged by any of the aforesaid causes to such an extent as to render the same wholly untenable, then this Lease shall thereupon become null and void, and all liability of Tenant shall terminate upon payment of all rent and additional rent or other charges due and payable to the date of such happening.

Should the Premises or any part thereof be condemned, appropriated and/or required for public use, then this Lease Agreement at the option of Landlord, shall terminate upon the date when the Premises or any part thereof shall be taken. Rent shall be apportioned as of the date of such termination. Tenant shall not be entitled to any portion of a damage award.

In the event of partial or entire untenability or condemnation, Landlord shall not be responsible for relocation costs and/or loss of business or income to Tenant. The term untenable shall be defined as meaning the premises are unable to be used for a commercial business.

SECTION 16

DEFAULT OF TENANT; REMEDIES OF LANDLORD

In addition to, and not in contravention of any other provision hereof, it is further agreed and understood that if any default is made in the payment of the rental or any other provisions as herein agreed by the Tenant, then the relationship of Landlord and Tenant at the option of the Landlord shall wholly cease and terminate, and the Landlord, its agents or attorneys, shall have the absolute right to re-enter said premises and assume and take possession of the same and the said Tenant waives service of any Notice of Intention to Re-enter, Notice to Terminate Tenancy, or Notice to quit or Demand for Possession.

SECTION 17

TENANT HOLDING OVER

This agreement shall terminate automatically upon the expiration of the term. However, if Tenant does not immediately surrender possession of the Premises upon the termination, and there is a holding over by Tenant, then and in said event, the tenancy of this lease shall be considered at will, and Landlord shall be entitled to retake possession of the Premises without any prior notice to Tenant. Tenant hereby waives Demand for Possession and Service of Notice to Re-enter and Notice of any kind in connection with Landlord's right to re-enter and take possession of the Premises upon expiration of the term. If, despite the intent of the Parties, a Court of competent jurisdiction shall hold that a periodic tenancy exists upon the expiration of the initial term or any renewal hereof, the Parties hereto agree that said periodic tenancy shall be month-to-month at 150% of the monthly rent applicable prior to the expiration of the initial term or any validly exercised renewal thereof.

SECTION 18 **CONTINGENCY**

It is recognized by and between the parties that it is necessary for the Landlord to pass a resolution approving the execution of this Lease and the provisions hereof. In the event that said resolution should not become effective for any reason, then in said event, this agreement is null and void of no effect. It is agreed that the necessary resolution required by the Landlord shall be introduced as expeditiously as possible.

SECTION 19 **SMOKING**

No smoking will be permitted on the Premises by the public or the guests, invitees, agents, servants or employees of Tenant. No candle, incense or open flame shall be permitted on the Premises.

SECTION 20 **NOTICES**

Any notice required or permitted by this Lease to be given by either party may be personally delivered or sent by certified mail, properly addressed and prepaid, to the addresses of the parties herein given, unless another address shall have been substituted for such address by notice in writing. The date of delivery, being taken as the date of the receipt of such notice.

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

With a courtesy copy to: Jason Morton, Esquire
 Salvatore & Morton, LLC

82 West Washington Street, Suite 100
Hagerstown, Maryland 21740

Tenant:

The Foundry Pop-Ups LLC
104 S New St Apt 404
Staunton, VA 24401
Attn: Ms. Jennifer Mulledy Graybash
Managing Member

SECTION 21
ADDITIONAL DOCUMENTS

The parties agree to execute, acknowledge and deliver, any and all further documents and instruments that may be required or necessary to carry out and effectuate the purpose of this Agreement or any provisions contained herein.

SECTION 22
PARTIAL INVALIDITY

If any term, covenant or condition of this Agreement shall be deemed invalid or unenforceable, then the remainder of this Agreement shall not be affected and same shall remain in full force and effect.

SECTION 23
GOVERNING LAW

This Agreement shall be construed, interpreted and enforced according to the Laws of the State of Maryland, without regard to principles of conflicts of law. The parties hereto agree to the exclusive jurisdiction and venue of the State Courts of Maryland located in Washington County. THE PARTIES HEREBY WAIVE THE RIGHT TO TRIAL BY JURY.

SECTION 24
PERMITS

In the event that it becomes necessary for any special permits, licenses or anything that may be requisite for the Tenant to occupy and use the Premises for the purposes set forth herein or as hereinafter may be agreed upon, then in said event, Tenant shall be responsible for the application and payment of any such permit or license fee if required.

SECTION 25
SECURITY DEPOSIT

N/A

SECTION 26
PERSONAL GUARANTEE

N/A

SECTION 27
MISCELLANEOUS

The headings in the Agreement are solely for convenience and reference only and are not intended to define or limit the scope of any provisions of this Agreement, nor affect the interpretation thereof.

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

This Agreement shall inure to the benefit of and be binding upon the parties hereto, their grantees, successors and assigns, if applicable.

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

This Agreement contains the final and entire Agreement between the parties and they shall not be bound by any terms, conditions, statements, or representations, oral or written, not herein contained. Any subsequent amendment to the Agreement shall be valid only if executed in writing by the parties or their grantees, successors or assigns, if applicable.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date and year first above written.

**WITNESS AND ATTEST
AS TO CORPORATE SEAL**

CITY OF HAGERSTOWN

Donna Spickler, City Clerk

By: _____
Emily Keller, Mayor

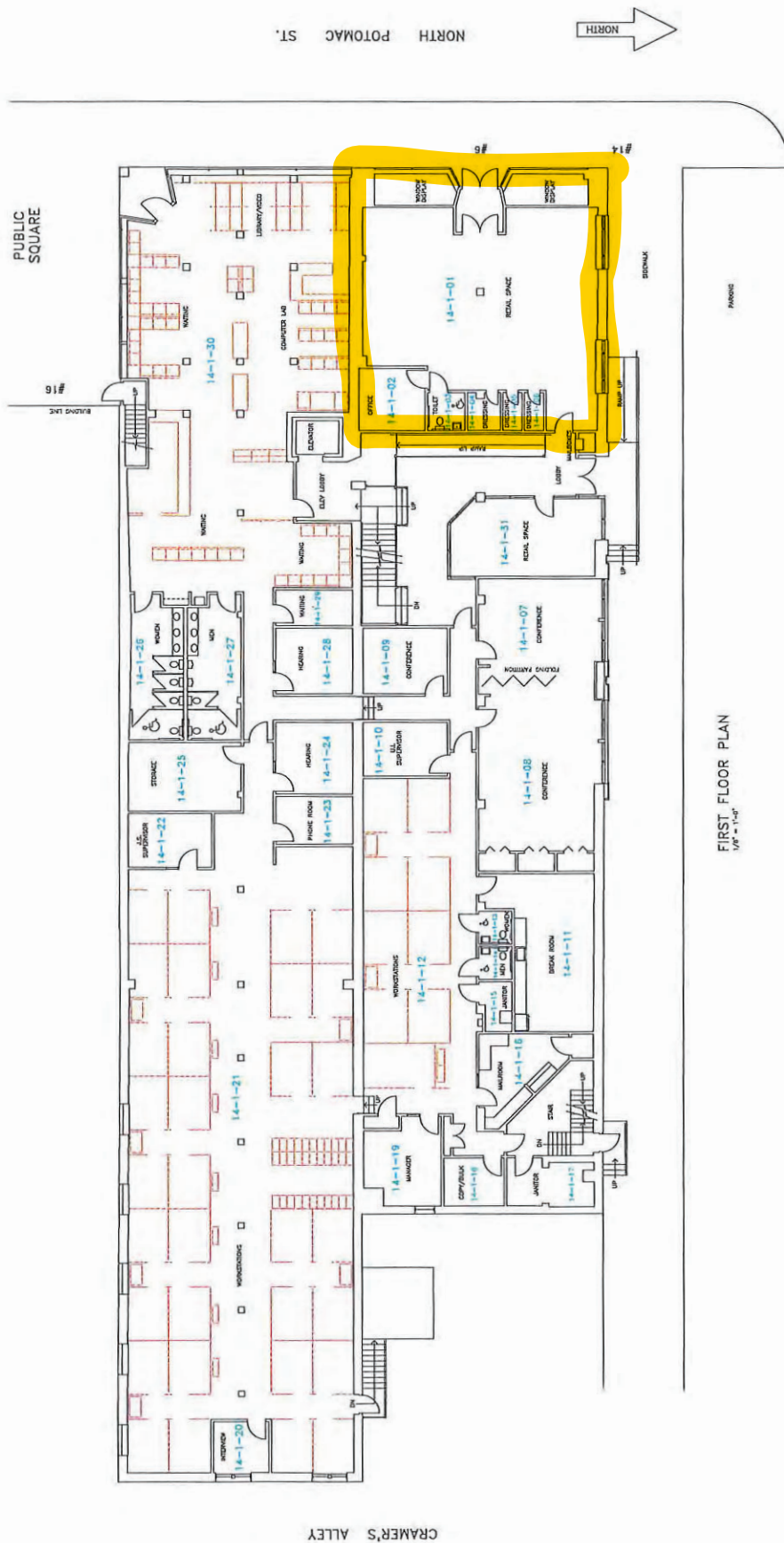
ATTEST

**TENANT
THE FOUNDRY POP-UPS LLC**

Member

By: _____
Jennifer Mulledy Graybash, Managing

Exhibit 1



EXISTING CITY FACILITIES
25-12 NORTH POTOMAC ST.
Dwg. No. 62-126-01

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

Topic:

Proclamation: Small Business Saturday

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Proclamation: Transgender Day of Remembrance

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Preliminary Agenda Review

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

November_23__2021_Preliminary_Agenda.pdf

Description

Preliminary Agenda



**MAYOR AND COUNCIL
REGULAR SESSION (27TH VOTING SESSION)
NOVEMBER 23, 2021
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.”*

Preliminary Agenda

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

7:00 p.m. REGULAR SESSION – Council Chamber, 2nd floor, City Hall

I. CALL TO ORDER - Mayor Emily Keller

II. INVOCATION

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

- A. Rules of Procedure – *Effective December 15, 2020*
- B. Use of cell phones during meetings is restricted.
- C. All correspondence for distribution to Elected Officials should be provided to the City Clerk and should include a copy for the City Clerk for inclusion in the official record.
- D. Meeting Schedule:
 - 1. Tuesday, December 7, 2021 – Work Session at 4:00 p.m.
 - 2. Tuesday, December 14, 2021 – Work Session at 4:00 p.m.
 - 3. Tuesday, December 21, 2021 – Regular Session at 7:00 p.m.
 - 4. Tuesday, December 28, 2021 – No Meeting Scheduled

V. APPOINTMENTS

Planning Commission

VI. PROCLAMATION

World AIDS Day

VII. GUESTS

Certificate of Appreciation: Milestone Anniversary Recognition to Board and Commission Members
Gridiron Classic MVP Awards

VIII. CITIZEN COMMENTS

Citizens are welcome to provide comments in person or by sending an email to councilcomments@hagerstownmd.org no later than 5:00 p.m. on Tuesday, November 23, 2021. Include your full name, home street address, and topic of your comments. You may attach a letter to the email, or write your comments in the body of the message. The City Clerk will read your name, address, and provide a summary of the comments. The full copy of the comments will be provided for public viewing as part of the minutes.

IX. MINUTES

October 5, 2021, October 12, 2021, October 19, 2021, and October 26, 2021

X. CONSENT AGENDA

A. Engineering:

1. Fairgrounds Stable Roof Repair – Phase 1 – Advance Construction (Hagerstown, MD) \$ 33,400.00
2. Design of New Artifact Displays for Visitor Center at the Hager House – Iondesign (Charles Town, WV) \$ 50,000.00

B. Fire Department:

1. Lion Armor AP V-Force Personal Protective Equipment – Witmer Public Safety Group (Williamsport, MD) \$ 29,856.00

C. Information Technology:

1. Dossier Systems – Software Upgrade to Professional Edition System – Dossier Systems (Burlington, NJ) \$ 14,079.00
2. Barracuda Essentials Security Software Renewal – System Source (Hunt Valley, MD) \$ 20,494.00

D. Police Department:

1. Safariland Ballistic Vests, Carriers, Trauma Plates – Atlantic Tactical (New Cumberland, PA) \$ 30,224.82

E. Public Works:

1. John Deere Backhoe Loader – Jessco, Inc. (South Plainfield, NJ) \$ 128,413.60
2. Bulk Diesel Fuel and Gasoline: Transport Deliveries (*material to be provided*)
3. Bulk Diesel Fuel and Gasoline: Tank-wagon Deliveries (*material to be provided*)

F. Planning and Code Administration:

1. 2022 Ford F-150 – Keystone Ford (Chambersburg, PA) \$ 35,410.00
2. Change Orders for Court Order to Repair Wall to Open Alley 4-2 (Cramer's Alley) – Gruber-Latimer Restoration (Sharpsburg, MD) Additional amount - \$ 15,329.00

G. Utilities:

1. Water – Chemicals – Various Vendors - \$ 1,129,698.50
2. Wastewater – Chemicals – Various Vendors - \$ 670,701.00

XI. UNFINISHED BUSINESS

- ✓ A. Approval of an Ordinance: Sale of a Portion of Property and Purchase Agreement with GB&J's, LLC
- ✓ B. Approval of an Ordinance: Approve Termination of Agreement with Antietam Fire Company, Inc. and to Forgive the Balance of Payments Due to the City under the Agreement
- ✓ C. Approval of an Ordinance: Approving Donation of Real Property to Antietam Fire Company, Inc.
- ✓ D. Approval of an Ordinance: Authorizing the Sale of Property Located at 25 W. Church Street

**** Please note all times are approximate and subject to change. Meetings are televised and recorded. ****

XII. NEW BUSINESS

- A. Introduction of an Ordinance: Amending the City Code, Chapter 64, Article IV - Modification of Electrical Registration and Fee Structure
- B. Approval of a Resolution: Parking Lease with 664 Oak Hill, LLC for Parking Spaces at 49-53 West Franklin Street
- ✓ C. Approval of Lee Street Art Agreement
- ✓ D. Approval of Washington Street Art Agreement
- E. Approval to Enter into a Grant Agreement with the Maryland Department of Housing and Community Development for a FY 2021 Community Legacy Grant Award for the Doleman Black Heritage Museum Project
- F. Approval to Enter into a Sub-Recipient Agreement with the Doleman Black Heritage Museum, Inc. for the FY 2021 Community Legacy Grant Award for the Doleman Black Heritage Museum Project at 465 Pennsylvania Avenue
- ✓ G. Approval of FY23 Imagine Hagerstown Budget
- ✓ H. Approval of Mayor and City Council Strategic Plan

XIII. CITY ADMINISTRATOR COMMENTS

XIV. MAYOR & COUNCIL COMMENTS

XV. ADJOURN

✓ Items that have been discussed and reviewed previously or are of a routine nature and, therefore, additional information may not be attached to this agenda.

*** Please note all times are approximate and subject to change. Meetings are televised and recorded. ***

*City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, MD 21740
301.739.8577, Ext. 113 • Telephone for the Hearing Impaired 301.797.6617*

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

Topic:

Public Art Projects Update - *Rodney Tissue, City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Public_Art_Projects_Update.pdf

Description

Public Art Projects Update -
Memo



CITY OF HAGERSTOWN, MARYLAND

Engineering Department

November 16, 2021

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer
RE: **Public Art Projects Update**

1. **Background**

I last updated the Council in July, 2020 on public art projects. Staff has continued to work with the Washington County Arts Council and the City Council-appointed "Public Art Commission" to facilitate the installation of public art in the downtown. The community can now boast that we have twenty-three (23) unique and noteworthy pieces of public art in the public spaces of Hagerstown.

The Commission (Alexis Broder, Mary Anne Burke, Sarah Hall, Alizah Lathrop, Aaron Peteranecz, Cassandra Thompson) offer the recommendations below to add more art to our downtown.

2. **Mayor & Council Action Requested**

Staff is requesting that the Mayor & Council review these opportunities and as applicable approve agreements with the artists at the upcoming Regular Session.

3. **Three Proposed Projects:**

- A. **Replacing the 'Colorblind' Mural on West Washington Street:** This mural, painted by school students in the 1990's, has significantly deteriorated in the last few years and is severely stained by rust from the steel railroad bridge above and should be replaced. The Commission suggests a new mural that is engaging, interactive, and seeks to strengthen the message of tolerance and inclusiveness that the earlier mural aspired to create. The new installation should thoughtfully address current social concerns.



Existing Mural

To try to do anything ON the bridge abutments themselves is not recommended due to the chronic rust staining potential and obtaining railroad approval. We recommend installing panels (like a billboard) in front of the wall mounted in the sidewalk. This location has over 10,000 vehicles a day passing by making it a good location for a large-scale 40' long by 8' high mural. Lighting could be improved by City Light similar to the work they did on West Franklin Street overpass.

The Commission developed a "call" for proposals and nine (9) proposals were received by the Arts Council. The Commission selected Donald Ely, a Maryland artist and his concept is attached. If acceptable, this week staff will apply for a \$20,000 "*Public Art Across Maryland (PAAM)*" grant that would fund the art (\$8,000), the billboard-like structure (\$12,000) and the City would fund the acquisition of the panels and any installation costs (\$1000 or less funded by CIP #868 which has a fund balance of \$35,000). If we are successful obtaining the grant, the art will be installed in spring of 2022.

- B. **Lee Street Screen Art along Cultural Trail:** John Barr, who is by far the most generous private contributor to our public art program, developed another project on the south side of Lee Street at the Cultural Trail. John constructed a concrete wall with a decorative expanded metal screen system and is offering it to the City to attach art to.

Our contacts at the Maryland State Art Council recommended artists Carol Jarvis and Gregory Gannon. Their design is below and the Commission recommends we enter into an Artist's Agreement with them to install the floral pattern on the screens. Each of the "flower petals" would be powder-coated metal for durability.

We are still finalizing the cost due to material shortages but estimate that it won't exceed \$20,000 (we will have the final cost in the agreement to be approved on November 23). Funding is also provided in CIP #868. The art will be installed in spring of 2022.



Proposed Design

- C. **Faces of Hagerstown:** The Arts Council posted a call for photographs to be installed along the District Court in the new section of the Cultural Trail and in Artist's Alley. 79 photos were submitted and the Commission selected 20 pictures for along the new section of the Trail and another 6 for Artist Alley. Estimated cost to fabricate and install the photos is \$9,000 and it will also be funded by CIP #868. The photos will be installed in spring of 2022.

5. **Aerial Art Update:**

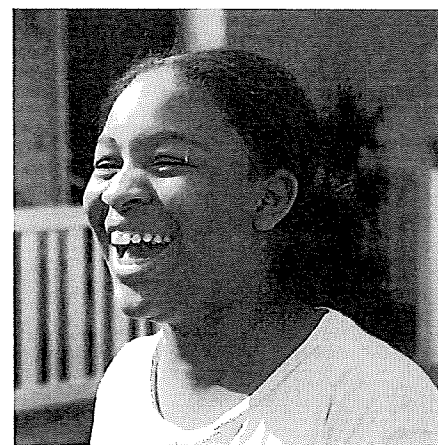
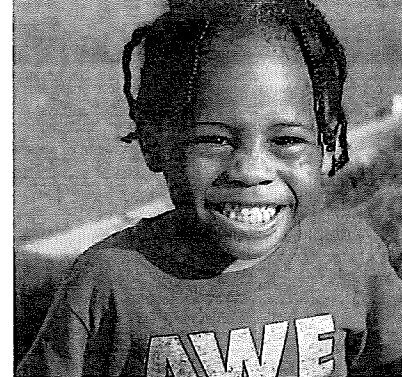
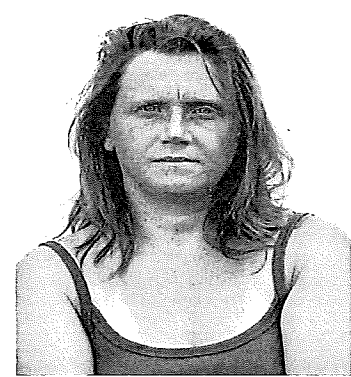
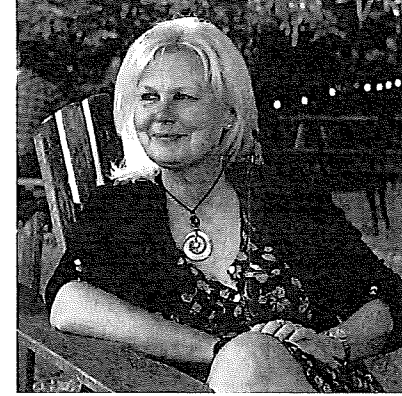
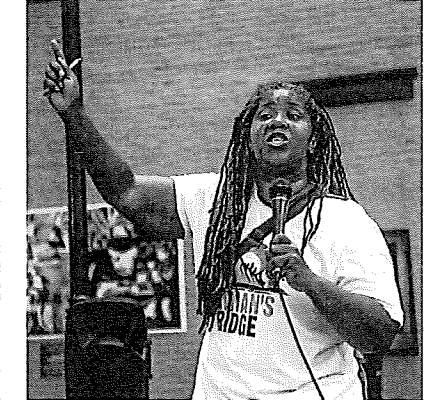
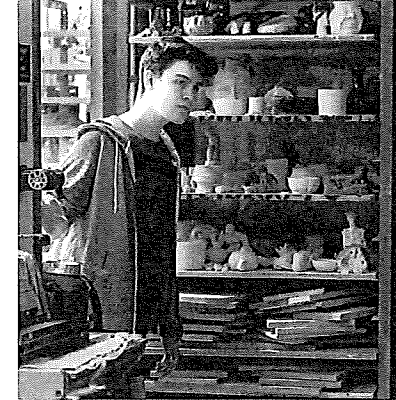
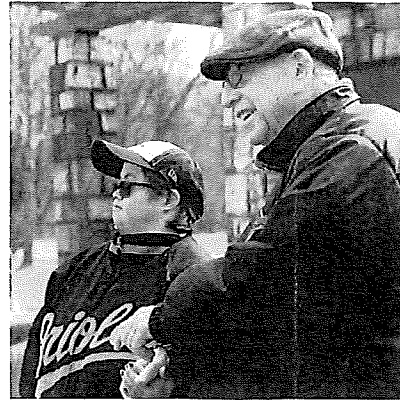
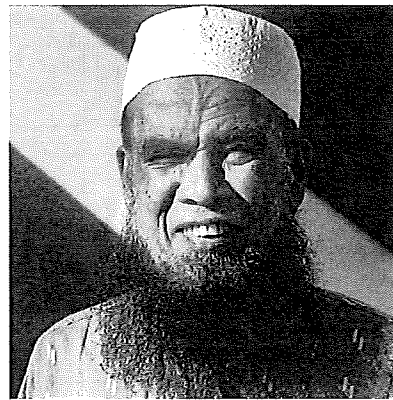
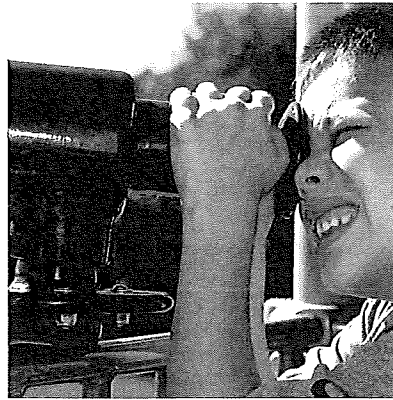
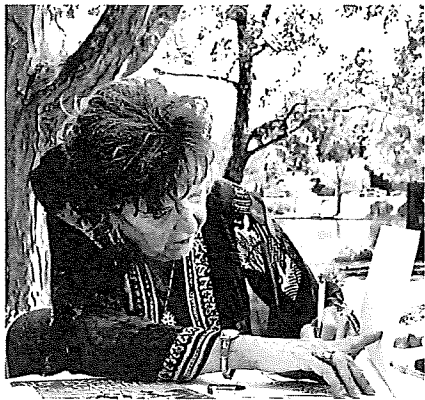
The City Council previously awarded a contract to Mark Schwenk of *Frog Valley Artisans* in Berkley Springs, WV to fabricate and install an array of multi-level colorful aluminum sculptures suspended in an arc-shape by cables about 20 feet above the ground. The sculptures are assorted flowers and butterflies. This art will be installed over the next new section of the Cultural Trail just south of Washington Street. The adjacent "Bead Building" renovation may delay the installation until later in 2022.

Staff will be available on Tuesday to review this project with the Mayor & Council.

Attachment: Ely Concept
Selected "Faces" Photos

Cc: Public Art Commission
Donald Ely
Carol Jarvis
Michelle Hepburn
Jill Thompson
Kathy Maher
John Barr





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

Topic:

Wheaton Park Improvement Concepts ~ *Rodney Tissue, City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Wheaton_park.pt_1_of_2.pdf

Wheaton_park.pt_2_of_2.pdf

Description

Memo - Wheaton Park - 1 of 2

Wheaton Park - 2 of 2



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

November 16, 2021

TO: Scott Nicewarner, City Administrator

FROM: Rodney Tissue, Director, City Engineer 

RE: **Wheaton Park Improvement Concepts**

- Background:** Consistent with the Mayor and Council's Strategic Plan, staff is recommending significant upgrades to this park. While that park is in overall good condition, we suggest comprehensive improvements based upon the following:
 - the residential rental building has been boarded up and vacant for almost 30 months,
 - there is no marked, improved parking,
 - there is limited activities for children,
 - the park layout feels rather haphazard and unplanned,
 - availability of Community Development Block Grant (CDBG) funds.
- Mayor and Council Action Requested:** Consider the concepts presented and pass a motion at the Regular Session adopting a concept to implement as funds allow. Feedback on what would be a phase I priority would be very helpful.
- Concepts and Public Meetings:** To begin the process toward a comprehensive improvement plan, staff hosted a community meeting on-site on August 31 to obtain feedback from the community on improvements they would like to see. These are summarized in the attached documents. Approximately 15 people attended and provided input.

We then took these ideas and wishes and used them to create three concepts that we presented at another public meeting on October 27. Approximately ten people attended and provided their feedback on the concepts. A summary is as follows:

Concept	General Description	House Remain?	Citizen comments
A	Least amount of improvements, adds basketball court in green space, some parking	Yes	No support at all
B	Medium improvements, adds larger basketball court, misting pad, more play equipment, bandshell, more parking provided	Yes	Supported by those who want to keep the house
C	Most improvements, adds basketball court, misting pad, more play equipment sports court, bandshell and more parking provided	No	Supported (see attached letters)

4. **Residential Building:** The main decision on which concept to implement centers around whether the former residential building should be renovated or removed. The City has owned an 1800-square foot concrete block residential unit at 124 Charles Street in the park since 1950. We assume we obtained the dwelling to be a residence for the park caretaker. The dwelling was built around 1931 and was originally a duplex. At some point, decades ago, it was rather haphazardly converted to a single unit. The City rented the property over the years and the last tenant left in May 2019.



Since the house was converted from a duplex to a single dwelling unit in a rather haphazard fashion, there are many issues. The five bedrooms are very small (some too small for a bed). It does not have a central heating and cooling system and the copper plumbing has all been removed by vandals. Some significant water intrusion deterioration is present in the trim and wood components. The flooring is in poor condition and the windows are not air tight. There does not appear to be any insulation. We also need to address any lead issues to comply with our rental laws. To make the unit suitable to use, Parks staff estimates the cost at over \$160,000. The most recent rent we received was \$635 per month

For comparison, staff obtained a ballpark price from a local demolition contractor. They indicated that when we bid the work that we could expect bids under \$20,000.

Removing the house will be the improved security; with the house removed the pavilion and play areas will be visible from the Sumans Avenue. Please see the attached assessment by Gerard Kendle, security specialist with the Housing Authority.

Due to the poor condition and the poor position of the structure in the park, **staff recommends we remove the building and adopt Concept C as our master plan for the park.** If Concept B is selected by Council, we would suggest we find an end user to operate the building and NOT the City staff. Re-uses allowed by zoning include:

- a. Renovate structure and continue as a rental property
- b. Rezone the park to "institutional" to allow office uses (but not retail)
- c. Current "special exception" uses could be:
 - i. Day cares
 - ii. Ambulance/police/fire
 - iii. Museum
 - iv. Small school
 - v. Religious sanctuary
 - vi. Community center
 - vii. Recreation center

5. **Funding:** Approximately \$300,000 in CDBG funds is currently available to design and construct a first phase of the selected concept in 2022. We would estimate full build out of either Concept B or C would be around \$1,000,000.

Staff will be present at the next work session to present the concepts and answer any questions the Mayor and Council may have on this matter.

Attachments: Five Letters of Support
 Security Assessment of Residence
 August 31 Public Meeting Summary
 Concepts A, B, and C

c: Eric Deike
 Mark Haddock
 Scott Smoot
 Jon Kerns
 Sean Griffith

NEIGHBORHOODS 1st
Medal of Honor



November 3, 2021

Rodney Tissue, City Engineer
City of Hagerstown
Engineering Department
One E. Franklin Street, Room 301
Hagerstown, Maryland 21740

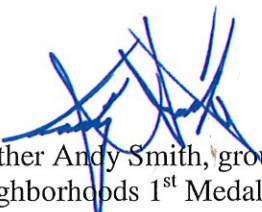
Rodney:

We are pleased to provide this letter of support for the works that can improve Wheaton Park. We fully support improvements and designs that can remove the house structure (making way for better visibility across that part of the park) and create a tribute area that can display historical photos and plaques honoring past Park attendants that should include: Charles "Step" Washington, Moses Norris and Paula Burnett who had served or currently serve on Wheaton Park. This tribute area can also reflect traditional activities and events: The annual summer basketball tournament and its founder Ruthann Ann Monroe; The annual Turkey Bowl Football game played for over 75 years. It is my understanding that a resident that lives near the Park can contribute historic photos of park activities and gatherings to include in the tribute area that can help preserve the parks history.

We also support installing a Splash Part for visitors to enjoy, especially the children and the creation of a platform that can be used for musical and community presentations, like our annual Neighborhood Day of Hope, which recently was combined with Jocelyn Hockaday's annual Backpack and School Supplies give away.

We do hope that the design concepts that are executed can utilize the baseball field with a redesign that can expand the green space and open visibility. The older people in our Neighborhoods 1st group were pleased to find out that the design concepts took in consideration of including a gathering area, with shade coverage, where they can sit and mingle while enjoying their visits to the park.

These park improvements listed above along with the other features in the different concepts look promising to rekindle the renaissance of the Jonathan Street community and help restore Wheaton Park to the centerpiece and gathering zone of the neighborhood it once was.



Brother Andy Smith, group spokesperson
Neighborhoods 1st Medal of Honor Group
C/o Brothers Who Care
301-393-9290

Mrs. Alesia Parson-McBean

416 N. Jonathan Street
Hagerstown, MD 21740
301.797.5604

March 16, 2021

Mayor, Council. & City Admin.
City Hall
1 E. Franklin Street
Second Floor
Hagerstown, MD 21740

Dear Mayor and Council,

Great concerns over the possible plans for the house located on Wheaton Park is why I write to you today. As a native and resident of Jonathan Street, I must say that I have nothing but fond childhood memories of time spent at what we affectionately called "The Park". This was and is a place where children and adults have always gathered to unwind and enjoy various activities.

In my memory, for many years the house on the park was utilized as a residence for two of the park's caretakers. However, this has not been the case for approximately a decade and the last tenants were merely renters of the property.

The challenges faced by the last caretakers and tenants of the house were that of park attendees parking in their spaces during high-volume events. Now that the house has been vacant it has become the target of theft and is boarded up which, in my opinion, is a bit of an eyesore to the upgrades being made. To eliminate these challenges I believe it would be a great idea to remove that home - repurposing any salvageable building materials from the home, where possible - to redesign that area of the park by adding new park features along with adequate parking.

Now I'm hearing of development plans to place a business within that home. This letter is to simply voice my disapproval of any plans for that house on "The Park" that are not in alignment with recreation and would add to existing parking challenges.

Sincerely,

Alesia Parson-McBean

416 N. Jonathan Street
Hagerstown, MD 21740
301.797.5604



THE HOUSING AUTHORITY
OF THE
CITY OF HAGERSTOWN, MD

EXECL

November 9, 2021

Mr. Rodney Tissue
City Engineer
One E. Franklin Street
Rm 301
Hagerstown, MD 21740

Re: Wheaton Park Improvements

Dear Mr. Tissue:

The Housing Authority of the City of Hagerstown (HHA) would like to thank you for including us and the surrounding community in the Wheaton Park improvement discussions.

HHA has carefully reviewed the three different concept plans for Wheaton Park and is in full support of Option C. This option allows for the most expansion of the park and provides more features for children of all ages. Removal of the existing house will allow for these additional park features and visibility of the play areas adding a sense of security. A common concern from the residents of Parkside Homes is the inability to see the park and undesirables coming into the park. We support the proposed additions and changes of Option C and believe these changes will fulfill the City's goal of creating an appealing and accessible community park for Hagerstown residents.

Again, thank you for inviting us to be part of the conversation. Should you have any questions or would like to discuss this in more detail please let me know.

Sincerely,

Sean Griffith
Executive Director

Rodney Tissue

From: Janice Kelsh <mpec2000@hotmail.com>
Sent: Friday, November 5, 2021 3:29 PM
To: Rodney Tissue
Cc: Janice Kelsh
Subject: Fw: Wheaton park Improvement Concepts Thoughts - Concept C
Attachments: 20211105_101159.jpg; 20211105_101123.jpg; 20211105_101215.jpg; 20211105_101357.jpg; 20211105_101509.jpg; 20211105_101446.jpg; 20211105_101539.jpg; 20211105_101547.jpg

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Hi Rodney:

As you can see, I was at the park today before sending this email. Thank you very much for the time you spent going over the concepts with me. It helped me to envision the concepts much better. I certainly do think it **would make sense to remove the house, such as is proposed in "Concept C"**. With no relevant plans or concrete vision in place for the house, in addition to the projected cost for restoration, it does not seem to warrant its continuing existence on the site.

Question: If the tennis court is to stay, but be moved to the area closer to Clarkson Avenue, will there be enough space? I captured a picture of the tennis court and the area that was the proposed location (picture 4), unless I have the incorrect side.

After talking to my 96 year old aunt (Margaret Slaughter Webb) today, she indicated that she has given a lot of the pictures of the park to my sister, but I believe she has a few at her home which I will check for. I will also check with my sister as she is local. I also have some older pictures that were my mother's, and some that Aunt Margaret gave me for my retirement.

My aunt did share a lot about the park, however. The Slaughter Family was the first Black family that moved to Clarkson Avenue, after relocating there from Braxton Alley (or Avenue) at Church and Braxton. She then began to name the Black families that moved to Clarkson after they did. My aunt and her sisters particularly, went to the park daily.....her sister Jane taught summer school a couple of years (which I do remember that) and each Sunday evening they went to the park to listen to the Moxley Band concerts. I told her that I had captured a picture of the Moxley Band placard today and was sending to you as it appears that it needs a little restoration. (Picture #2)

I believe a good bit of details about the **park history** can come from the sources and pictures I have and other sources I hope to obtain, and I look forward to working on this project with you. Thank you for the opportunity.

Have a great weekend!

Janice E. Kelsh

From: Monique Broadus <mbroadus71@gmail.com>

Sent: Monday, November 8, 2021 5:51:41 PM

To: MayorAndCouncil

Subject: Wheaton Park Design

Good evening Mayor and Councilmembers of Hagerstown,

I am Monique Broadus, a resident of Hagerstown Housing Authority living in Sumans Avenue located across the street from the above park.

I attended the meetings that were scheduled to say why the community members would like things done to hopefully assist the children and their families visit the park.

The redesign of Wheaton Park is definitely needed so the community can have more things to access especially in the spring and summer months.

I honestly think that design two and three were a toss up, but would definitely give the children a happy place to spend their time. With more things added gives them more opportunity to share different things and parents can see their children at play at all times.

I believe that the children will be happy with the outcome of the design and be happy to use the new equipment that will be beneficial for the community as well.

The house that's located there with all that it may cost, I feel is best to demolition it. There will be more parking and there also is where food trucks can park if necessary. If there is another use for the home, please let it known to the community. It will cost do much to make it a livable home or any other place that will then have to be kept up.

I would also like to know if the restrooms can be changed if possible; with that brick wall up the kids play in the area, which is a blind eye to parents who can't see them. Not only are the kids my concern but the adults that use drugs go in the restrooms which I saw for myself that came out high when park staff was supposed to be at work..he wasn't. This took place during the day. I think being able to see the restrooms is a plus for all parents and staff that are present.

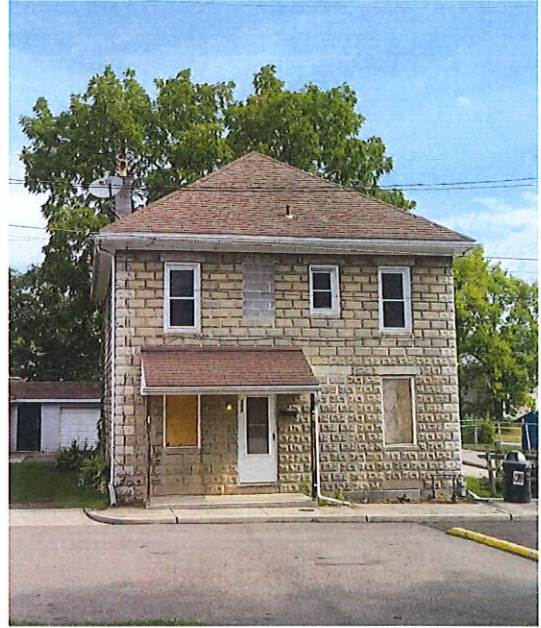
I'm a community resident that cares, worked on the park with the late Ms Ruthann Monroe and I've seen a many of children that love to play there, but they also question why don't we have a sprinkler system, why don't we have different things..my answer is I'm not sure but we'll see one day. Hopefully that day is coming soon.

Should you have any questions, please let me know.

Smiles In My Community,

Monique Broadus
Community Resident
mbroadus71@gmail.com
240.291.4684

The former caretaker house at Wheaton Park located at 124 Charles Street is currently boarded up and in a bad state of repair with copper pipe and electrical connections removed by vandals. The building has been burglarized on at least two different occasions, according to a city staff person on scene. The building is currently becoming a "Crime Generator" being fed off other crime being committed by juveniles and other young adults in the area. To the west of the property is a playground used by elementary school aged and younger children. The building at 124 Charles Street currently acts as a "Bill board" in that police patrols, other city staff and even other entities in a position of authority, are unable to view the children's play area when entering the area. In this authors experience as a former community police officer in the community, I am specifically knowledgeable of past crimes and misuses of the area by persons drinking underage and the use of CDS (Controlled Dangerous Substances) and even prostitution. The lighting in this area for safety and security generally does not meet standards set by the illumination Engineering Society. Actual illumination readings in foot-candles was not conducted for this particular report. As can be observed in the included photos, this area, being out of sight from the roadway and "Tucked away" allows this area to be used, especially in the evening hours for undesired activities.



The pavilion and playground as observed near the front of the structure in question.

This author has personally investigated CDS activities (CDS use and sales, Armed robberies, assaults, including shootings. A more in depth analysis can be given upon request.



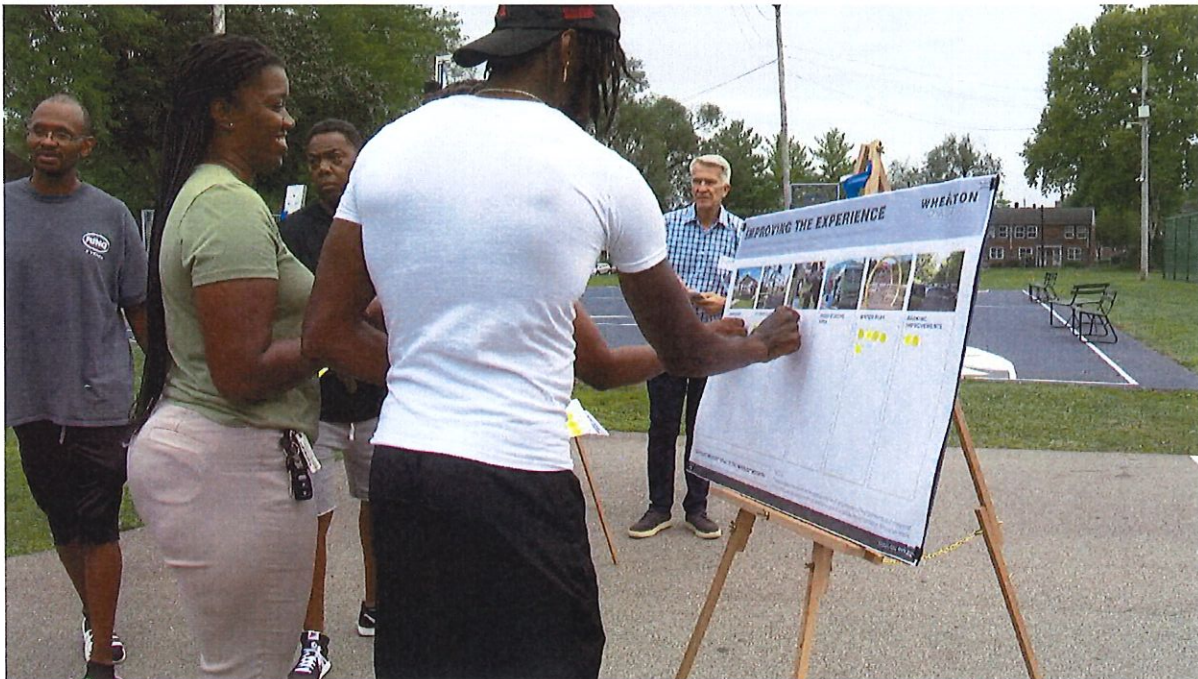
On the approach to the area via Charles Street, it is plain that the entire pavilion and playground are unable to be observed.



City of Hagerstown

WHEATON PARK PLANNING WORKSHOP

August 31, 2021



Summary of Engagement

Prepared by:

MAHAN RYKIEL
ASSOCIATES INC

ASSETS & NEEDS

Tell us about the great things of Wheaton Park, and a little about what's needed.

WHEATON
PARK

ASSETS

What Do You **love** About Wheaton Park?

Ruthann Monroe Summer Basketball League (58 years)
Place for enjoyment & meeting History!!!
Community engagement
Ms. Paula and Mr. Randy
Ms. Paula indeed!!! The park is our homebase.
The Children
The History
Culture + Community, close proximity for a lot of residents
Historic!
The Turkey Bowl Football Game 70^{plus} years
Close to home

NEEDS

KNOWN NEEDS

- > IMPROVEMENTS TO THE BANDSTAND (underway)
- > PARKING
- > PRESERVING THE TREES ALONG SUMANS AVE.
- > EXPANDED PLAYGROUND

What Else Might
Park Users Need?

RESTORE baseball diamond / Bleachers (ditto)
Rename!
Football lines on the field
Baseball + tennis back!
More basketball courts
Steps from alley NEED Repair
More grilling Areas

MAHAN RYKIEL

Assets & Needs

This exercise prompted attendees to jot down their ideas about the park's **assets** (today) and what the **needs** of the park might be in the future. Their ideas are transcribed below.

Assets

- Ruthann Monroe Summer Basketball League (58 years)
- Place for enjoyment and meeting
- History!!!
- Community engagement
- Ms. Paula and Mr. Randy
- Ms. Paula indeed!!! The park is our home base.
- The children
- The history
- Culture + Community
- Historic!
- The Turkey Bowl Football Game 70 years plus
- Close to home

Needs

- Restore baseball diamond/bleachers
- Rename!
- Football lines on the field
- Baseball + tennis back
- More basketball courts
- Steps from alley NEED repair
- More grilling areas



What's the Vibe?

Using sticker dots, attendees indicated their preferences among three park themes—linear and ordered, earthy and natural, or open and flexible. Most (23) prefer a park design that is open, green, and flexible. Most others (11) preferred a earthy and natural park design. Only 6 were most drawn to the linear and ordered park layout, and all these stickers were placed next to an image of a water feature. In the discussion that followed the exercises, it was confirmed that the preference here was for a water feature, not necessarily a linear park layout.

Wheaton Park Plan Public Workshop | August 31, 2021

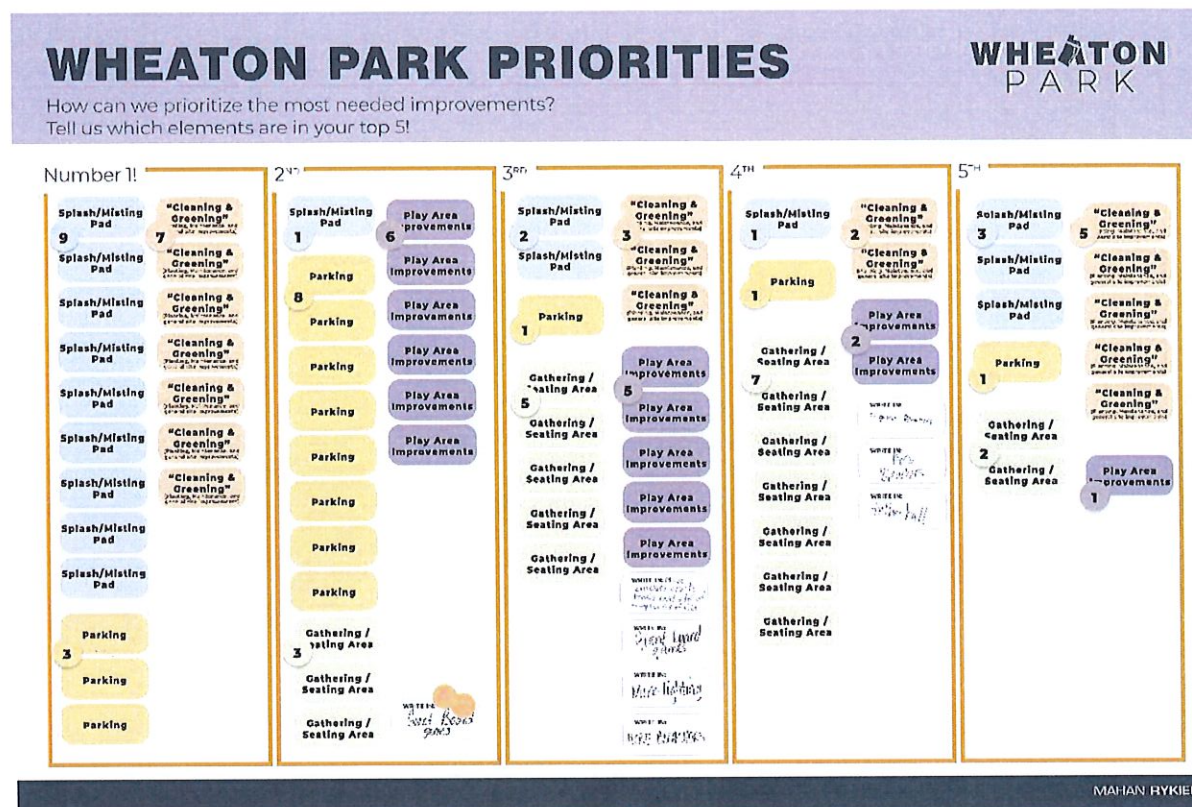
Summary of Engagement



Improving the Experience

In this exercise, attendees were shown categories/types of possible park improvements, paired with sample images. They were asked to use sticker dots to indicate their priorities. The list below is ranked in order from most to least prioritized.

- Water Play: 16
- Play Space Improvements: 14
- Rehabilitation of the House as a Use Permitted by Zoning: 14
- Improved Pavilion: 13
- Fitness Element: 13
- Drinking Fountains: 10
- Parking Improvements: 10
- Tennis Court Improvements: 8
- Additional Tree Cover: 8
- Plazas/Gathering Areas: 8
- Food Staging Area: 2
- Skateable Elements or Zones: 1
- Rehabilitation of the House as a Rental Property: 0



Wheaton Park Priorities

Attendees were each given a sheet that included stickers for 5 pre-defined improvement types (Splash/Misting Pad; Cleaning & Greening; Parking; Play Area Improvement; and Gathering/Seating Area) and three blank stickers for write-in improvements. They were asked to use the stickers to indicate their top 5 priorities.

1 st Priority:	2 nd Priority:	3 rd Priority	4 th Priority:	5 th Priority:
Splash/Misting Pad: 9	Splash/Misting Pad: 1	Splash/Misting Pad: 2	Splash/Misting Pad: 1	Splash/Misting Pad: 3
Cleaning & Greening: 7	Cleaning & Greening: 0	Cleaning & Greening: 3	Cleaning & Greening: 2	Cleaning & Greening: 5
Parking: 3	Parking: 8	Parking: 1	Parking: 1	Parking: 1
Play Area Improvement: 0	Play Area Improvement: 6	Play Area Improvement: 5	Play Area Improvement: 2	Play Area Improvement: 1
Gathering/Seating Area: 0	Gathering/Seating Area: 0	Gathering/Seating Area: 5	Gathering Seating Area: 7	Gathering Seating Area: 2
	----	----	----	

Wheaton Park Plan Public Workshop | August 31, 2021
Summary of Engagement

	Write in: <i>Giant Board Games</i>	Write in: <i>Move bleachers over to tennis court side (west) to improve line of sight</i> Write in: <i>giant board games</i> Write in: <i>more lighting</i> Write in: <i>More bleachers</i>	Write in: <i>Improve bleachers</i> Write in: <i>more bleachers</i> Write in: <i>tetherball</i>	
--	------------------------------------	--	--	--

WHEATON PARK WISHLIST

In the future, what could we ADD or IMPROVE to make Wheaton Park even better?

WHEATON
PARK

Gaga Ball Pit

public Art ●●●●

craft vendors

Music Venue expanded ●●
(keep the Bandstand but add
a stage like on University Plaza.)

Line off open field for football/soccer/kickball ●

Improve bleachers by open field ●

New bleacher seating ●●●●

handicap accessible playground equipment ●●●●

MAHAN RYKIEL

Wishlist

A blank board was presented and prompted attendees to jot down ideas for additional elements that perhaps were not necessarily indicated in the earlier exercises. Given markers to write their ideas, some attendees also chose to “upvote” the ideas of others using sticker dots, as indicated below.

- Handicap accessible playground equipment (4 upvotes)
- New bleacher seating (4 upvotes)
- Public art (4 upvotes)
- Music venue expanded, keep the bandstand but add a stage like on University Plaza (2 upvotes)
- Line off open field for football/soccer/kickball (1 upvote)
- Improve bleachers by open field (1 upvote)
- Gaga ball pit
- Craft vendors

Summary Assessment

Common themes of engagement included the significance and importance of people, the community's history, and local culture. The overall feeling about Wheaton Park was that it's predominantly appreciated as flexible, open and green space paired with support for the earthy and natural qualities of the park. These classifications can inform future park layout and stylistic improvements.

At present, the park includes most of the amenities which community members seemed to appreciate (e.g., parking, ball fields and courts, the pavilion, grilling areas, play equipment, etc.) and improvement of these amenities would be desired. In particular, there was broad support for a few improvements. There was strong support for a water play element. It's also noted that seating-related improvements, typically bleachers, were often indicated as desirable when given the option to add written ideas. Community members indicated support for additional amenities that might be introduced in the future, including fitness elements, handicap accessible play equipment, field markings, additional tree cover, and additional athletic courts/fields.

Based on discussions, it's understood that community members in attendance supported rehabilitation of the house, desiring a use that offered value for the larger community rather than a select group of individuals. There was no support for rehabilitating the house as a rental property.

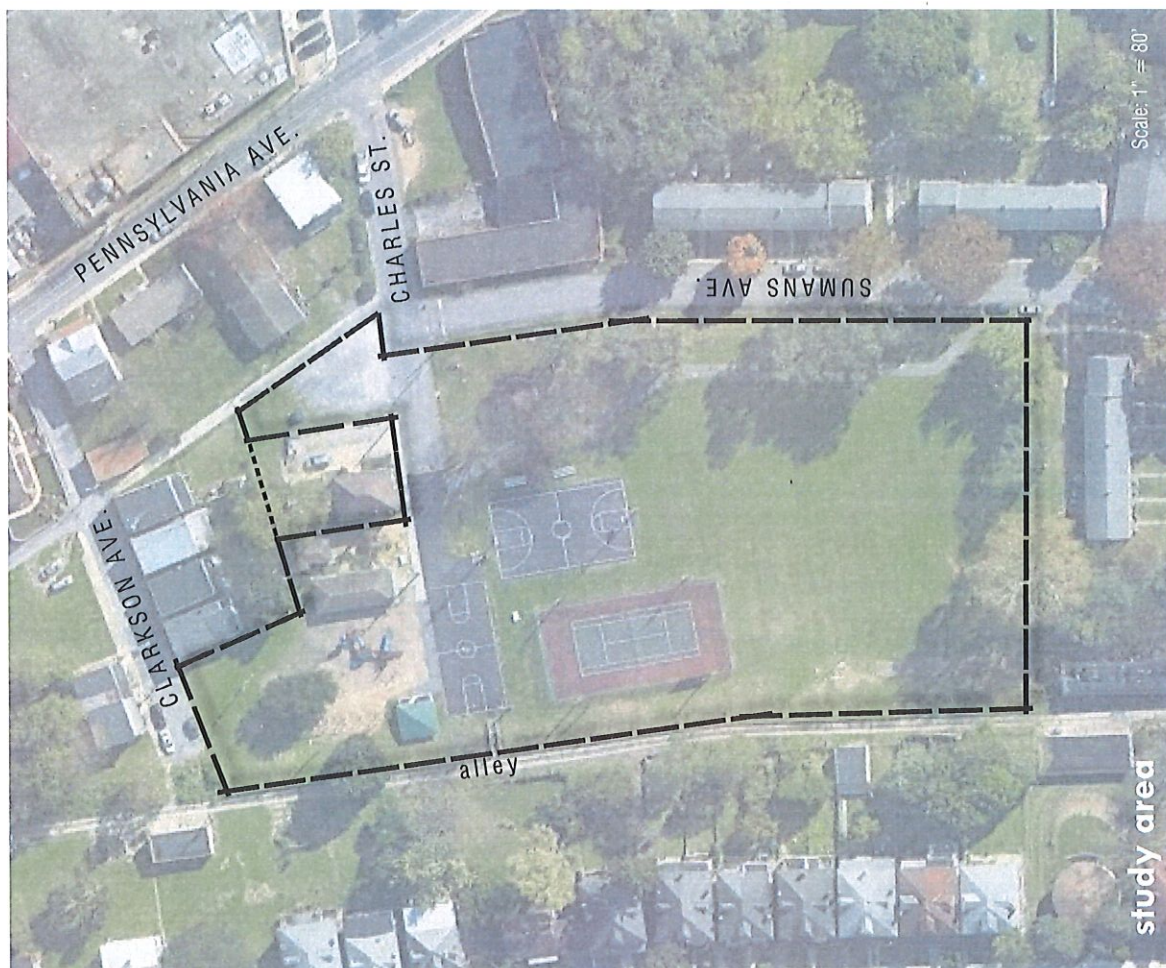
Park Improvement Concepts

WHEATON PARK

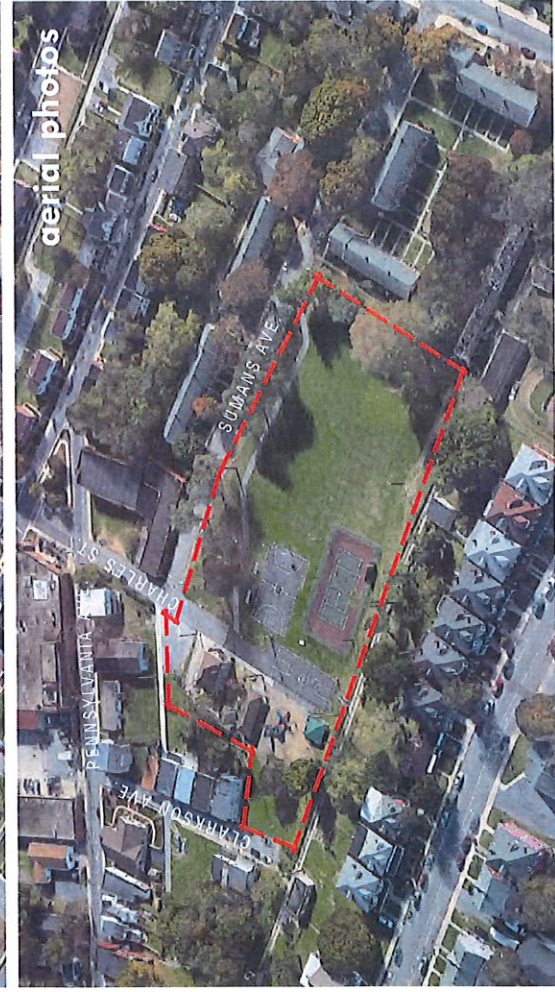
Hagerstown, Maryland

NOVEMBER 3, 2021 Rv

EXISTING CONDITIONS



EXISTING CONDITIONS



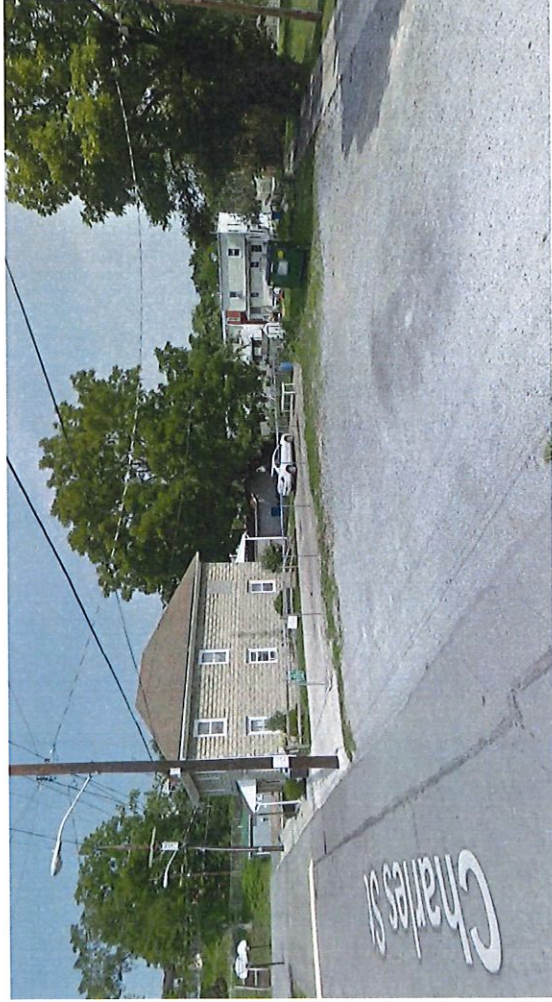
EXISTING CONDITIONS



site photos



EXISTING CONDITIONS



EXISTING CONDITIONS



Key

- 1 Primary Basketball Court
- 2 Secondary Basketball Court
- 3 Tennis Court
- 4 Ball Field/Open Lawn Area
- 5 Playground
- 6 Restrooms
- 7 Picnic Pavilion
- 8 Storage/Utility Building
- 9 Bandshell
- 10 Parking
- 11 Walkway Connection
- 12 Stair Connection to Alley
- 13 Trees
- 14 House

OPPORTUNITIES

Priorities & Program Desires

- 1 Misting Pad
- 2 Improved Parking
- 3 Play Area Improvements
- 4 Gathering/Seating Areas
- 5 Cleaning & Greening
- 6 ADA/Accessible Playground Equipment
- 7 Utilities/Infrastructure
- 8 On Street Parallel Parking
- 9 Existing Off Street Parking

Wishlist

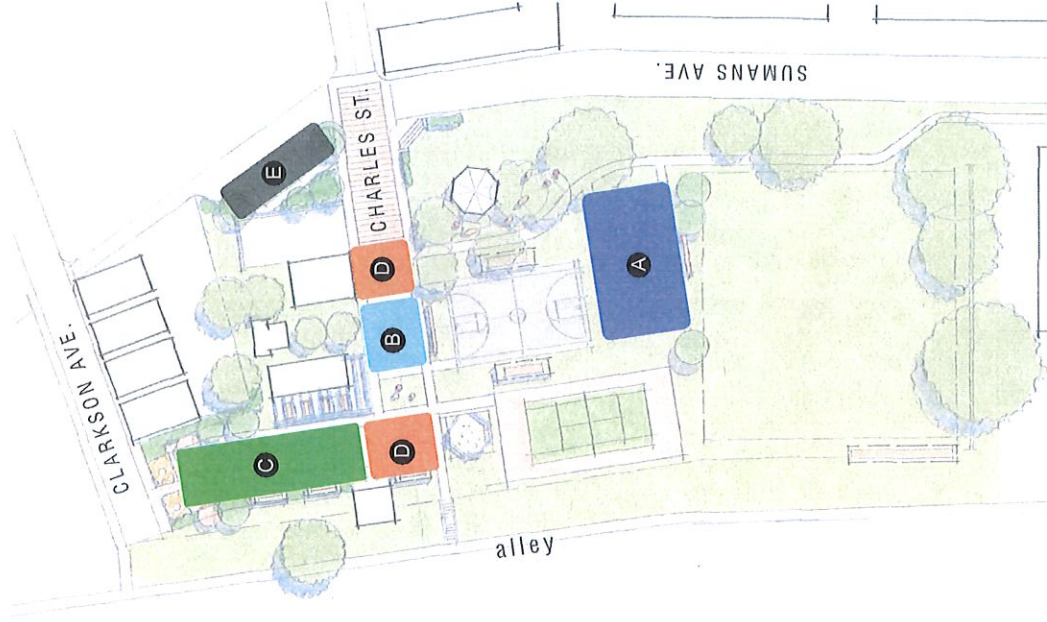
- Shaded/New Bleacher Seating
- Public Art
- Expanded Music Venue
- Field Improvements
- Gaga Ball Pit
- Additional Grilling Areas
- Restore/Repair Tennis Courts
- Repair Steps to Alleyway

* Priorities & Wishlist items were identified during the August 31 Wheaton Park Public Input Planning Workshop

CONCEPT A

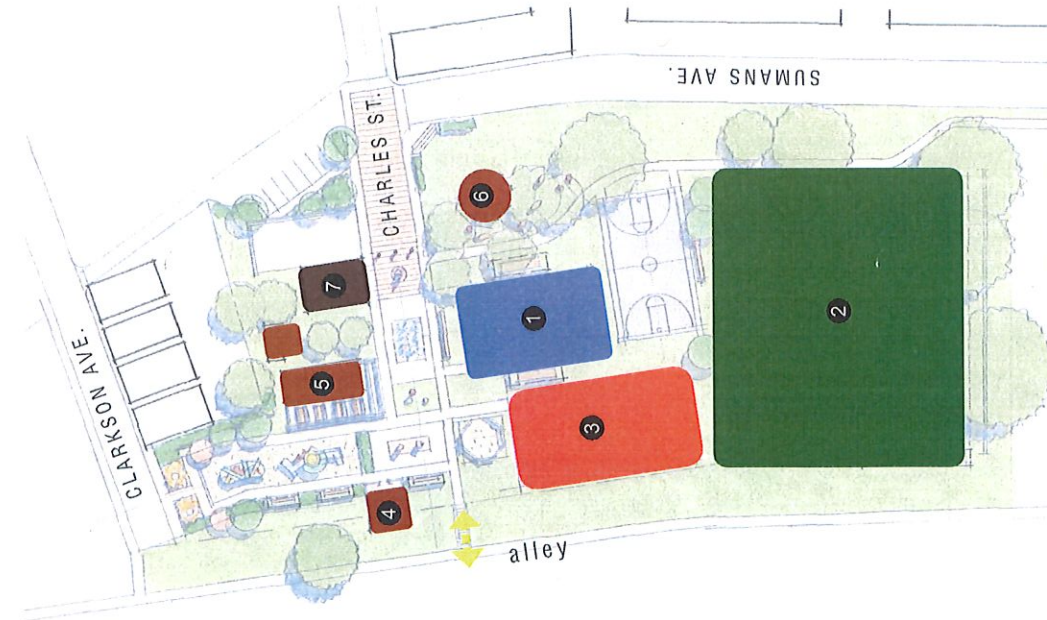
Proposed

- A Basketball Court
- B Misting Pad
- C Playground
- D Plaza Space
- E Parking



Existing

- 1 Basketball Court
- 2 Multipurpose Field
- 3 Tennis Court
- 4 Restrooms
- 5 Picnic Pavilion
- 6 Bandshell
- 7 House



CONCEPT A

Overview

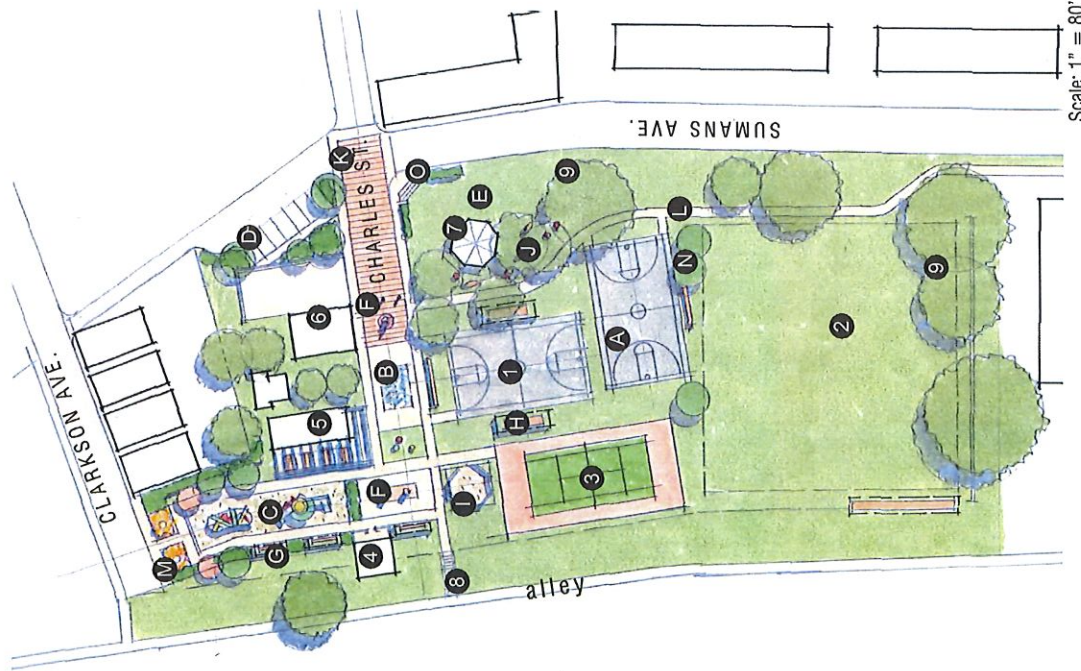
- Remove Existing Smaller Asphalt Court Area - New Misting Pad
- Realign Sidewalk Along East Park Edge - New Basketball Court
- Field & Bleacher Improvements
- Parking Improvements Off Of Alley
- Playground Upgrades
- Picnic Pavilion Upgrades
- Provide Seating/Shade & Comfort Areas
- House Remains as Private Use

Proposed

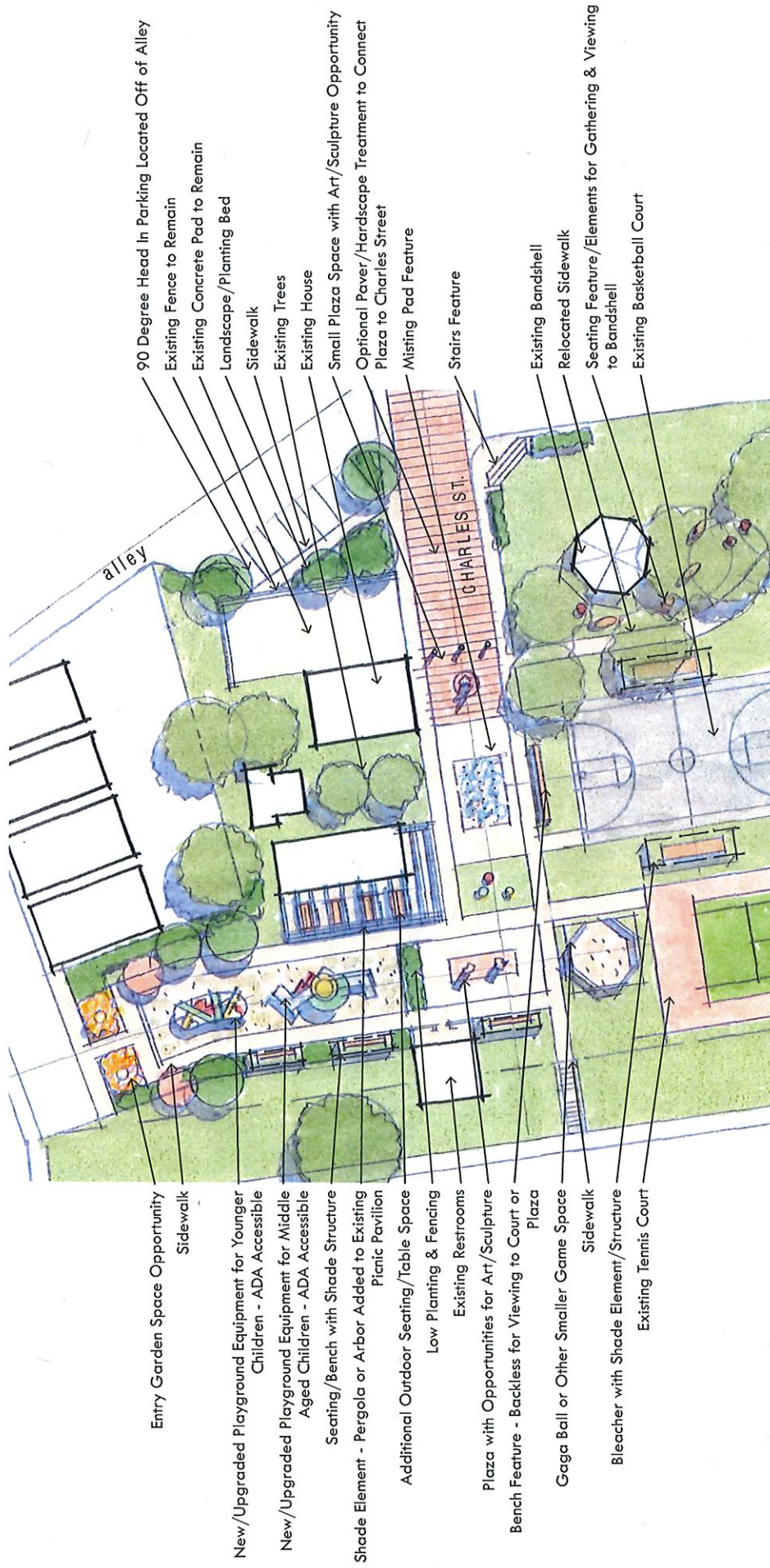
- A Basketball Court**
New Full Sized Regulation Court Space
- B Misting Pad**
Flexible Use Plaza Space with Misting Feature. Space Designed to Accommodate Events/Gathering Area when Mist is Turned Off
- C Playground/Play Feature**
New ADA Accessible Equipment for Children of All Ages
- D Parking**
New Surface Parking off of Alley, +/- 7 Spaces Total
- E Park Green Space**
Lawn Area Adjacent & Under Existing Shaded Tree Area for Music, Bands, and Other Events Facing the Bandshell
- F Plaza Space with Art/Sculpture Opportunities**
Opportunity Areas for Seating/Gathering & Art/Sculpture, Gateway, or Interpretive Display
- G Shade/Seating Structure**
Bench Areas with Open Air Shade Structure (Roofed or Pergola) to Provide Comfort & Playground Monitoring
- H Bleachers**
Consider Shade Structure Over Bleacher Areas
- I Gaga Ball**
Or Other Smaller Outdoor Game Use Area
- J Seating Features**
Permanent Forms or Elements for Informal Seating/Gathering or Programmed Events at the Pavilion
- K Charles Street Hardscape Treatment**
Optional Drivable Hardscape Treatment in Street to Extend & Connect New Splash Pad Plaza to Sumans Avenue
- L Sidewalk Realignment**
Realign Sidewalk Slightly to Create Room for New Basketball Court
- M Garden Entry**
Possible Themed (i.e. Butterfly, Perennial, Vegetable) Garden Space Entry into Playspace
- N Tree Planting**
Plant Additional Large Upright Deciduous Trees for Shade & Comfort
- O Stairs**
Create Corner Entry into the Green Area

Existing

- 1 Basketball Court**
Maintenance As Needed
- 2 Multipurpose Field**
Seeding/Maintenance As Needed. Replace/Maintain Existing Bleachers
- 3 Tennis Court**
Repair/Restore - New Painting (As Needed) Consider Adding Pickle Ball Court Layout
- 4 Restrooms**
Maintenance (As Needed)
- 5 Picnic Pavilion**
Keep Existing Structure. Repair As Needed. Consider Adding Structure (i.e. Pergola/Arbor Type) to Pavilion Edges for Additional Shade
- 6 House**
Renovation & Reuse as a Non-Park Use. Maintain Concrete Parking Area
- 7 Bandshell**
Keep in Existing Location. Restoration Underway.
- 8 Stairs**
Restore/Repair (As Needed)
- 9 Trees (Typical)**
Prune/Maintain (As Needed)



CONCEPT A



Detailed Enlargement

CONCEPT B

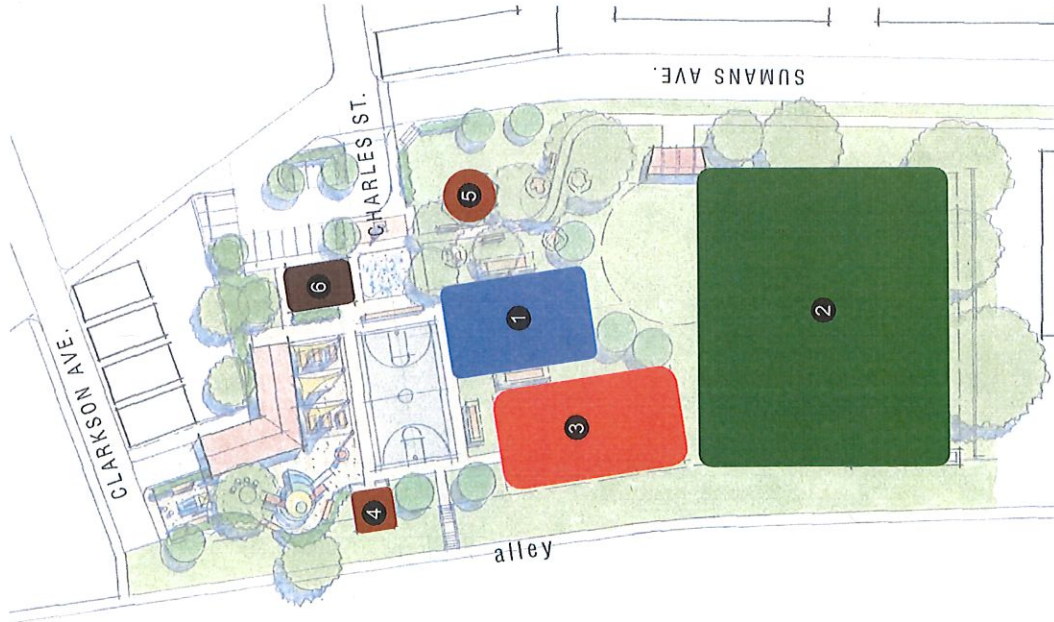
Proposed

- A Basketball Court
- B Misting Pad
- C Playground
- D Plaza Space
- E Parking
- F Bandshell
- G Picnic Pavilion



Existing

- 1 Basketball Court
- 2 Multipurpose Field
- 3 Tennis Court
- 4 Restrooms
- 5 Bandshell
- 6 House



CONCEPT B

Overview

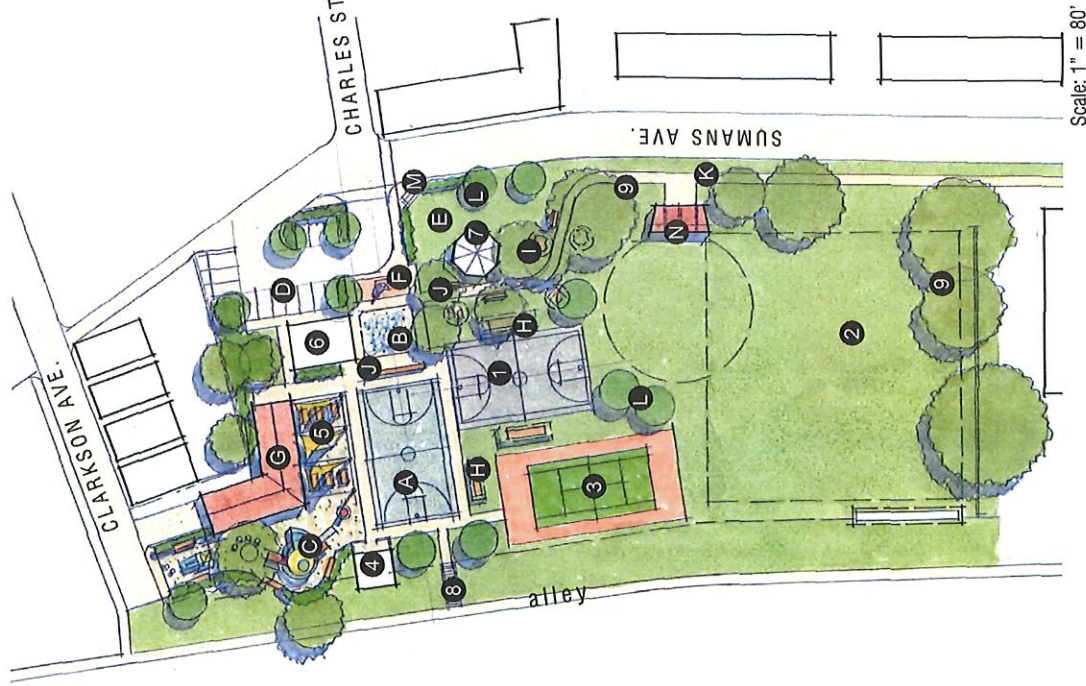
- Remove/Reconfigure Existing Picnic Pavilion & Storage Building to Create Space for a New Full Size Basketball Court
- Realign Sidewalk Along East Park Edge - Create a Gathering Lawn/Green Space with New Stage
- Focal Plaza with Misting Pad
- Field & Bleacher Improvements
- Off Street Parking Improvements Off Of Alley & Charles Street
- Playground Upgrades
- New Additional Bandstand/Stage Area
- Provide Seating/Shade & Comfort Areas
- Create Smaller Outdoor Game Pad Areas or Rooms
- House Remains as Private Use

Existing

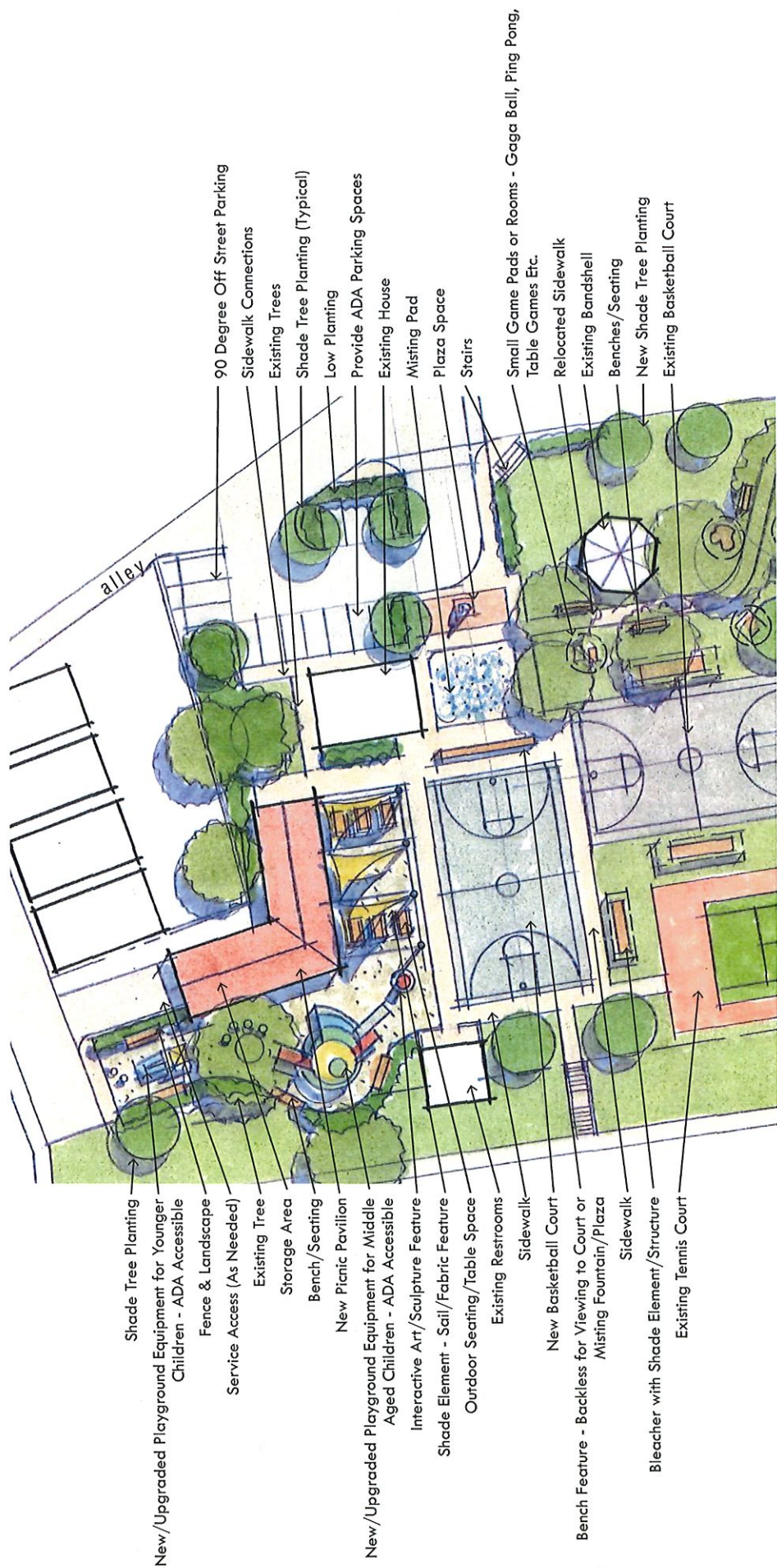
- 1 Basketball Court
Maintenance As Needed
- 2 Multipurpose Field
Seeding/Maintenance As Needed. Replace/Maintain Existing Bleachers
- 3 Tennis Court
Repair/Restore - New Painting (As Needed) Consider Adding Pickle Ball Court Layout
- 4 Restrooms
Maintenance (As Needed)
- 5 Picnic Pavilion
Remove Existing Structure. New Picnic Pavilion.
- 6 House
Renovation & Reuse as a Non-Park Use
- 7 Bandshell
Keep in Existing Location. Restoration Underway.
- 8 Stairs
Restore/Repair (As Needed)
- 9 Trees (Typical)
Prune/Maintain (As Needed)

Proposed

- A Basketball Court
New Full Sized Regulation Court Space
- B Misting Pad
Flexible Use Plaza Space with Misting Feature. Space Designed to Accommodate Events/Gathering Area when Mist is Turned Off
- C Playground/Play Feature
New ADA Accessible Equipment for Children of All Ages
- D Parking
New Off Street Surface Parking. +/- 11 Spaces Total
- E Park Green Space
Gathering Lawn Area Adjacent & Under Existing Shaded Tree Area for Music, Bands, and Other Events. New Stage & Pavilion
- F Plaza Space with Art/Sculpture Opportunities
Opportunity Areas for Seating/Gathering & Art/Sculpture Display
- G Picnic Pavilion Area
Picnic Tables, Shade Features, Lighting & New storage Area
- H Bleachers
Consider Shade Structure Over Bleacher Areas
- I Outdoor Game Pads or Rooms
Gaga Ball, Corn Hole, Informal Table Games Etc.
- J Seating
Benches or Seating Features
- K Sidewalk Realignment
Realign Sidewalk Slightly to Create Room for New Lawn/Green Event Space Area
- L Tree Planting
Plant Additional Large Upright Deciduous Trees for Shade & Comfort
- M Stairs
Create Corner Entry into the Green Area
- N New Stage/Bandshell Area
Additional Lawn Gathering Space for Events



CONCEPT B

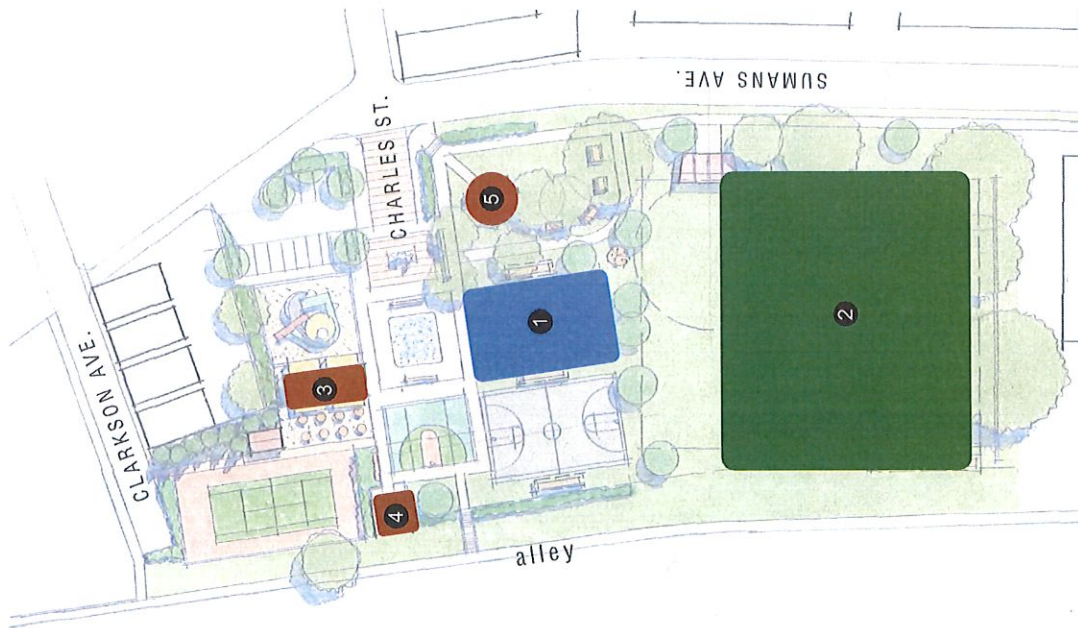


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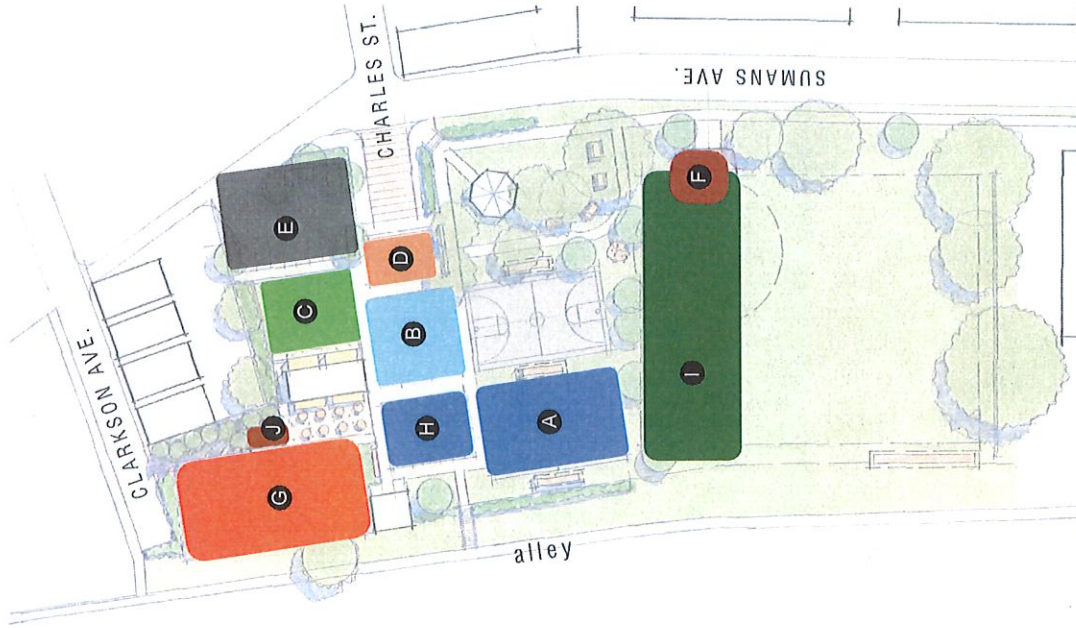
Detailed Enlargement

CONCEPT C

- Existing**
- 1 Basketball Court
 - 2 Multipurpose Field
 - 3 Picnic Pavilion
 - 4 Restrooms
 - 5 Bandshell



- Proposed**
- A Basketball Court
 - B Misting Pad
 - C Playground
 - D Plaza Space
 - E Parking
 - F Bandshell
 - G Tennis Court or Play Area
 - H Sport Court
 - I Expanded Field Area
 - J New Storage Shed Structure



CONCEPT C

Overview

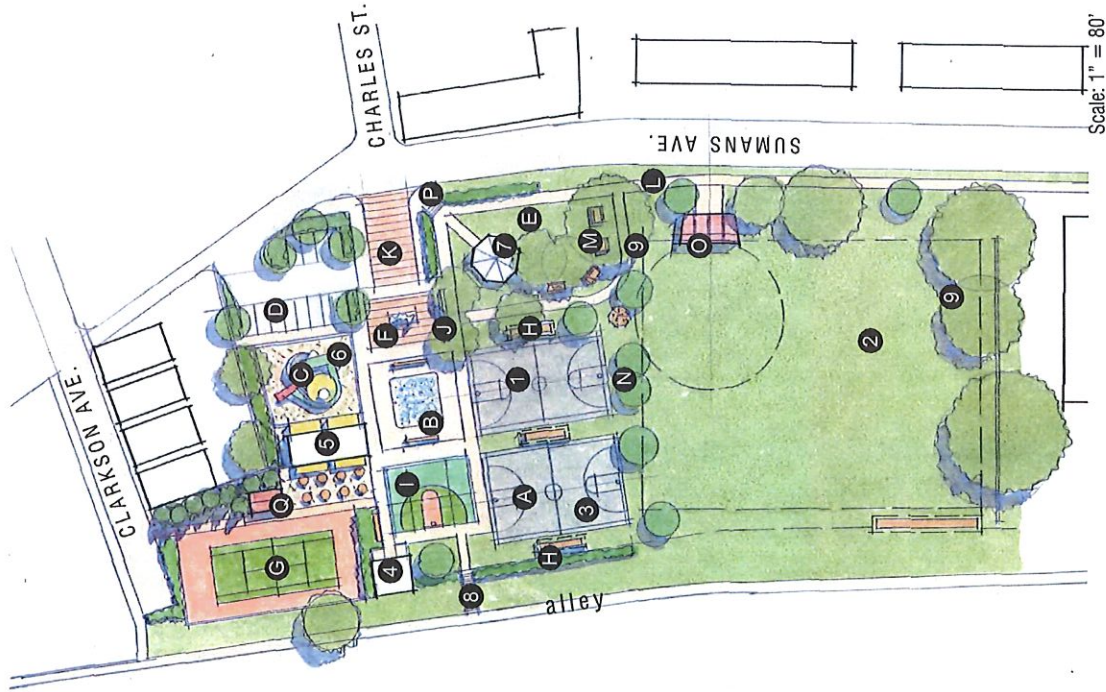
- Remove Existing House to Allow for Additional Park Features and Expanded Field Area
- Relocate Tennis Court & Realign Sidewalk Along East Park Edge For a New Basketball Court & Larger Multipurpose Field Area
- Off Street Parking Improvements Off Of Alley & Charles Street
- Relocated & New Playground Equipment
- Picnic Pavilion Upgrades
- Provide Seating/Shade & Comfort Areas
- Centralized Focal Misting Pad Space

Proposed

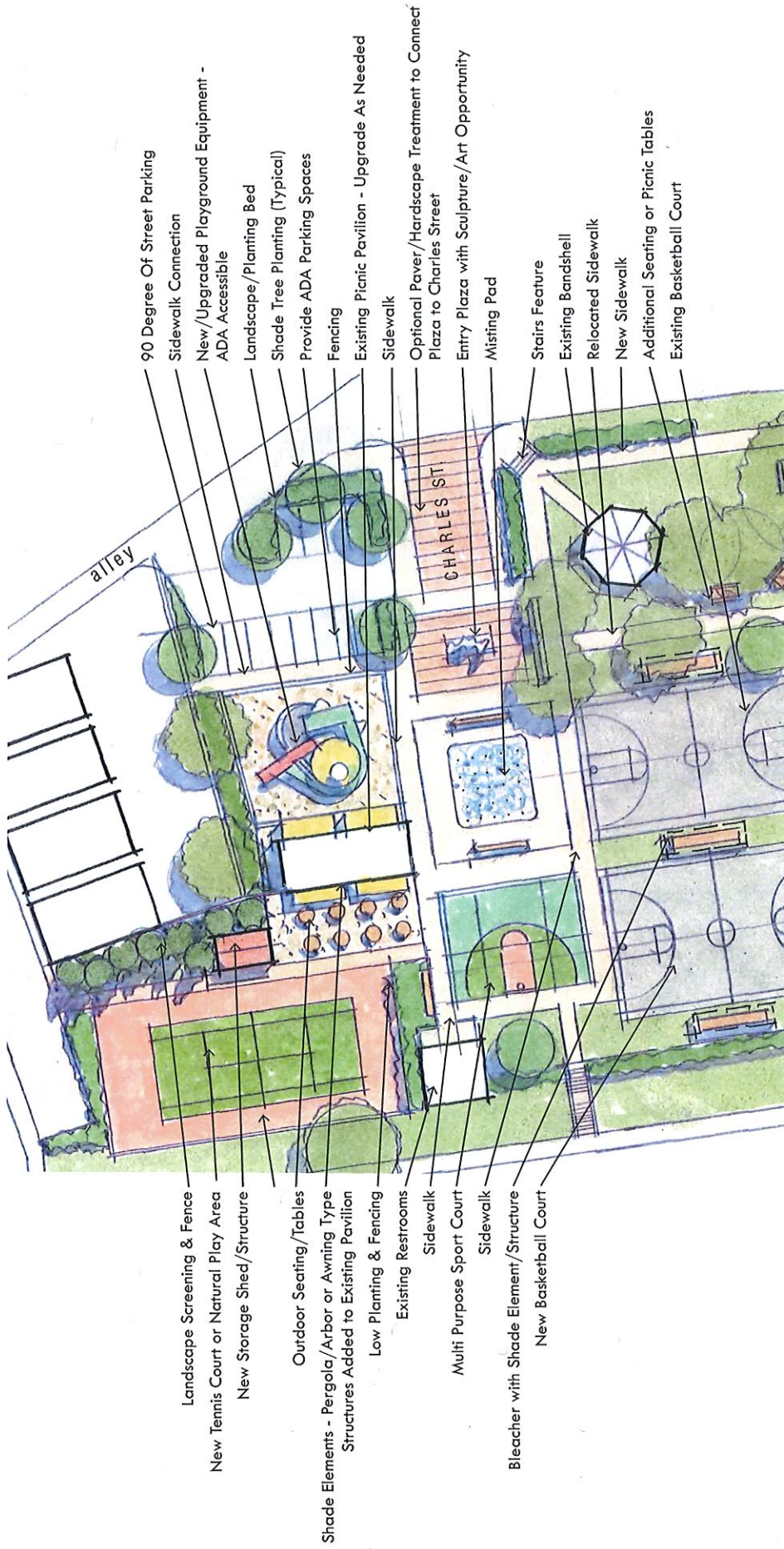
- A Basketball Court
New Full Sized Regulation Court Space
- B Misting Pad
Focal Centralized Plaza Space
- C Playground/Play Feature
New Relocated ADA Accessible Equipment for Children of All Ages
- D Parking
Off Street Surface Parking, +/- 11 Spaces Total
- E Park Green Space
Lawn Area Adjacent & Under Existing Shaded Tree Area for Music, Bands, and Other Events Facing Bandshell
- F Plaza Space with Art/Sculpture Opportunities
Opportunity Areas for Seating/Gathering & Art/Sculpture Display
- G Tennis Court or Natural Play Area
New Relocated Court with Optional Pickle Ball Striping
*Optional Nature Play Area
- H Bleachers
Consider Shade Structure Over Bleacher Areas
- I Sport Court
Multipurpose Court Space
- J Seating
Benches or Built In Seating Features
- K Charles Street Hardscape Treatment
Optional Drivable Hardscape Treatment in Street to Extend & Connect New Plaza to Sumans Avenue
- L Sidewalk Realignment
Realign Sidewalk Slightly to Create Room for Expanded Field Space and new Park Green/Lawn Area
- M Picnic Space
Additional Picnic Tables that Can be Used to View Bandshell
- N Tree Planting
Plant Additional Large Upright Deciduous Trees for Shade & Comfort
- O New Stage/Bandshell Area
Additional Lawn Gathering Space for Events
- P Stairs
Create Corner Entry into the Green Area
- Q New Storage Shed/Structure

Existing

- 1 Basketball Court
Maintenance As Needed
- 2 Multipurpose Field
Seeding/Maintenance As Needed. Replace/Maintain Existing Bleachers
- 3 Tennis Court
Remove Existing Court - New Court Location
- 4 Restrooms
Maintenance/Upgrades (As Needed)
- 5 Picnic Pavilion
Keep Existing Structure. Repair As Needed. Consider Adding Structure (i.e: Pergola/Arbor Type) to Pavilion Edges for Additional Shade
- 6 House
Remove Existing House to Create Space for Additional Park Programming
- 7 Bandshell
Keep in Existing Location. Restoration Underway.
- 8 Stairs
Restore/Repair (As Needed)
- 9 Trees (Typical)
Prune/Maintain (As Needed)



CONCEPT C

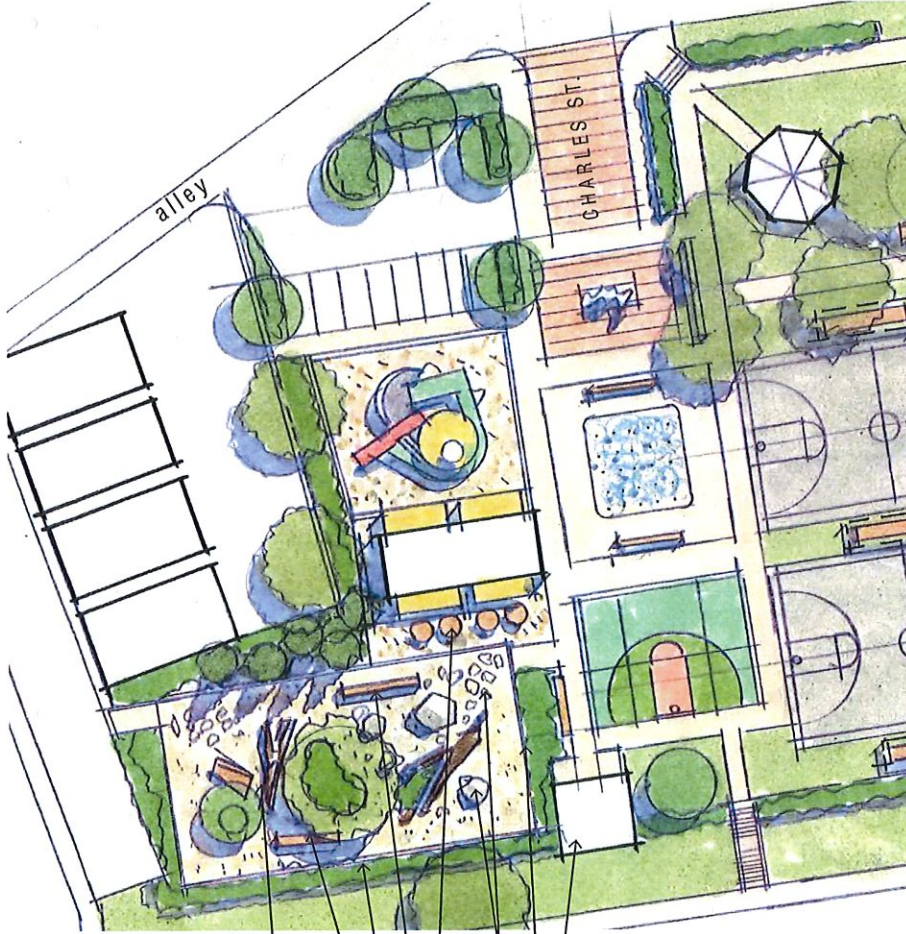


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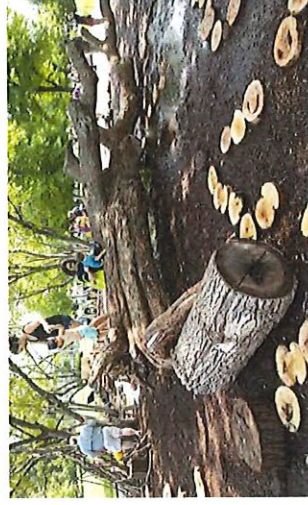
Detailed Enlargement

- 90 Degree Of Street Parking
- Sidewalk Connection
- New/Upgraded Playground Equipment - ADA Accessible
- Landscape/Planting Bed
- Shade Tree Planting (Typical)
- Provide ADA Parking Spaces
- Fencing
- Existing Picnic Pavilion - Upgrade As Needed
- Sidewalk
- Optional Paver/Hardscape Treatment to Connect Plaza to Charles Street
- Entry Plaza with Sculpture/Art Opportunity
- Misting Pad
- Stairs Feature
- Existing Bandshell
- Relocated Sidewalk
- New Sidewalk
- Additional Seating or Picnic Tables
- Existing Basketball Court
- Landscaping Screening & Fence
- New Tennis Court or Natural Play Area
- New Storage Shed/Structure
- Outdoor Seating/Tables
- Shade Elements - Pergola/Arbor or Awning Type Structures Added to Existing Pavilion
- Low Planting & Fencing
- Existing Restrooms
- Sidewalk
- Multi Purpose Sport Court
- Sidewalk
- Bleacher with Shade Element/Structure
- New Basketball Court

CONCEPT C1



- Tree/Log Features
- Existing Tree
- Low Landscape Edge Planting
- Benches/Seating
- Outdoor Seating/Tables
- Facing Play Area
- Rock/Step Stone Elements
- Low Planting & Fencing
- Existing Restrooms

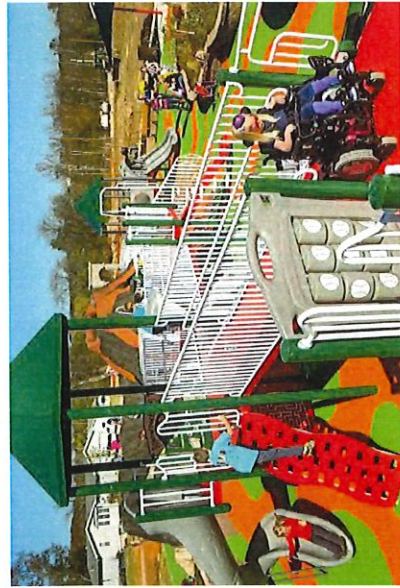


Detailed Enlargement - Natural Play Area

INSPIRATION/PRECEDENT



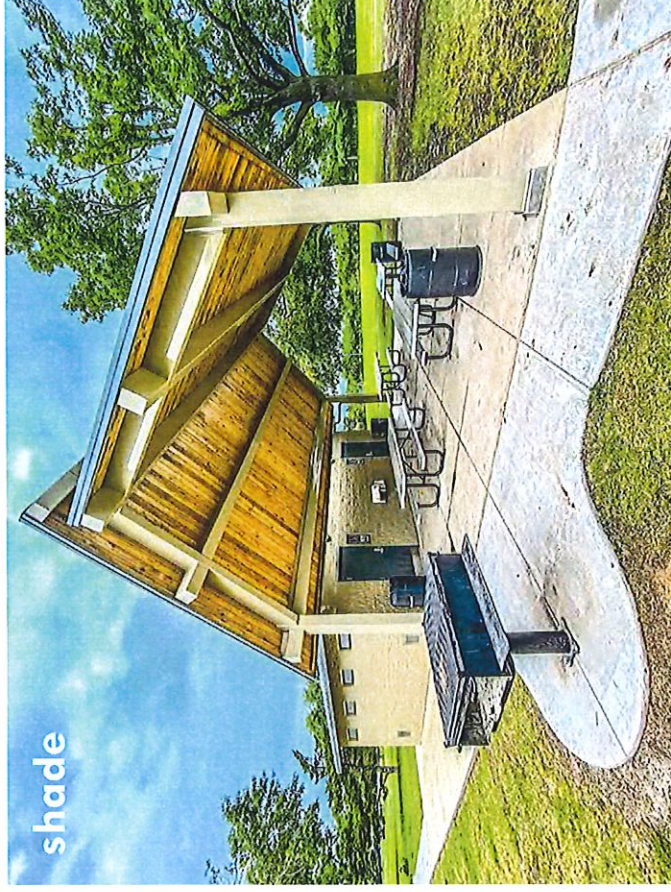
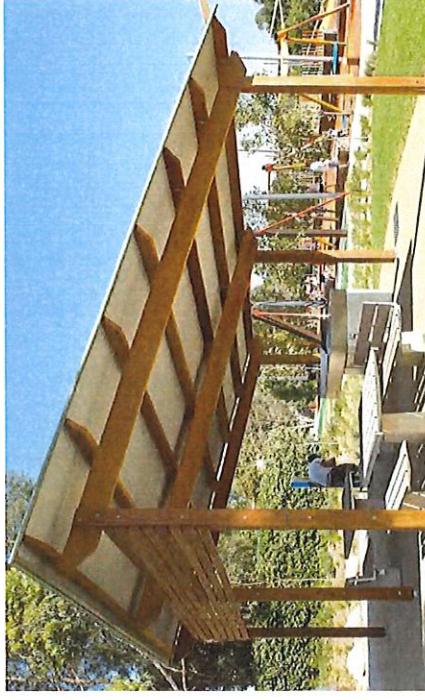
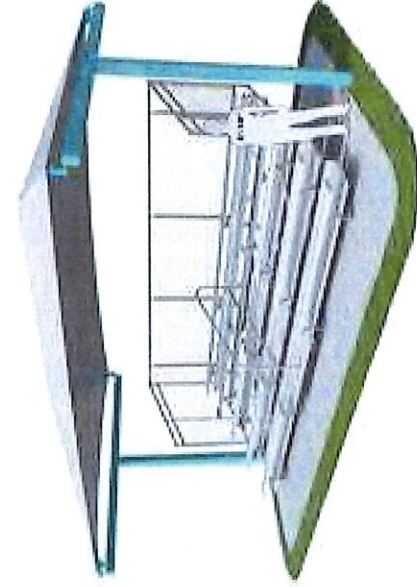
INSPIRATION/PRECEDENT



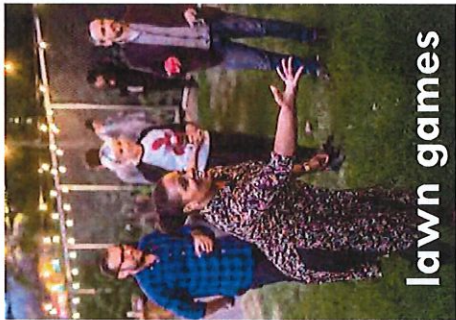
INSPIRATION/PRECEDENT



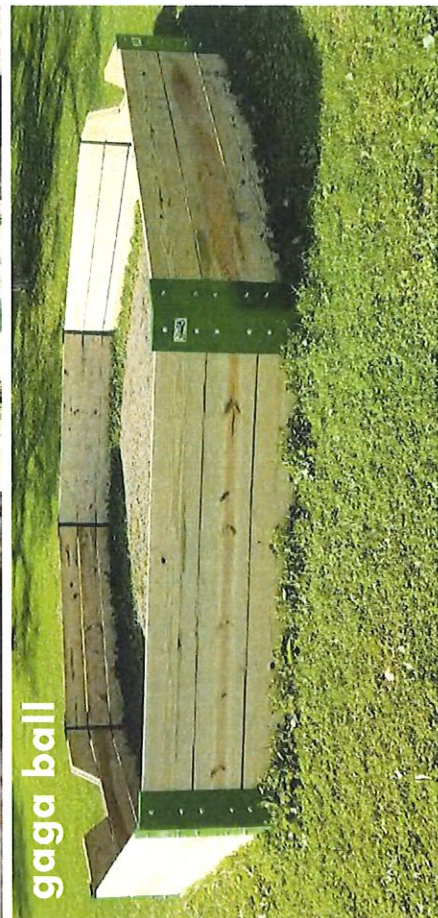
bandshell



INSPIRATION/PRECEDENT



lawn games



gaga ball

REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Topic:

FY23 Imagine Hagerstown ~ *Kitty Clark, Community Events Coordinator*

Mayor and City Council Action Required:

Staff seek approval of an FY23 budget for Imagine Hagerstown in the same format it is currently in: 5 events in University Plaza with an opening act and a headliner band. This is necessary because artists and support services for the summer events need to be contracted in winter/spring of 2022, in advance of approval of the City's FY23 budget. For these 5 events, we are requesting a small increase in net cost from \$36,100 to \$44,000, which gives a bit more ability to hire bands with larger followings and to have sufficient marketing funds to promote the events. A budget is attached.

Discussion:

Staff will attend the November 16 work session to present a recap of last season's Imagine Hagerstown events, a preview of Spring 2022 events, and seek approval of the FY23 budget.

Recap of Calendar Year 2021 Imagine Hagerstown Events

In Calendar Year 2021, Imagine Hagerstown produced five Fourth Friday events in University Plaza. Each one took place as planned, with no changes required due to Covid-19. As we had done in Calendar Year 2020, these events were BYOB, a situation that is both simpler to administer and more economically advantageous for downtown restaurants who are able to sell alcoholic beverages packaged to go. The lineup was diverse in genre and appealed to a diverse audience. May 28 featured the Kelly Bell Band with opening musician Ash the Artist. An intrepid audience of about 100 showed up and stayed in what turned out to be a torrential downpour. As this was for many the first time out since the pandemic began, people were reluctant to cancel and the event ended early only because of the amount of water that accumulated on the stage. The Amish Outlaws took the stage on June 25, with local band South Mountain Breed Opening. 825 people attended this terrific event. July 23 featured Across the Pond with Emily Lehr opening. 175 people attended. Jah Works, with opening band Dirty Soul, performed on August 27, with an audience of 275. On September 24, which was also the date of Thunder in the Square, The Woodshedders performed with Rudy and The Bluefish opening. 400 people attended. Overall, the Fourth Friday model works. People are getting familiar with the events, know to bring their own chairs, and know to bring in their own food and drinks. HPD and Parks staff have done a great job keeping University Plaza looking great and feeling safe. The financial summary for FY21 is attached. Net cost of FY21 Imagine Hagerstown (July, 2020-June, 2021) was \$21,662. We were fortunate to be allowed to carry over unused FY20 grant funds from the state and the county arts councils that enabled us to lower the net cost to the City in FY21.

Remainder of FY22

There are 2 more Fourth Friday events on the schedule in FY22: May 27 and June 24. We will be finalizing the artists for these two events in the next several months. Per the budget the Mayor and Council approved last March, we are working with a budget with a net cost to the City of \$36,100.

Financial Impact:

Recommendation:

Motion:

Action Dates:

If this budget is acceptable to the Mayor and Council, a vote to approve would take place during the November 23 regular session.

ATTACHMENTS:

File Name

111621_MCC_WS_Imagine_FY23_Budget.pdf

Description

111621_Imagine
Hagerstown FY23



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

TO: Scott Nicewarner, City Administrator
FROM: Kitty Clark, Community Events Coordinator
DATE: November 8, 2021
SUBJECT: FY23 Imagine Hagerstown

Staff will attend the November 16 work session to present a recap of last season's Imagine Hagerstown events, a preview of Spring 2022 events, and seek approval of the FY23 budget.

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Action Requested for FY23

Staff seek approval of an FY23 budget for Imagine Hagerstown in the same format it is currently in: 5 events in University Plaza with an opening act and a headliner band. This is necessary because artists and support services for the summer events need to be contracted in winter/spring of 2022, in advance of approval of the City's FY23 budget. For these 5 events, we are requesting a small increase in net cost from \$36,100 to

\$44,000, which gives a bit more ability to hire bands with larger followings and to have sufficient marketing funds to promote the events. A budget is attached.

If this budget is acceptable to the Mayor and Council, a vote to approve would take place during the November 23 regular session.

c: Jill Thompson, Director of Community and Economic Development

Imagine Hagerstown FY21 Financials		
REVENUE		
01030052-4341-P0811	MSAC Grant	\$ 20,814.00
01030052-4361-P0811	Washington County Arts Council Grant	\$ 4,850.00
01030052-448502-P0811	Merchandise Sales	\$ 180.00
01030052-448503-P0811	Vendor Fees	\$ -
01030052-4489-P0811	Admissions	\$ -
01030052-471102-P0811	Corporate Sponsors	\$ -
01030052-471103-P0811	Donations	\$ -
	Total Revenue	\$ 25,844.00
EXPENSES		
0103005-530910-P0811	Artist Payments	\$ 20,200.00
0103005-530911-P0811	Technical Fees	\$ 6,435.00
0103005-530913-P0811	Venue Rent / Facilities	\$ -
0103005-530914-P0811	Equipment/Supplies	\$ 1,673.00
0103005-530915-P0811	Hospitality	\$ 861.00
0103005-530916-P0811	Contingency	\$ 121.00
0103005-533101-P0811	Marketing	\$ 14,993.00
0103005-5912-P0811	Hourly Alloc. (City Services)	\$ 3,213.00
	Total Expenses	\$ 47,496.00
	NET	\$ (21,652.00)

FY23 Imagine Hagerstown Draft Budget - 5 Fourth Fridays

REVENUE		
01030052-4341-P0811	MSAC Grant	\$ 6,000.00
01030052-4361-P0811	Washington County Arts Council Grant	\$ 4,000.00
01030052-448502-P0811	Merchandise Sales	\$ -
01030052-448503-P0811	Vendor Fees	\$ -
01030052-4489-P0811	Admissions	\$ -
01030052-471102-P0811	Corporate Sponsors	\$ 6,000.00
01030052-471103-P0811	Donations	\$ -
	Total Revenue	\$ 16,000.00
EXPENSES		
0103005-530910-P0811	Artist Payments	\$ 25,000.00
0103005-530911-P0811	Technical Fees	\$ 10,000.00
0103005-530913-P0811	Venue Rent / Facilities	\$ -
0103005-530914-P0811	Equipment/Supplies	\$ 2,000.00
0103005-530915-P0811	Hospitality	\$ 1,000.00
0103005-530916-P0811	Contingency	\$ -
0103005-533101-P0811	Marketing	\$ 18,000.00
0103005-5912-P0811	Hourly Alloc. (City Services)	\$ 4,000.00
	Total Expenses	\$ 60,000.00
	NET	\$ (44,000.00)

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 23, 2021

TOPIC: Approval of the FY23 Imagine Hagerstown Budget

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

MOTION: I hereby move that the Mayor and Council approve the FY23 Budget for Imagine Hagerstown events. The approved net cost for five Fourth Friday events taking place between July 1, 2022 and June 30, 2023 is \$44,100.

DATE OF PASSAGE: November 23, 2021

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

Topic:

American Recovery Plan Act - Project Review ~ Scott Nicewarner, City Administrator, Michelle Hepburn, Chief Financial Officer, Brooke Garver, Accounting Manager, and Stacey Pierre-Louis, Grants Administrator

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Memo_-_American_Recovery_Plan_Act.pdf

Description

ARPA Project Review



CITY OF HAGERSTOWN, MARYLAND

Scott A. Nicewarner

City Administrator

One East Franklin Street • Hagerstown, MD 21740

E-mail: snicewarner@hagerstownmd.org

Telephone: 301.766.4168 • TDD: 301.797.6617

TO: Mayor and Council

FROM: Scott Nicewarner, City Administrator
Michelle Hepburn, Chief Financial Officer
Brooke Garver, Accounting Manager
Stacey Pierre-Louis, Grants Administrator

RE: American Recovery Plan Act – Project Review

DATE: November 16, 2021

Staff and myself will present to Mayor and City Council an updated listing of suggested and requested projects which would utilize the first of two installments of American Recovery Plan Act (ARPA) funds provided to the City.

This presentation to the elected body and the community will include a general explanation of staff recommendations, the examples of eligible uses per the Department of Treasury Interim Final Rule, the Federal project expenditure categories related to Compliance and Reporting guidelines, and a review of the projects as they align within each of these use and reporting guidelines.

To date, and as represented on the attached spreadsheet, City Council has approved \$4,875,000 in projects utilizing ARPA funds. This leaves a balance of unallocated funding of \$5,325,000 out of the original \$10,200,000 of the first installment of our \$20,400,000 total funding amount. Staff have identified those projects that we feel address the goals of the community (community survey results), Mayor and City Council (strategic planning sessions and final documentation), and staff / departmental priorities. These designations are flexible and open to City Council modification. The amount to fund those listed projects, or projects added to the list by City Council during these discussions, are left to the body to provide within the remaining \$5,325,000 or identified through the final installment of \$10,400,000 to be received in May, 2022.

We look forward to the discussion.



Examples of Eligible Uses - Interim Final Rule, 35.6*
Federal Project Expenditure Categories - Compliance and Reporting Guide pg.31**

	1. Public Health	2. Negative Economic Impacts	3. Services to Disproportionately Impacted Communities	4. Premium Pay	5. Infrastructure (Water, Wastewater, Stormwater)	6. Revenue Replacement (Provision of Gov't Svcs)	7. Admin
a) In general. Subject to §§35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs b) through e) of this section."							
b) Responding to the public health emergency or its negative economic impacts	x	x	x				
1. COVID-19 Response & Prevention	x		x			x	
2. Public Health and Safety Staff	x		x	x			
3. Hiring State and Local Gov't Staff	x		x			x	x
4. Assistance to Unemployed Workers		x	x				
5. Contributions to State Unemployment Insurance (N/A)							
6. Small Businesses (also avail through CARES Act funding)		x	x				
7. Nonprofits (also avail through CARES Act funding)	x	x	x				
8. Assistance to Households (also avail. Through CARES)	x	x	x				
9. Aid to Impacted Industries		x	x				
10. Improve Efficacy of Pub. Health/Econ. Relief Programs	x	x	x				
11. Survivor's Benefits (not currently funded)							
12. Disproportionately Impacted Popul. & Communities	x	x	x				
c) Providing premium pay to eligible workers			x	x			
d) Providing government services			x			x	x
e) To make necessary investments in infrastructure			x		x		

* "The Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of Fiscal Recovery Funds not explicitly listed." Coronavirus State and Local Fiscal Recovery Funds FAQs: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

** "...For each project, the recipient will be asked to select the appropriate Expenditure Category based on the scope of the project (see Appendix 1)..." - Treasury Compliance and Reporting Guidance - State and Local Fiscal Recovery Funds document pg. 16:

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>



Appendix 1: Expenditure Categories

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term “Expenditure Category” refers to the detailed level (e.g., 1.1 COVID-10 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

1: Public Health	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
2: Negative Economic Impacts	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*
2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
3: Services to Disproportionately Impacted Communities	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^



3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
4: Premium Pay	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
5: Infrastructure²⁷	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: “Last Mile” projects
5.17	Broadband: Other projects
6: Revenue Replacement	
6.1	Provision of Government Services
7: Administrative	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disadvantaged communities (see Project Demographic Distribution section above for details)

²⁷ Definitions for water and sewer Expenditure Categories can be found in the EPA’s handbooks. For “clean water” expenditure category definitions, please see: <https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf>. For “drinking water” expenditure category definitions, please see: <https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports>.

Ideas for Federal ARP Funding

November, 2021

Total Available Funds - Tranch #1: \$10,200,000
 Total Spent or Allocated as of 11/1/21: \$4,875,000
 Remaining Available Funds: \$5,325,000

X - Priority Project

Assistance with Behavioral Health Issues

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
1	Youth Violence Prevention Program	3.16 - Community Violence Interventions	Disproportionately Impacted Populations & Communities	find partner and implement.	M&CC Strategic Session	X	Health Dept & Meritus
2	24 Hour Crisis Center	1.10 - Mental Health Services 1.11 - Substance Use Svcs. 1.12 - Other Public Health	Disproportionately Impacted Populations & Communities	find partner to establish location for initial wrap-around services for people in crisis.	Mayor / WCHD / Meritus	X	Health Dept & Meritus/ CASA, Inc
	Accreditation costs for Service Providers	3.3 - Academic Services		provide start-up funding to cover cost of accreditation.			
	Expand Availability of Counselors	1.10- Mental Health Svcs.		Provide funding to expand counselors			
	Bridge Funding Gap for Treatment	3.3 - Academic Svcs; 1.6 - Medical Expenses		provide scholarship/grant to facilities/individuals for treatment until Medicaid or insurance kicks in.			
	Mobile Crisis for Nights & weekends	1.12 - Other Public Health Svc		provide mobile crisis for 11pm to 7 am and weekend days during time when no current coverage.			
	Detox/Crisis Beds	1.11 - Substance Use Svcs.		partner with local providers to support detox/crisis beds. Provide funding to support renovations at CASA, Inc shelter (highest priority CASA reno projects total \$140-\$250K)			
3	Outreach Coordinator Liaison Position	1.9 - Payroll Costs for Pub. Health, Safety, Public Sector	Pub. Health & Safety Staff	Position would be a conduit between the City and social service agencies regarding behavioral health issues.	Homeless Coalition	X	Homeless Coalition

Affordable or Emergency Housing

#	Project/Program Idea	Federal Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
4	Year-round Homeless Shelter	3.11 - Services for Unhoused Persons	Disproportionately Impacted Populations & Comm.	work with partner on establishing a year-round homeless shelter.	M&CC Strategic Session	X	WCHD
5	Blight eradication / Emergency housing, affordable rental housing, Homeownership opps. / Rehab/Improve Rental Properties or Nonprofit Facilities	3.10 - Affordable Housing; 3.12 - Other Housing Assistance; 3.15 - Social Determinants of Health: Lead Remediation	Disproportionately Impacted Populations & Comm.	acquire and demo or renovate blighted buildings that are a serious detriment to challenging neighborhoods.	Community Survey, M&CC Strategic Session, City Administrator, DCED	X	
				acquire rental or vacant properties from sinking landlords for transfer to partners for these types of projects.	PCAD		HHA / Horizon Goodwill
				work with landlords hardest hit by eviction moratorium with funding to rehab/improve their properties.	M&CC Strategic Session		Landlords Assoc
				provide funding for renovation of 1st floor bathroom in homeless shelter to become ADA compliant (\$15K)	Salvation Army		

6	Whole Family Center	2.10 - Aid to Nonprofit Organizations; 3.14 - Community Health Workers/Benefits Navigators	Disproportionately Impacted Popul. & Comm.; Nonprofits; Improve Efficacy of Pub. Health/Econ. Relief Programs	Single location that can provide housing, case management from multiple agencies, workforce development, etc.	CAC -\$2,000,000 for building purchase	X	CAC
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Re-Employment and Entrepreneurial Efforts

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
7	Increase Educational Opportunities City Residents in areas such as CDL Licensing, CAN, Phlebotomy, Diesel Tech, and Work-Keys, etc.	2.7 - Job Training Assistance - Sectoral job training, Subsidized employment, Supports/Incentives; 3.3 - Education Assistance: Aid to High-Poverty Districts; 3.6 - Healthy Childhood Environments: Child Care	Assistance to Unemployed Workers; Nonprofits; Disproportionately Impacted Popul. & Comm.	retrain out-of-work or underemployed residents for jobs in new distribution warehousing companies coming to our community. With County.	Staff	X	HCC
	Expand Transit to New Job Centers and HCC			work with partner (CAC) to expand transit to new employment centers and HCC.			CAC, County
	Scholarship Program to HCC and USMH			create scholarship program for City residents to gain degrees or certifications to improve chances for higher paying jobs. With County.			HCC / USMH
	Affordable daycare for students and new job seekers			work with partner to remove this barrier to rising up.			
	Downtown Training Space			work with partner to establish space in urban core for job retraining for city residents			HCC, USMH, WMC, AJC,
8	New Entrepreneurs Start-Up Fund	2.9 - Small Business Economic Assistance; 2.13 - other Economic Support	Small Businesses; Aid to Impacted Industries	create fund to assist with start-up with new entrepreneur enterprises.	Staff		
9	Create Maker Space to assist Start-Ups			work with partner to set up a Maker Space to assist with start-up with new entrepreneur enterprises.	Staff		
10	Create Home-office Space			provide funding to renovate space for home offices for teleworking or home-based businesses.	Mayor		
11	Support Local Artists & Brands			Incentive to support/promote local artists	M&CC Strategic Session		

Improving Quality of Life

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
12	Housing & Neighborhoods Plan	3.12 - Other Housing Assistance; 3.15 - Lead Remediation	Disproportionately Impacted Populations & Communities	develop plan to address blight and housing needs of our hardest hit residents.	M&CC Strategic Session		
13	Supermarkets in Neighborhoods	1.12 - Other Public Health; 3.9 - Healthy Childhood Environments: Other	Disproportionately Impacted Populations & Communities	work with partner of eradicating food deserts in most challenged neighborhoods. \$1,400,000	Horizon Goodwill / M&CC Strategic Session		
14	Make Our Neighborhoods Bright	3.9 - Healthy Childhood Environments: Other; Social Determinants of Health: Other	Disproportionately Impacted Populations & Communities	Better lighting around businesses, neighborhoods, in alleys, etc.	M&CC Strategic Session		

15	Lead Abatement Grant Fund	3.15 - Lead Remediation; 5.12 - Drinking Water: Lead Remediation	Disproportionately Impacted Populations & Communities	remediate/remove lead paint and other hazards, including lead pipes consistent with Lead and Copper Rule of Safe Drinking Water Act.	Staff		
16	Alms House Community Center	3.4 - Social, Emotional, and Mental Health Svcs.; 3.6 - Healthy Childhood Env: Child Care	Disproportionately Impacted Populations & Communities	Convert this vacant property into a Community Center for the neighborhood; could provide afterschool programs; could incorporate a Police substation. (\$600,000)	M&CC Strategic Session		
17	Bring Back Front Porches	3.13 - Social Determinants of Health: Other	Disproportionately Impacted Populations & Communities	grant fund to help renovate front porches as community living room spaces	M&CC Strategic Session		
18	Home-owner Assistance	3.12 - Other Housing Asst; 3.15 - Lead Remediation	Disproportionately Impacted Populations & Communities	Incentive to homeowners for rehab in targeted areas.	M&CC Strategic Session		
19	Quality of Life Amenities (ie. Permanent Public Restroom Facility)	1.4 - Prevention in Congregate Settings 1.12 Other Public Health	COVID-19 Response & Prevention; Disproportionately Impacted Popul. & Comm.	Provide opportunities for a safe and viable Resource Center/meet immediate client needs/sustain positive behavioral health influence in the community.		X	

Helping Government Agencies to Service Customer's Needs

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
20	Grant Administrator at City	7.1 - Admin Expenses	Hiring Local Gov't Staff	Hire temporary employee to oversee/manage ARP grants.	Finance	\$96,000	
21	Relocate Customer Service	1.4 - Prevention in Congregate Settings; 1.7 - Capital Investments or Physical Changes to Public Facilities	COVID-19 Response & Prevention; Disproportionately Impacted Popul. & Comm.	City is looking for space to move the operations to better serve the community.	Finance	\$1,000,000	
22	FT Employee Stipends	4.1 - Premium Pay: Public Sector Employees	COVID-19 Response & Prevention; Public Health & Safety Staff	compensate full-time essential employees for reporting to offices and fieldwork in 2020 during the pandemic.	M&CC	\$2,153,000	
23	iPads for City Board Members	7.1 - Admin Expenses	Administrative	City-issued iPads for board members	Staff		

Already done or implementing.

Infrastructure Improvements to Serve the Community

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
24	On-line Back-up and Retrieval of Data	6.1 - Provision of Gov't Services	Investments in Infrastructure	?	Staff		
25	Cyber Security Enhancements	6.1 - Provision of Gov't Services	Investments in Infrastructure	?	Staff		
26	Clean-Up Parcel Data	6.1 - Provision of Gov't Services	Investments in Infrastructure	Hire someone to clean-up the parcel data so there can be tracking of all City department account functions by parcel on the City's computer network.	Staff		
27	VX-Rail Memory Upgrade	6.1 - Provision of Gov't Services	Investments in Infrastructure	Hardware/software upgrade - ?	Staff		

28	OS365 Upgrade	6.1 - Provision of Gov't Services	Investments in Infrastructure	Provide single platform for users; better enable staff to work from home during emergency situations.	Staff		
29	Upgraded Wiring	6.1 - Provision of Gov't Services	Investments in Infrastructure	upgrade wiring in all City office buildings from CAT-5 to 16E.	Staff		
30	Mack Truck Water Tank Replacement	5.11 - Transmission & Distribution	Investments in Infrastructure	Address service deficit.	Staff	X	
31	Pump Station #13	5.3 - Decentralized Wastewater Collection & Conveyance	Investments in Infrastructure	Address service demands from Flow Transfer area. \$3,000,000 - \$5,000,000	Staff		
32	Transmission Mains & Valves Replacement	5.11 - Transmission & Distribution	Investments in Infrastructure	Increase reliability of aging infrastructure. Mains from plant across Concocheague to Governors Lane and on MD 63. \$3,000,000	Staff		
33	Pump Station #9/#33	5.3 - Decentralized Wastewater Collection & Conveyance	Investments in Infrastructure	Replace and/or expand wastewater pumping capacity to serve growth in southeast area of city.	Staff	X	
34	HFD Ladder Truck	6.1 - Provision of Gov't Svcs.	Revenue Loss	Purchase of additional ladder truck for HFD	Staff	\$1,200,000	
35	Camera System Software	6.1 - Provision of Gov't Svcs; 3.16 Community Violence Interventions	Disproportionately Impacted Popul. & Comm; Revenue Loss; Invest. In Infrastructure	Purchase of camera management system to allow for advanced techniques of suspect identification and tracking \$250,000 - \$350,000	Staff		
36	Taser Program / Virtual Reality	6.1 - Provision of Gov't Svcs; 3.16 Community Violence Interventions	Disproportionately Impacted Popul. & Comm; Revenue Loss; Invest. In Infrastructure	Additional training opportunity for public safety	Staff		
37	Backhoe in Public Works and Parks	6.1 - Provision of Gov't Svcs	Revenue Loss	Long needed equipment to perform services and maintenance in Public Works and Parks	Staff	X	
38	Camera Truck Replacement in Wastewater	6.1 - Provision of Gov't Svcs	Revenue Loss	Necessary replacement of camera rig for the proactive and necessary maintenance of pipe system	Staff	\$426,000	

Additional Projects for Consideration Related to Possibility of Alternative Funding or Need More Research.

#	Project/Program Idea	Federal Project Expenditure Category	Interim Final Rule Eligible Use - Section 35.6 and Subsections	Brief description	Source of Idea	Allocation Amount	Possible Outside Contact or Partner
39	Rent Assistance/Utility Assistance	3.12 - Other Housing Assistance	Assistance to Households	Assistance for rents and utility debt	M&CC Strategic Session		
40	Increase Economic Incentives	2.9 - Small Bus. Economic Assistance	Small Business	increase economic incentives	M&CC Strategic Session		
41	Tackle White Elephant Buildings in Targeted Areas	2.13 - Other Economic Support; 2.11 - Aid to Tourism, Travel/Hospitality	Small Business	Increase InvestHagerstown for defined targeted areas to tackle white elephant buildings.	M&CC Strategic Session		
42	Expand Bridge to Change	3.13 - Social Determinants of Health - Other	Disproportionately Impacted	Increase clean-up partnership efforts	Community Survey/M&CC Strategic Session		
43	Public Shower/Bathroom for Homeless	1.4 - Prevention in Congregate Settings; 1.12 - Other Public Health Svcs.	COVID-19 Response & Prevention; Disproportionately Impacted	Work with partner to provide public shower/bathroom for homeless.			
44	Free Rent for New Businesses	2.13 - Other Economic Support	Small Business	Period of rent free for new businesses	Staff		
45	Rehab Space for New Businesses	2.13 - Other Economic Support	Small Business	Rehab space for new businesses	Staff		

46	Business Counselling to Start-Ups	2.13 - Other Economic Support	Small Business	Partner on program to provide business counselling to start-ups.	Staff		
47	Downtown Business Attraction	2.11 - Aid to Tourism, Travel, Hospitality; 2.13 - Other Economic Support	Small Business; Aid to Impacted Industries	Revamp former Retail & Restaurant Grant Program	Staff		
48	LiveHagerstown Grant Program	3.10 - Affordable Housing; 3.12 - Other Housing Asst.	Assistance to Households	Grants to people to move here/buy here.	Staff		
49	Grant Management Portal	6.1 - Provision of Gov't Srvcs; 7.1 - Admin Expenses	Revenue Loss; Administrative	Address work load associated with managing ARP grants and Other Grants and City Incentives	DCED		
50	Economic Incentive Software	6.1 - Provision of Gov't Srvcs; 7.1 - Admin Expenses	Revenue Loss; Small Business	software to track/monitor/provide economic incentive data.	DCED	GF	
51	New Software to Allow On-line Permitting	1.4 - Prevention in Congregate Settings	COVID-19 Response & Prevention	Better accommodate remote business access by upgrading software to allow on-line permitting and enhanced coordination of inspection results. Buy 15 tablets for field inspection data entry. Desired by PCCR Committee.	PCAD	GF	
52	Upgraded Fiber Map	6.1 - Provision of Gov't Srvcs; 7.1 - Admin Expenses	Revenue Loss; Administrative	?			
53	Hagerstown Visitor's Kiosk	2.11 - Aid to Tourism, Travel, Hospitality; 2.13 - Other Economic Support	Small Businesses; Aid to Impacted Industries	A kiosk with information/brochures for visitors about local attractions, businesses, lodging/events.	Staff		
54	CVB	2.11 - Aid to Tourism, Travel, Hospitality	Aid to Impacted Industries	CVB requested \$250K for advertising, marketing and sponsorships	CVB		