

Executive Session and Regular Session (56th Voting Session)
Mayor and City Council
November 22, 2022
Agenda

6:30 PM 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.

6:30 PM Executive Session Agenda

7:00 PM - November 22, 2022 - REGULAR SESSION -*Council Chambers, Second Floor, City Hall*

I. CALL TO ORDER

Mayor Emily Keller

II. INVOCATION

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

- A. 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 6, 2022 - Work Session at 4:00 p.m.
 - 2. Tuesday, December 13, 2022 - Work Session at 4:00 p.m.
 - 3. Tuesday, December 20, 2022 - Regular Session at 7:00 p.m.
 - 4. Tuesday, December 27, 2022 - No Meeting Scheduled

V. PROCLAMATION

- A. Municipal Government Works Month
- B. World AIDS Day

VI. GUESTS

Certificate of Appreciation: Milestone Anniversary Recognition to Board and Commission Members

VII. AGENDA ITEM CITIZEN COMMENTS

Citizens are welcome to provide comments in person or by sending an email to [**councilcomments@hagerstownmd.org**](mailto:councilcomments@hagerstownmd.org) no later than 5:00 p.m. on Tuesday, November 22, 2022. 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.

VIII. MINUTES

October 4, 2022, October 13, 2022, October 18, 2022, and October 25, 2022

IX. CONSENT

C. Technology and Support Services

1. Office 365 Software Upgrade (City-Wide) - vTech Solutions, Inc. (Washington, DC) \$ 155,593.78

D. Engineering

1. Installation of New Sidewalks on West Irvin Avenue Prior to Overlay - DIR Construction, Inc. (Laurel, MD) Not to Exceed \$ 80,000.00
2. Replacement of Deteriorated Alley Paving - Advantage Landscape & Construction, Inc. (Hagerstown, MD) Not to Exceed \$ 145,000.00

E. Police

1. AVCC Annual Subscription Fee - Lexis Nexis (Chicago, IL) \$ 18,961.90

F. Public Works

1. Pricing shown is the total Washington County bid price - the original City Purchase Order for each component will be the approved FY23 budget totals.
2. Bulk Diesel Fuel and Gasoline Purchase: Tank Wagon Deliveries - A. C. & T. Co., Inc. (Hagerstown, MD) \$ 471,170.03
3. Bulk Diesel Fuel Purchase: Transport Deliveries - A. C. & T. Co., Inc. (Hagerstown, MD) \$ 2,566,758.10
4. Bulk Gasoline Purchase: Transport Deliveries - Petroleum Traders Corporation (Fort Wayne, IN) \$ 959,432.30

G. Utilities

1. Water: Water Service Materials – Core and Main LP (Martinsburg, WV) \$ 48,885.88
2. Water: FY23 Chemical Purchase - Various Vendors \$1,791,618.16
3. Wastewater: FY23 & FY24 Chemicals - Various Vendors \$ 392,206.00
4. Wastewater: Muffin Monster - JWC Environmental (Santa Ana, CA) \$24,481.00

X. UNFINISHED BUSINESS

- A. Approval of an Annexation Resolution: Annexation Case No. A-2022-02: Lands of GVP Hagerstown Owner LLC - 2 Western Maryland Parkway
- B. Approval of an Ordinance: Cable Franchise Agreement with Comcast

XI. NEW BUSINESS

- A. Introduction of an Ordinance: Purchase of 50-58 West Antietam Street
- B. Introduction of Ordinance: Amending the City Code - Add Chapter 230, Transient Housing
- C. Introduction of Ordinance: Amending the City Code - Amending Chapter 65, Habitual Offender, to Enhance Support to Transient Visitors and Neighborhoods
- D. Introduction of Ordinance: Amending the City Code - Amending Chapter 95, Excessive Use of City Services, to Impose Fees for Police, Law Enforcement Services, and Code

Administration Services Which are Over and Above the Costs of Providing Normal Police Protection, Law Enforcement, and Code Administration Services at Transient Housing Facilities

- E. Approval of a Resolution: Authorizing Financial Incentive Agreement between the City of Hagerstown and MCB Hagerstown, LLC
- F. Approval of a Resolution: Lease Amendment with Maryland Watch Works
- G. Approval of Letter of Intent with Maryland State Departments of Labor and Education for the City of Hagerstown Property Located at 2-6 N. Potomac Street
- H. Approval to Reimburse Washington County for the Community Based Prosecutor for FY23
- I. Approval of Solid Waste "Collection Service Fee" Increase

XII. GENERAL CITIZEN COMMENTS

XIII. CITY ADMINISTRATOR'S COMMENTS

XIV. MAYOR AND COUNCIL COMMENTS

XV. 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_22__2022_Executive_Session.pdf

Description

Executive Session Agenda



**MAYOR AND CITY COUNCIL
EXECUTIVE SESSION
NOVEMBER 22, 2022
AGENDA**

Vision Statement:

The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe and vibrant neighborhoods.”

Mission Statement:

“The City of Hagerstown shall be a community focused municipality.”

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

6:30 p.m. EXECUTIVE SESSION

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

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

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

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: November 22, 2022

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 6:30 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:

Mayor Emily Keller

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

- 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.
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Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Municipal Government Works Month

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

World AIDS Day

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Certificate of Appreciation: Milestone Anniversary Recognition to Board and Commission Members

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

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Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

October 4, 2022, October 13, 2022, October 18, 2022, and October 25, 2022

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Minutes.pdf

Description

Motion - minutes

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval of Minutes**

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

MOTION: I hereby move for the approval of minutes, as presented, for the Mayor and Council meetings held on October 4, 2022, October 13, 2022, October 18, 2022, and October 25, 2022.

DATE OF PASSAGE: November 22, 2022

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

Topic:

Office 365 Software Upgrade (City-Wide) - vTech Solutions, Inc. (Washington, DC) \$
155,593.78

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Consent_Agenda.pdf

IT_-_Office_365_City-Wide_Upgrade.pdf

Description

Motion - Consent Agenda

Office 365 Upgrade -
Consent Form and
Documents

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: Consent Agenda

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

MOTION: I hereby move that all the Consent Agenda be approved as presented.

Note: If you want to discuss any one item listed on the Consent Agenda, you must first make a request to remove that item from the Consent Agenda. The item automatically is moved to the last item under New Business and may then be discussed at that time. The appropriate motion for approval then is:

“I hereby move that the Consent Agenda, with the exception of (list item and topic) be approved.”

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
X	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
X	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS This upgrade will put ALL city Microsoft products on the same version, reducing compatibility errors. It will also enable cloud-based backups and functionality, reducing on-site reliance of hardware. Although vTech is not the lowest bidder, their training and implementation plan was superior to other competitors.

James R. Snyder Digitally signed by James R. Snyder
Date: 2022.10.27 07:54:13 -04'00'

Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval

TyDee Freese 11/8/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Recommend approval - there is adequate funding for this enhancement for citywide software utilization and is eligible use of ARPA funding.

Michelle Apem 11/8/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Scott Newman 11/9/22

Signature / Date

**City Of Hagerstown
Finance Department
Tabulation Report**

Title: Office 365 Migration
No: P1763.23
Deadline Date/Time: 9/22/22 @ 2:00PM
Contact Person: Tyler French

Company Name	Agree'Ya Solution, Inc	Data Networks of America, Inc	VTV Technologies LLC	Tele-Plus Corp	Digital DSI, Inc	BlueKey IT Services LLC	Zones, LLC
G1 Licenses Total Cost (based on 514 licenses)	\$43,176.00 per year	\$54,278.40 per year	\$55,512.00 per year	\$54,278.40 per year	\$47,981.90 per year	\$47,123.52 per year	\$44,964.72 per year
G3 Licenses Total Cost (based on 150 licenses)	\$36,000.00 per year	\$39,750.00 per year	\$39,600 per year	\$39,600.00 per year	\$35,014.50 per year	\$34,764.00 per year	\$32,994.00 per year
Implementation Total Cost	\$143,083.00	\$105,227.00	\$91,892.00	\$43,200.00	\$56,793.32	\$39,625.00	\$132,000.00
Training Total Cost	\$9,235.00	\$37,850.00	\$48,000.00	\$10,800.00	\$9,000.00	\$21,895.00	\$3,000.00
Total Bid Amount	\$231,493.00	\$237,085.40	\$235,004.00	\$147,878.40	\$148,789.72	\$143,407.52	\$212,958.72
Vendor Forms	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Acknowledged Addendum I	Yes	Yes	No	Yes	Yes	Yes	Yes
Acknowledged Addendum II	Yes	Yes	No	Yes	Yes	Yes	Yes
Acknowledged Addendum III	Yes	Yes	No	No	Yes	Yes	Yes

Company Name	vTech Solution, Inc	Ensemble Government Services, LLC	Communication Square LLC	Daly Computers	Accuera LLC	Carahsoft Technology Corp	Cloud Navigator Inc
G1 Licenses Total Cost (based on 514 licenses)	\$51,795.78 per year	\$61,680.00 per year	\$41,120.00 per year	\$51,914.00 per year	\$52,428.00 per year	\$50,330.88 per year	\$61,680.00 per year
G3 Licenses Total Cost (based on 150 licenses)	\$37,800.00 per year	\$75,600 per year	\$31,500 per year	\$62,550.00 per year	\$39,600.00 per year	\$33,783.00 per year	\$41,400.00 per year
Implementation Total Cost	\$57,000.00	\$136,000.00	\$62,000.00	\$149,285.00	\$41,000.00	\$174,852.80	\$57,450.00
Training Total Cost	\$8,998.00	\$13,600.00	\$10,000.00	\$15,000.00	\$12,000.00	\$13,493.00	\$780.00
Total Bid Amount	\$155,593.78	\$286,880.00	\$144,620.00	\$278,749.00	\$145,028.00	\$272,459.68	\$161,310.00
Vendor Forms	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Acknowledged Addendum I	Yes	Yes	Yes	Yes	Yes	No	Yes
Acknowledged Addendum II	Yes	Yes	Yes	Yes	Yes	No	Yes
Acknowledged Addendum III	Yes	Yes	Yes	Yes	Yes	No	Yes

Proposal No. P1763.23
Office 365 Migration
BID SUBMITTAL FORM
(SUBMIT 2 COPIES)

Company Name: vTech Solution, Inc.

Item	Unit Cost	Total Cost
G1 Licenses (qty 514)	\$100.77	\$ 51,795.78
G3 Licenses (qty 150)	\$252.00	\$37,800.00
Implementation Cost	N/A	\$57,000.00
Training Cost	N/A	\$ 8,998.00
Total Bid Amount		\$ 155,593.78

Answers to the following must be submitted with the RFP response:

How will your company handle the conversion to Azure AD?

How will your company handle the cloud implementation?

How do the Barracuda products integrate into the new Office 365 environments?

What is the backup recommendation/strategy for the new environment?

How long will your company provide post implementation support of migration activities?

What training will be provided to user base on Office 365 functionality and features?

What training will be provided to our system administrators for future troubleshooting and support?

How long will training take place? Onsite or remote?

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

Topic:

Installation of New Sidewalks on West Irvin Avenue Prior to Overlay - DIR Construction, Inc.
(Laurel, MD) Not to Exceed \$ 80,000.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Engineering_-
_Installation_of_new_sidewalks_on_West_Irvin_Avenue.pdf

Description

New Sidewalks on West
Irvin Avenue - Consent
Form and Documents

**City of Hagerstown
Mayor and Council
Purchase/Contract Information
Meeting of 11/22/22**

Do Not Complete This Section
Approved Consent Agenda: _____
New Business: _____

Originating Department: Engineering By: Rodney Tissue
Account Number: 4509004 5594 Account / Project Name: Sidewalks
Budget Amount: \$80,000 Account Balance: \$80,000 Year: 2023 CIP Control No. C0595
Unbudgeted \$: \$0 Source of Funds: General Fund Transfers

Quantity	Description	Value
1	Installation of new sidewalks on West Irvin Avenue prior to overlay	\$52,890.00
1	Miscellaneous additional sidewalk replacement at unit rates bid	\$27,110.00

TOTAL VALUE OF PROJECT: \$80,000.00

ABOVE TO BE USED FOR:

.Install new sidewalk along north side of West Irvin Avenue between Belview Avenue and Woodland Way prior to street overlay. Balance will be used to replace deteriorated sidewalks at miscellaneous locations.

Recommended Vendor:

Business Name: DIR Construction, Inc.
Address: 9698 Maryland Avenue
City, State: Laurel, MD 20723
Bid/Proposal/Quote No.: 22-SA-24 A

OTHER VENDORS:

Firm	City/State	Total Amount
SFMS	Bethesda, MD	\$62,091.14
Huntzberry Brothers	Smithsburg, MD	\$72,351.00
Advantage Landscape & Construction Inc.	Hagerstown, MD	\$118,815.91

(1) Department Manager

Recommend award of contract for the installation and replacement of sidewalks to *DIR Construction, Inc.* in the amount Not to Exceed \$80,000

[Signature] 11/8/2022

Signature / Date

(2) Purchasing Agent:

Recommend ~~Approval~~ Vendor needs setup in
Munis.

T. DeFreeze 11/9/22

Signature / Date

(3) ~~Finance Manager:~~ City Administrator

Recommend Approval

Acad McQuinn 11/9/22

Signature / Date

(4) ~~City Administrator's Recommendation:~~ Finance Recommendation

Approve - there is adequate funding in the
budget to cover the sidewalk infrastructure
improvements.

Michelle [Signature] 11/9/22

Signature / Date

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

Topic:

Replacement of Deteriorated Alley Paving - Advantage Landscape & Construction, Inc.
(Hagerstown, MD) Not to Exceed \$ 145,000.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Engineering_-_Alley_Reconstruction.pdf

Description

Replacement of Alley
Paving - Consent Form and
Documents

**City of Hagerstown
Mayor and Council
Purchase/Contract Information
Meeting of 11/22/22**

Do Not Complete This Section

Approved Consent Agenda: _____

New Business: _____

Originating Department: Engineering By: Rodney Tissue

Account Number: 4509004 5594 Account / Project Name: Alley Reconstruction

Budget Amount: \$145,000 Account Balance: \$145,000 Year: 2023 CIP Control No. C0324

Unbudgeted \$: \$0 Source of Funds: State Highway User Revenue 70070

Quantity	Description	Value
1	Alley Reconstruction (included in bid, see map)	\$102,995.22
1	Miscellaneous additional alley pavement replacement at unit rates bid, see map	\$42,004.88

TOTAL VALUE OF PROJECT: NTE \$145,000.00

ABOVE TO BE USED FOR:

.Replacement of deteriorated alley paving

Recommended Vendor:

Business Name: Advantage Landscape & Construction, Inc.

Address: 12936 Salem Avenue

City, State: Hagerstown, MD 21740

Bid/Proposal/Quote No.: 22-SA-24 B

OTHER VENDORS:

Firm	City/State	Total Amount
DIR Construction, Inc.	Laurel, MD	\$146,800.00
Huntzberry Brothers	Smithsburg, MD	\$150,905.00
SFMS	Bethesda, MD	\$228,724.30

(1) Department Manager

Recommend award of Part B of contract and additional alley repairs to *Advantage Landscape and Construction, Inc.* in the amount Not to Exceed \$145,000.

RTH 11/8/22

Signature / Date

(2) Purchasing Agent:

Recommend Approval

Tyler Frad 11-9-22

Signature / Date

(3) Finance Manager:

Approve - there is sufficient funding in the budget to cover the alley improvements.

Michelle Heger

Signature / Date

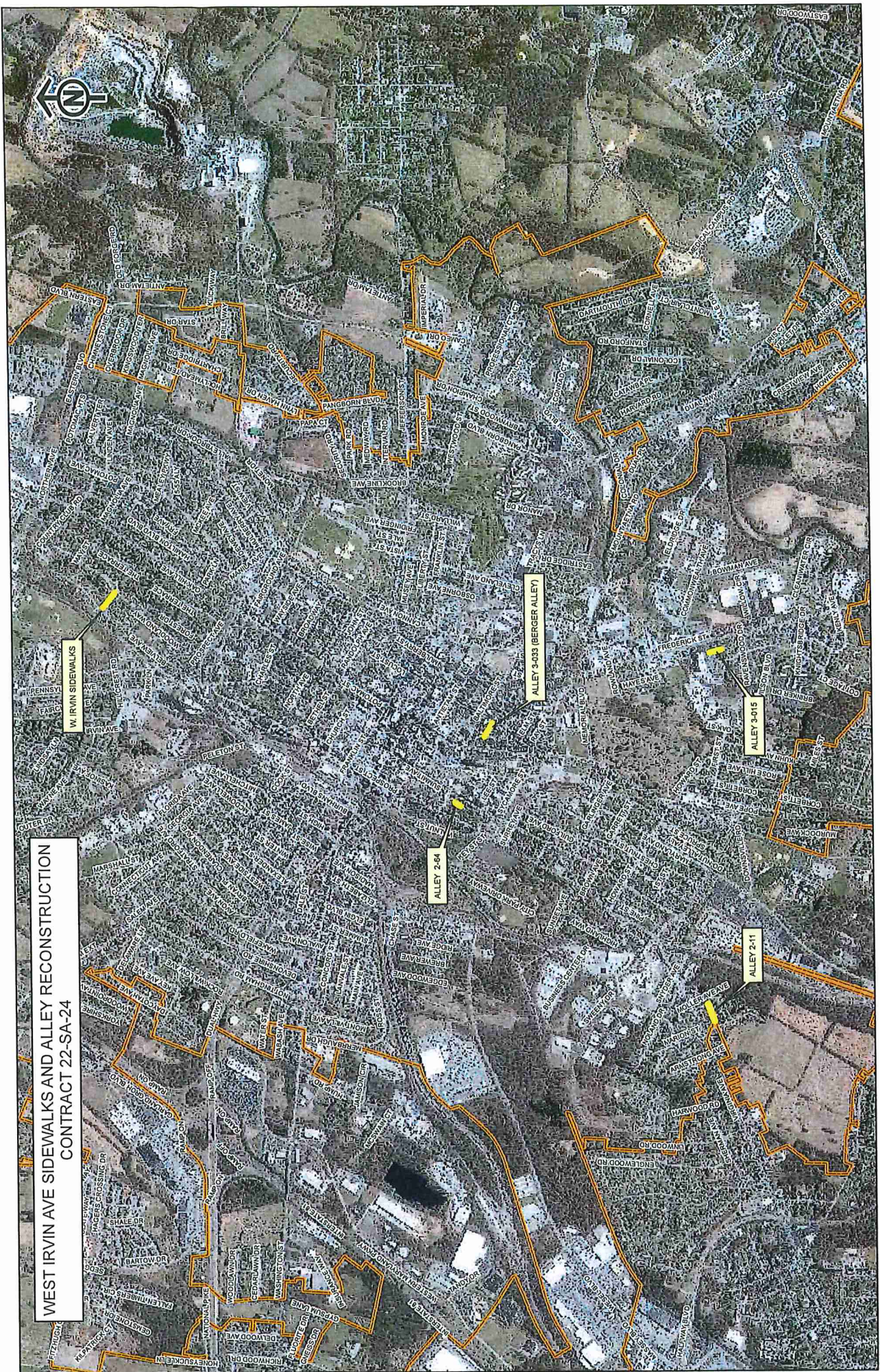
11/9/22

(4) City Administrator's Recommendation:

Recommend Approval

Scott Thewissen
11/8/22

Signature / Date



WEST IRVIN AVE SIDEWALKS AND ALLEY RECONSTRUCTION
CONTRACT 22-SA-24

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

Topic:

AVCC Annual Subscription Fee - Lexis Nexis (Chicago, IL) \$ 18,961.90

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Police_-_AVCC_Annual_Subscription_Fee.pdf
CONSENT_FORM.pdf
INVOICE.pdf
LexisNexis_AVCC_Sole_Source_Letter_11-8-22_-
_Hagerstown_Police_Department.pdf

Description

Signed Consent Form
CONSENT FORM
INVOICE
SOLE SOURCE LETTER

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
X	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
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	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

THIS IS A RENEWAL OF EXISTING SOFTWARE THAT WE USE FOR INVESTIGATORY ISSUES. MOSTLY USED BY DETECTIVES & ANALYSTS

Cheryl Pawlby 10/25/22

Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval

Tyler Frew 11/9/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve continuation of this maintenance. There is adequate funding in the budget to cover this.

Michelle 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Scott Thumman 11/9/22

Signature / Date



CITY OF HAGERSTOWN MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

Non-Emergency 301-790-3700
Emergency 240-313-4345
Fax 301-733-5513

November 8, 2022

To: Scott Nicewarner,
City Administrator

From: Paul J. Kifer, 
Chief of Police

Ref: Lexis Nexis Computerized Crime Analysis Tool Licensing Update

The Hagerstown Police Department is seeking Mayor and Council approval to renew our licensing agreement with Lexis Nexis, a computer application predictive analysis company. The annual licensing, which includes all maintenance and software updates, is \$18,961.90 and is part of the police department's annual operating budget.

Lexis Nexis is a computerized crime analysis tool that utilizes patent-pending technology to forecast the highest risk times and places for future crimes. It is a tool to increase the odds of stopping crime and is a technology that can be utilized by jurisdictions of any size.

In contrast to technology that simply maps past crime data, Lexis Nexis applies advanced mathematics and adaptive computer learning to predict future crime. It complements officers' intuition by identifying target areas as small as 500' by 500'.



A Nationally Accredited Law Enforcement Agency



28330 Network Place
Chicago, IL 60673-1283
866-528-0570

LexisNexis, a division of RELX Inc
For itself or its affiliates

Hagerstown Police Department
Attn : Wayne Dunkin
50 North Burhans Boulevard
Hagerstown, MD 21740 USA

Payments, Credits & Adjustments

Total	\$0.00
-------	--------

New Activity Summary

Date	Description	Amount
8/31/2022	AVCC Annual Subscription Fee, 2022/08/01-2023/07/31	\$18,961.90
	Total Charges	\$18,961.90
	Total Tax	\$0.00
1686057-20220831	Due Date 9/30/2022	Total \$18,961.90

Please include your full invoice number on all remittance to ensure proper credit.

Invoice

Current Amount Due	USD \$18,961.90
Outstanding Balance	USD \$0.00
Total Balance	USD \$18,961.90
Invoice Number	1686057-20220831
Invoice Date	Aug 31, 2022
Billing ID	1686057
Terms	Net 30
Representative	Joshua Moulton
Billing Period	8/1/2022 8/31/2022

Questions about your bill?
866-528-0570

LNBilling@lexisnexisrisk.com

To view account activity and pay online:
Log on to <https://invoice.risk.lexisnexis.com>
Become a registered user of EPIC 360 to
begin viewing invoices, printing invoices,
accessing account activity details and
paying invoices online.

Please Remit Payment To:
LexisNexis Risk Data MGT, LLC
Billing ID 1686057
28330 Network Place
Chicago, IL 60673-1283

In order to ensure our customers are not
impacted by fraudulent phishing attempts
we advise you to never accept remittance
information change requests from
unsolicited emails or phone calls. All
LexisNexis Risk Solutions changes will be
communicated via messages attached to
your invoice. Please report any suspicious
activity to security@relx.com.



November 8, 2022

Wayne D. Dunkin
Hagerstown Police Department
50 N. Burhans Blvd
Hagerstown, MD 21740

Hagerstown Police Department,

LexisNexis is the creator and sole source vendor of **Accurint Virtual Crime Center (AVCC)**. No other company, entity, or individual has re-seller or distribution rights to AVCC or any of its accompanying documentation.

The AVCC application was created out of a need for one product to provide the following linked together from one product via one login:

- Investigative capabilities including the ability to search both Public Records and Law Enforcement agency data (such as Record Management system events, Call for Service system calls, License Plate Reader data, Accident data, and Offender databases)
- Mapping capabilities including predictive policing capabilities
- Link Analysis displaying the data pre-linked together using the LexisNexis proprietary LexID capabilities.
- Agency-wide Analytics showing over 80 types of analytic charts and graphs.

No other application available for purchase today has the capabilities included in AVCC.

If you have any questions or would like clarification on any of these items, please contact us.

Sincerely,

Josh Moulton
Account Manager Regional
LexisNexis Risk Solutions
Mobile: 937.716.9032
josh.moulton@lexisnexisrisk.com

PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date: _____

Originating Department: Police Department Division (if applicable): _____

Department Director or Manager: Chief Paul J. Kifer

Account/Project Name: AVCC Annual Subscription Fee

Account No: 0110003 5378 CIP Control No. _____

Budget Amount: \$_____ Account Balance: \$_____ Unbudgeted Amount: \$_____

Fiscal Year: 2023 Source of Funds: General

Quantity	Description	Value
1	AVCC Annual Subscription Fee	\$ 18,961.90
TOTAL VALUE OF PROJECT		\$18,961.90

ABOVE TO BE USED FOR: Crime Analysis software.

RECOMMENDED VENDOR: Business Name: Lexis Nexis

Business Address: 28330 Network Place

City/State/Zip: Chicago, Illinois 60673-1283

Bid/Proposal/Quote No.: _____ Sole Source? X Yes _____ No

[illegible]

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
X	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

THIS IS A RENEWAL OF EXISTING SOFTWARE THAT WE USE FOR INVESTIGATING ISSUES. MOSTLY USED BY DETECTIVES & ANALYSTS
Cheryl Paul 10/25/22
 Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Signature / Date

(3) Chief Financial Officer

COMMENTS

Signature / Date

(4) City Administrator

COMMENTS

Signature / Date



28330 Network Place
Chicago, IL 60673-1283
866-528-0570

LexisNexis, a division of RELX Inc
For itself or its affiliates

Hagerstown Police Department
Attn : Wayne Dunkin
50 North Burhans Boulevard
Hagerstown, MD 21740 USA

Payments, Credits & Adjustments

Total	\$0.00
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New Activity Summary

Date	Description	Amount
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Invoice

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--------------------	-----------------

Outstanding Balance	USD \$0.00
---------------------	------------

Total Balance	USD \$18,961.90
---------------	-----------------

Invoice Number	1686057-20220831
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Invoice Date	Aug 31, 2022
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Billing ID	1686057
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Terms	Net 30
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Representative	Joshua Moulton
----------------	----------------

Billing Period	8/1/2022
----------------	----------

	8/31/2022
--	-----------

Questions about your bill?
866-528-0570

LNBill@lexisnexisrisk.com

To view account activity and pay online:
Log on to <https://invoice.risk.lexisnexis.com>
Become a registered user of EPIC 360 to
begin viewing invoices, printing invoices,
accessing account activity details and
paying invoices online.

Please Remit Payment To:
LexisNexis Risk Data MGT, LLC
Billing ID 1686057
28330 Network Place
Chicago, IL 60673-1283

In order to ensure our customers are not
impacted by fraudulent phishing attempts
we advise you to never accept remittance
information change requests from
unsolicited emails or phone calls. All
LexisNexis Risk Solutions changes will be
communicated via messages attached to
your invoice. Please report any suspicious
activity to security@relx.com.



November 8, 2022

Wayne D. Dunkin
Hagerstown Police Department
50 N. Burhans Blvd
Hagerstown, MD 21740

Hagerstown Police Department,

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- Investigative capabilities including the ability to search both Public Records and Law Enforcement agency data (such as Record Management system events, Call for Service system calls, License Plate Reader data, Accident data, and Offender databases)
- Mapping capabilities including predictive policing capabilities
- Link Analysis displaying the data pre-linked together using the LexisNexis proprietary LexID capabilities.
- Agency-wide Analytics showing over 80 types of analytic charts and graphs.

No other application available for purchase today has the capabilities included in AVCC.

If you have any questions or would like clarification on any of these items, please contact us.

Sincerely,

Josh Moulton

Account Manager Regional

LexisNexis Risk Solutions

Mobile: 937.716.9032

josh.moulton@lexisnexisrisk.com

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

Topic:

Pricing shown is the total Washington County bid price - the original City Purchase Order for each component will be the approved FY23 budget totals.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Bulk Diesel Fuel and Gasoline Purchase: Tank Wagon Deliveries - A. C. & T. Co., Inc.
(Hagerstown, MD) \$ 471,170.03

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Public_Works_-_Bulk_Diesel_Fuel_and_Gasoline_Purchase_-_
_Tank-Wagon_Deliveries.pdf

Description

Bulk Diesel and Gasoline
Purchase - Tank Wagon
Deliveries

PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date: NA

Originating Department: Public Works Division (if applicable): _____

Department Director or Manager: Eric B. Deike

Account/Project Name: Fuel Inventory

Account No: XXXXXXX-5431 CIP Control No.

Budget Amount: \$469,800 Account Balance: \$324,407 Unbudgeted Amount: \$0

Fiscal Year: 2023 Source of Funds: General Fund, Light, Water, Wastewater, Golf

Quantity	Description	Value
1	Bulk Diesel Fuel and Gasoline Purchase: Tank-Wagon Deliveries	\$ 471,170.03
	*Total bid price per Washington County bid for diesel fuel and gasoline tank wagon deliveries.	
	Original amount of City PO will be approved FY23 budget totals.	
TOTAL VALUE OF PROJECT		\$471,170.03

ABOVE TO BE USED FOR: Smaller quantity deliveries of 500 gallons or less to the utility pump stations and golf course.

RECOMMENDED VENDOR: Business Name: A C & T Co., Inc.

Business Address: 11535 Hopewell Road

City/State/Zip: Hagerstown, MD 21740

Bid/Proposal/Quote No.: WashCo PUR1578 Sole Source? Yes ☒ No ☐

[illegible]

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
X	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS This is a Washington County Government bid for themselves, the Board of Education and the City of Hagerstown. The bid is based on current pricing and will fluctuate with the market over the course of the contract.

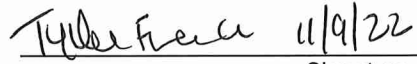
 11/9/22
Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

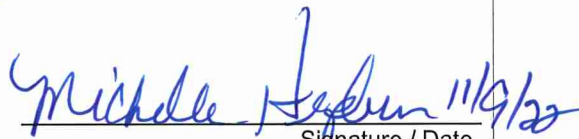
Recommend Approval

 11/9/22
Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve - these deliveries are essential? funding will be available as needed to cover these costs throughout the year.

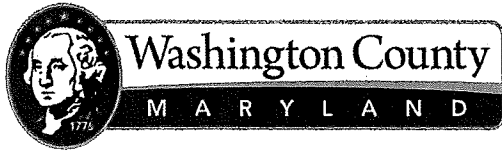
 11/9/22
Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

 11/9/22
Signature / Date



Agenda Report Form

Open Session Item

SUBJECT: Contract Award (PUR-1578) for Gasoline and Diesel Fuel Deliveries

PRESENTATION DATE: November 15, 2022

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department; Zane Rowe, Deputy Director, Washington County Highway Department.

RECOMMENDED MOTION: Move to award the bids for gasoline and diesel fuel transport deliveries under Option No. 1, four (4) separate contracts to the responsive, responsible bidders who submitted the lowest bids.

1. Contract for **gasoline tank-wagon deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices as stated in its bid dated October 25, 2022.
2. Contract for **gasoline transport deliveries** to **Petroleum Traders Corporation of Fort Wayne, IN.** at the unit bidder factor prices as stated in its bid dated October 24, 2022.
3. Contract for **diesel tank-wagon deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices stated in its bid dated October 25, 2022.
4. Contract for **diesel transport deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices stated in its bid dated October 25, 2022.

REPORT-IN-BRIEF: The following tabulations listed below were made from the bids received on October 26, 2022 based on estimated quantities for the contract period that is tentatively to begin on December 1, 2022 and end November 30, 2023. The contracts are for a one (1) year term with no option to renew. These are requirements contracts and the County guarantees neither a maximum nor a minimum quantity.

The Invitation to Bid was advertised on the State of Maryland's eMMA "*eMaryland Marketplace Advantage*" web site, on the County's web site, and in the local newspaper. Twenty (20) persons/companies registered/downloaded the bid document on-line and five (5) bids were received, one (1) bid was deemed nonresponsive due to not meeting the requirements of the specifications. The bids were evaluated based on the Oil Price Information Service (OPIS) pricing index publication and the bidder's bid factor; bids were submitted as follows:

GASOLINE: OPTION NO. 1 *(multiple contract award)*

<u>Vendor</u>	<u>Transport Loads Total Bid</u>	<u>Tank-wagon Loads Total Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$973,679.80	\$ 229,106.92
Mansfield Oil Company Gainesville, GA	\$967,727.10	NO BID
Petroleum Traders Corporation Fort Wayne, IN	\$959,432.30	NO BID
Pinnacle Petroleum, Inc. Huntington Beach, CA	NO BID	NO BID
Saratoga Rack Marketing, LLC Knoxville, TN	\$960,369.20	NO BID

DIESEL: OPTION 1 *(multiple contract award)*

<u>Vendor</u>	<u>Transport Loads Total Bid</u>	<u>Tank-wagon Loads Total Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$2,566,758.10	\$242,063.11
Mansfield Oil Company Gainesville, GA	\$2,604,218.00	NO BID
Petroleum Traders Corporation Fort Wayne, IN	\$ 2,583,295.10	NO BID
Pinnacle Petroleum, Inc. Huntington Beach, CA	\$2,569,777.90	NO BID
Saratoga Rack Marketing, LLC Knoxville, TN	\$2,552,665.70	NO BID

GASOLINE & DIESEL: OPTION II *(single contract award)*

<u>Vendor</u>	<u>Transport/Tankwagon LoadsTotal Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$4,007,917.17
East River Energy, Inc. Guilford, CT	NO BID
Mansfield Oil Company Gainesville, GA	NO BID
Petroleum Traders Corporation Fort Wayne, IN	NO BID
SteedPetro Ft. Washington, MD	NO BID

DISCUSSION: The contract requirements for the City of Hagerstown, Washington County Public Schools and Hagerstown Community College are also included in the above recommendations. Those entities will also make their own formal contract awards.

FISCAL IMPACT: Funds are available in various departmental operating budgets for fuels.

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: The complete Bid Tabulation may be viewed on-line at:
<https://www.washco-md.net/wp-content/uploads/purch-pur-1578-bidtab.pdf>

AUDIO/VISUAL NEEDS: N/A

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

Topic:

Bulk Diesel Fuel Purchase: Transport Deliveries - A. C. & T. Co., Inc. (Hagerstown, MD) \$ 2,566,758.10

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Public_Works_-_Bulk_Diesel_Fuel_Purchase_-_
_Transport_Deliveries.pdf

Description

Bulk Diesel Fuel Purchase -
Transport Deliveries

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
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REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS This is a Washington County Government bid for themselves, the Board of Education and the City of Hagerstown. The bid is based on current pricing and will fluctuate with the market over the course of the contract.

ETS Dlu 11/9/2022
Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval

Tina French 11/9/22
Signature / Date

(3) Chief Financial Officer

COMMENTS

approve - diesel is necessary in City operations + funding will be available as needed to cover truck purchases throughout the year

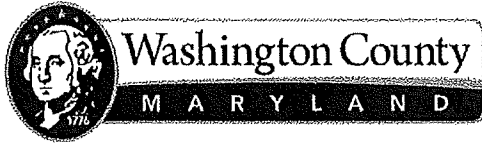
Michelle H. 11/9/22
Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Steve Thomas 11/9/22
Signature / Date



Agenda Report Form

Open Session Item

SUBJECT: Contract Award (PUR-1578) for Gasoline and Diesel Fuel Deliveries

PRESENTATION DATE: November 15, 2022

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department; Zane Rowe, Deputy Director, Washington County Highway Department.

RECOMMENDED MOTION: Move to award the bids for gasoline and diesel fuel transport deliveries under Option No. 1, four (4) separate contracts to the responsive, responsible bidders who submitted the lowest bids.

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Pinnacle Petroleum, Inc. Huntington Beach, CA	\$2,569,777.90	NO BID
Saratoga Rack Marketing, LLC Knoxville, TN	\$2,552,665.70	NO BID

GASOLINE & DIESEL: OPTION II *(single contract award)*

<u>Vendor</u>	<u>Transport/Tankwagon LoadsTotal Bid</u>
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Petroleum Traders Corporation Fort Wayne, IN	NO BID
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DISCUSSION: The contract requirements for the City of Hagerstown, Washington County Public Schools and Hagerstown Community College are also included in the above recommendations. Those entities will also make their own formal contract awards.

FISCAL IMPACT: Funds are available in various departmental operating budgets for fuels.

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: The complete Bid Tabulation may be viewed on-line at:
<https://www.washco-md.net/wp-content/uploads/purch-pur-1578-bidtab.pdf>

AUDIO/VISUAL NEEDS: N/A

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

Topic:

Bulk Gasoline Purchase: Transport Deliveries - Petroleum Traders Corporation (Fort Wayne, IN)
\$ 959,432.30

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Public_Works_-_Bulk_Gasoline_Purchase_-_
_Transport_Deliveries.pdf

Description

Bulk Gasoline - Transport
Deliveries



PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date: NA

Originating Department: Public Works Division (if applicable): _____

Department Director or Manager: Eric B. Deike

Account/Project Name: Fuel Inventory

Account No: XXXXXXX-5431 CIP Control No. _____

Budget Amount: \$ 469,800 Account Balance: \$ 324,407 ~~NA~~ Unbudgeted Amount: \$ 0

Fiscal Year: 2023 Source of Funds: General Fund, Light, Water, Wastewater, Golf

Quantity	Description	Value
1	Bulk Gasoline Purchase: Transport Deliveries	\$ 959,432.30
	*Total bid price per Washington County bid for gasoline transport deliveries.	
	<i>NA Original amount of City PD will be approved FY23 budget totals</i>	
TOTAL VALUE OF PROJECT		\$959,432.30

ABOVE TO BE USED FOR: Highway use of gasoline for General Fund departments (Public Works, Parks, Engineering, etc.) and Utility departments (Water, Wastewater, Light).

RECOMMENDED VENDOR: Business Name: Petroleum Traders Corporation
Business Address: 7120 Points Inverness Way
City/State/Zip: Fort Wayne, IN 46804

Bid/Proposal/Quote No.: WashCo PUR1578 Sole Source? ☐ Yes ☒ No

OTHER VENDORS		
Firm	City/State	Total Amount
Saratoga Rack Marketing, LLC	Knoxville, TN	\$960,369.20
Mansfield Oil Company	Gainesville, GA	\$967,727.10
A C & T Co., Inc.	Hagerstown, MD	\$973,679.80

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
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	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS This is a Washington County Government bid for themselves, the Board of Education and the City of Hagerstown. The bid is based on current pricing and will fluctuate with the market over the course of the contract.

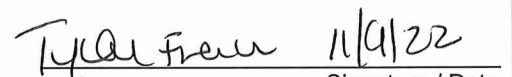

Signature / Date 11/9/2022

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval - need updated w9


Signature / Date 11/9/22

(3) Chief Financial Officer

COMMENTS

Approve - gasoline is necessary + funding will be available as necessary to cover bulk purchases throughout the year

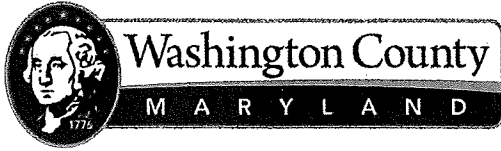

Signature / Date 11/9/22

(4) City Administrator

COMMENTS

Recommend Approval


Signature / Date 11/9/22



Agenda Report Form

Open Session Item

SUBJECT: Contract Award (PUR-1578) for Gasoline and Diesel Fuel Deliveries

PRESENTATION DATE: November 15, 2022

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department; Zane Rowe, Deputy Director, Washington County Highway Department.

RECOMMENDED MOTION: Move to award the bids for gasoline and diesel fuel transport deliveries under Option No. 1, four (4) separate contracts to the responsive, responsible bidders who submitted the lowest bids.

1. Contract for **gasoline tank-wagon deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices as stated in its bid dated October 25, 2022.
2. Contract for **gasoline transport deliveries** to **Petroleum Traders Corporation of Fort Wayne, IN.** at the unit bidder factor prices as stated in its bid dated October 24, 2022.
3. Contract for **diesel tank-wagon deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices stated in its bid dated October 25, 2022.
4. Contract for **diesel transport deliveries** to **A. C. & T. Company, Inc of Hagerstown, MD** at the unit bidder factor prices stated in its bid dated October 25, 2022.

REPORT-IN-BRIEF: The following tabulations listed below were made from the bids received on October 26, 2022 based on estimated quantities for the contract period that is tentatively to begin on December 1, 2022 and end November 30, 2023. The contracts are for a one (1) year term with no option to renew. These are requirements contracts and the County guarantees neither a maximum nor a minimum quantity.

The Invitation to Bid was advertised on the State of Maryland's eMMA "*eMaryland Marketplace Advantage*" web site, on the County's web site, and in the local newspaper. Twenty (20) persons/companies registered/downloaded the bid document on-line and five (5) bids were received, one (1) bid was deemed nonresponsive due to not meeting the requirements of the specifications. The bids were evaluated based on the Oil Price Information Service (OPIS) pricing index publication and the bidder's bid factor; bids were submitted as follows:

GASOLINE: OPTION NO. 1 *(multiple contract award)*

<u>Vendor</u>	<u>Transport Loads Total Bid</u>	<u>Tank-wagon Loads Total Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$973,679.80	\$ 229,106.92
Mansfield Oil Company Gainesville, GA	\$967,727.10	NO BID
Petroleum Traders Corporation Fort Wayne, IN	\$959,432.30	NO BID
Pinnacle Petroleum, Inc. Huntington Beach, CA	NO BID	NO BID
Saratoga Rack Marketing, LLC Knoxville, TN	\$960,369.20	NO BID

DIESEL: OPTION 1 *(multiple contract award)*

<u>Vendor</u>	<u>Transport Loads Total Bid</u>	<u>Tank-wagon Loads Total Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$2,566,758.10	\$242,063.11
Mansfield Oil Company Gainesville, GA	\$2,604,218.00	NO BID
Petroleum Traders Corporation Fort Wayne, IN	\$ 2,583,295.10	NO BID
Pinnacle Petroleum, Inc. Huntington Beach, CA	\$2,569,777.90	NO BID
Saratoga Rack Marketing, LLC Knoxville, TN	\$2,552,665.70	NO BID

GASOLINE & DIESEL: OPTION II *(single contract award)*

<u>Vendor</u>	<u>Transport/Tankwagon LoadsTotal Bid</u>
A, C & T Co., Inc. Hagerstown, MD	\$4,007,917.17
East River Energy, Inc. Guilford, CT	NO BID
Mansfield Oil Company Gainesville, GA	NO BID
Petroleum Traders Corporation Fort Wayne, IN	NO BID
SteedPetro Ft. Washington, MD	NO BID

DISCUSSION: The contract requirements for the City of Hagerstown, Washington County Public Schools and Hagerstown Community College are also included in the above recommendations. Those entities will also make their own formal contract awards.

FISCAL IMPACT: Funds are available in various departmental operating budgets for fuels.

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: The complete Bid Tabulation may be viewed on-line at:
<https://www.washco-md.net/wp-content/uploads/purch-pur-1578-bidtab.pdf>

AUDIO/VISUAL NEEDS: N/A

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

Topic:

Water: Water Service Materials – Core and Main LP (Martinsburg, WV) \$ 48,885.88

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Water_-_Inventory_Materials.pdf

Signed
Consent Form

B1760.22_Bid_Tabulation_Report.pdf

Water
Tabulation
Form

CONSENT_AGENDA_FORM_Water_Service_Material_II_revised_110722.pdf CONSENT

PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date: _____

Originating Department: Utilities Division (if applicable): Water

Department Director or Manager: William Luhn

Account/Project Name: Water Fund Inventory

Account No: 52-130000 CIP Control No. _____

Budget Amount: \$_____ Account Balance: \$_____ Unbudgeted Amount: \$_____

Fiscal Year: FY23 Source of Funds: Water Fund Inventory - Water Fund Cash

Quantity	Description	Value
328	LEAD-FREE 90 DEGREE REDUCING ELBOW @ 42.05 ea.	\$ 13,792.40
328	LEAD-FREE 90 DEGREE STREET ELBOW 1" @ 23.91 ea.	\$ 7,842.48
208	0024-30 B BODY B-W 2-BLACK 30 @ 82.00 ea.	\$ 17,056.00
500	3/4" EXPANSION CONNECTION @ 20.39 ea.	\$ 10,195.00
TOTAL VALUE OF PROJECT		\$ 48,885.88

ABOVE TO BE USED FOR: Inventory to be used for new service installations, portions of the cost will be off-set by customer re-embursement.

RECOMMENDED VENDOR: Business Name: Core & Main LP
Business Address: 117 Industrial Circle
City/State/Zip: Martinsburg, WV 25403

Bid/Proposal/Quote No.: B1760.22 Sole Source? Yes X No

[illegible]

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	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

William Luhn Digitally signed by William Luhn
Date: 2022.07.25 09:42:36 -04'00'

Signature / Date

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.08 17:28:58 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommended Approval

Tyler Freese 11/9/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve - there is adequate cash reserves in the Water Fund to cover this needed inventory purchase.

Michelle [Signature] 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Recommended Approval

Shawn McQuinn 11/9/22

Signature / Date

**City Of Hagerstown
Finance Department
Tabulation Report**

Title: Water Service Materials
No: B1760.22
Deadline Date/Time: 7/20/2022 @ 2:00PM
Contact Person: Tyler French

Company Name:	L/B Water Service, Inc. Unit Cost	Extended Cost	Core and Main LP Unit Cost	Extended Cost
1" BALL CORP - NO LEAD 1# AWWA TAPER THREAD BY 1-1/4" MALE IRON PIPE THREAD WITH INSIDE DRIVING THREAD; QTY 328	\$63.23	\$20,739.44	\$60.30	\$19,778.40
COUPLING - NO LEAD 1" MALE IRON PIPE THREAD BY 1" CTS QUICK JOINT; QTY 536	\$18.94	\$10,151.84	\$18.07	\$9,685.52
3/4" YOKE ANGLE BALL VALVE PW - NO LEAD 5/8"X3/4" METER YOKE NOSE BY 1" CTS PACK JOINT; QTY 120	\$91.27	\$10,952.40	\$87.05	\$10,446.00
3/4" METER RION YOKE BAR; QTY 536	\$14.22	\$7,621.92	\$13.57	\$7,273.52
1" CART ANG DUAL CHECK VALVE - NO LEAD WITH DRAIN/TEST VALVE 5/8"X3/4" & 3/4" METER YOKE NOSE BY 1" CYS PACK JOINT; QTY 536	\$151.83	\$81,380.88	\$138.34	\$74,150.24
MONITOR COVER SINGLE LID INSET STYLE 7-1/2" DEPTH 24" TILE 20" LOCKING LID LARGE PENTAGON BOLT; QTY 208	\$380.80	\$79,206.40	\$363.15	\$75,535.20

COVER DOUBLE LID INSET STYLE 10" DEPTH 18" TILE 11-1/2" LOCKING LID LARGE PENTAGON BOLT; QTY 120	\$152.57	\$18,308.40	\$145.50	\$17,460.00
BRANCH PIECE 14" LONG-NO LEAD ONE 1" FEMALE IRON PIPE THREAD BY TWO 1" MALE IRON PIPE THREAD BRANCH; QTY 208	\$81.55	\$16,962.40	\$77.77	\$16,176.16
3/4" ANGLE YOKE KEY VALVE-NO LEAD 5/8" X 3/4" & 3/4" METER YOKE NOSE BY 1" FEMALE IRON PIPE THREAD; QTY 416	\$34.60	\$14,393.60	\$31.54	\$13,120.64
LEAD-FREE 90 DEGREE REDUCING ELBOW 1 1/4" X 1"; QTY 328	\$45.76	\$15,009.28	\$42.05	\$13,792.40
LEAD-FREE 90 DEGREE STREET ELBOW 1" ELL90 FIP/MIP; QTY 328	\$26.02	\$8,534.56	\$23.91	\$7,842.48
0018-30 BODY B-W 2-BLACK 30; QTY 120	\$90.86	\$10,903.20	\$95.00	\$11,400.00
0024-30 B BODY B-W 2-BLACK 30; QTY 208	\$107.63	\$22,387.04	\$82.00	\$17,056.00
1" SOFT COPPER TUBING - TYPE K; QTY 10,000 FT	\$7.89	\$78,900.00	No Bid	No Bid
3/4" EXPANSION CONNECTION - NO LEAD; QTY 500	\$21.38	\$10,690.00	\$20.39	\$10,195.00
Total		\$406,141.36		\$303,911.56
Vendor Forms	Yes		Yes	
Acknowledged Addendum I	Yes		No	



Fiscal Year: _____ Source of Funds: _____

ABOVE TO BE USED FOR: _____

Bid/Proposal/Quote No.: _____ Sole Source? _____ Yes _____ No

[illegible]

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
<u>Indicate with an X</u>	<u>FOCUS AREA</u>	<u>GOAL STATEMENT</u>
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REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager <u>COMMENTS</u> Signature / Date	Signature / Date
(2) Purchasing Agent <u>COMMENTS</u> Signature / Date	Signature / Date
(3) Chief Financial Officer <u>COMMENTS</u> Signature / Date	Signature / Date
(4) City Administrator <u>COMMENTS</u> Signature / Date	Signature / Date

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

Topic:

Water: FY23 Chemical Purchase - Various Vendors \$1,791,618.16

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Water_-_Chemicals.pdf
PUR-1579_Swimming_Pool_WwTP_Chemicals_-_Hagerstown_Sorted.pdf
Consent_Agenda_Chemicals_110122.pdf
Consent_Agenda_Chemicals_II_110122.pdf

Description

Signed Consent Form
Water Tabulation Sheet
CONSENT 1 OF 2
CONSENT 2 OF 2

PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date:

Originating Department: Utilities Division (if applicable): Water

Department Director or Manager: William Luhn

Account/Project Name: City/County Joint Chemical Bid

Account No: Various CIP Control No. _____

Budget Amount: \$ 1,163,000 Account Balance: \$ 610,165 Unbudgeted Amount: \$

Fiscal Year: FY23 Source of Funds: Water Operations Budget

Quantity	Description	Value
76	Water - Chemicals - Tons Liquid Chlorine (Univar USA)	\$ 237,500.00
150000	Water - Chemicals - Pounds Aqueous Ammonia (Univar USA)	\$ 31,500.00
16	Water - Chemicals - Tons Powered Activated Carbon (G.S. Coyne)	\$ 48,588.16
800	Water - Chemicals - Tons Del-Pac (USALCO)	\$ 459,200.00
170000	Water - Chemicals - Gallons 25% Liquid Caustic Soda (Univar USA)	\$ 278,800.00
32000	Water - Chemicals - Gallons 93% Sulfuric Acid (Brenntag NE)	\$ 117,760.00
52000	Water - Chemicals - Pounds Potassium Permanganate (Univar USA)	\$ 245,960.00
15000	Water - Chemicals - Gallons Hydrofluosilicic Acid (G. S. Coyne)	\$ 90,750.00
6000	Water - Chemicals - Pounds Sodium Bisulfite (Univar USA)	\$ 2,700.00
TOTAL VALUE OF PROJECT		\$ 1,512,758.16

ABOVE TO BE USED FOR: The above chemicals are used in the water treatment process. The chemicals are bid as part of a combined purchase agreement with Washington County.
Bid spans 2-fiscal years and balance will be budgeted in the FY24 Budget. There are also funds encumbered (\$303K) which are not included in the account balance.

RECOMMENDED VENDOR: Business Name: Various
Business Address: _____
City/State/Zip: _____

Bid/Proposal/Quote No.:	Sole Source?	Yes	No
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[illegible]

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REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS Due to the large number of chemicals there is a second sheet.

William Luhn Digitally signed by William Luhn
Date: 2022.11.04 07:18:54 -04'00'

Signature / Date

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.08 17:26:14 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval: need w9 from Univa, Corne, USAA

Tyler French 11/9/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

(1 of 2)
Approve. there is adequate cash and approved FY23 budget to cover these necessary chemical purchases. It is anticipated funding will continue to be included in FY24 to cover the span of these purchases.

Michelle 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Scott Newman 11/9/22

Signature / Date

City of Hagerstown Mayor and Council

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
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REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

William Luhn Digitally signed by William Luhn
Date: 2022.11.04 07:22:00 -04'00'

Signature / Date

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.08 17:25:49 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval; need updated info from Sharon

Tyler Frazer 11-9-22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve (continued)
2 of 2

Michelle H. 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Signature / Date

Bid Item No.	Description / (Delivered Price per Unit of Measure)	Delivered Price Per	Unit of Measure
1	Liquid Chlorine (City of Hagerstown)	Cylinder	1-Ton Cylinder
2	Aqueous Ammonia 19% (City of Hagerstown)	Pound	Pound Bulk
3	Ferric Chloride (City of Hagerstown)	Dry Ton	Dry Ton
5	12.5% Sodium Hypochlorite (City of Hagerstown)	Gallon	Gallon Bulk
6	Powdered Activated Carbon (City of Hagerstown)	Ton	50-Pound Bag
7	Polyaluminum Chloride (PAC) (City of Hagerstown)	Wet Ton	Wet Ton
8	Caustic Soda (Sodium Hydroxide 25%) (City of Hagerstown)	Gallon	Gallon Bulk
9A	Sulfuric Acid 93% - 95% (City of Hagerstown)	Gallon	Gallon Bulk
11	Potassium Permanganate (City of Hagerstown and Washington County DWQ)	Pound	55-Pound Pail
13C	Hydrofluosilicic Acid (H ₂ SiF ₆) (City of Hagerstown)	Gallon	Gallon Mini Bulk

15	3" Tablet Chlorine (Calcium Hypochlorite) (City of Hagerstown)	Pound	50 - 100 Pound Drum
20	Sodium Bisulfite (38% - 40%) (City of Hagerstown)	Pound	600-Pound Drum
22	Sodium Fluorosilicate (City of Hagerstown)	Pound	50-Pound Bag
23	Defoamer – Anti-Foam (City of Hagerstown)	Gallon	55-Gallon Drum
24	Thioguard (55% - 65% Magnesium Hydroxide) (City of Hagerstown)	Gallon	Gallon Bulk
25	Methanol (mark-up over Methanex Index for September 2022) (City of Hagerstown)	Gallon	Gallon Bulk
27	Poly-Orthophosphate Solution (SLI-5250) (City of Hagerstown)	Pound	Pound Bulk
28A	50% Caustic Soda (Sodium Hydroxide) (City of Hagerstown)	Gallon	Gallon Bulk
28B	25% Caustic Soda (Sodium Hydroxide) (City of Hagerstown)	Gallon	Gallon Bulk
32	Polymer (Zetag 8814) (City of Hagerstown)	Gallon	Gallon Bulk
33	Morton Salt (City of Hagerstown)	Pound	Pound Bulk 40-50 Pound Bags

Calculations Based on Unit Pricing

Amato Industries, Inc/Amchlor Silver Springs, MD	Brenntag Northeast LLC Reading, PA	Chemrite, Inc. Buford, GA	Colonial Chemical Solutions, Inc. Savanna, GA
\$3.80			
	\$5,760.00		
	\$2.19		
	\$3.68		
	\$5.72	\$2.72	

		\$2.07	
	\$3.19		\$0.28

George S. Coyne Chemicals Co, Inc. Croydon, PA	Kemira Water Solutions, Inc. Lawrence, KS	Maryland Biochemical Co. Inc. Bel Air, MD	Maryland Chemical Company, Inc. Baltimore, MD
			\$0.21
	\$1,225.00		
\$3,036.76			
\$6.05			

\$2.63			
\$0.65			
\$1.37			
		\$7.74	
\$18.71			

\$3.05			
			\$1.26
		\$1.43	

Univar Solutions USA, Inc. Morrisville, PA	USALCO, LLC Baltimore, MD
\$3,125.00	
\$0.21	
	\$574.00
\$1.64	
\$3.82	
\$4.73	

\$3.69	
\$0.45	
\$2.11	
\$0.37	



Fiscal Year: _____ Source of Funds: _____

ABOVE TO BE USED FOR: _____

Bid/Proposal/Quote No.: _____ Sole Source? _____ Yes _____ No

[illegible]

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
<u>Indicate with an X</u>	<u>FOCUS AREA</u>	<u>GOAL STATEMENT</u>
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
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	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Signature / Date

(3) Chief Financial Officer

COMMENTS

Signature / Date

(4) City Administrator

COMMENTS

Signature / Date



Fiscal Year: _____ Source of Funds: _____

ABOVE TO BE USED FOR: _____

Bid/Proposal/Quote No.: _____ Sole Source? _____ Yes _____ No

[illegible]

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(1) Department Director and Division Manager <u>COMMENTS</u> Signature / Date	Signature / Date
(2) Purchasing Agent <u>COMMENTS</u> Signature / Date	Signature / Date
(3) Chief Financial Officer <u>COMMENTS</u> Signature / Date	Signature / Date
(4) City Administrator <u>COMMENTS</u> Signature / Date	Signature / Date

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

Topic:

Wastewater: FY23 & FY24 Chemicals - Various Vendors \$ 392,206.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Wastewater_-_FY23-24_Chemicals.pdf

CONSENT___BID_TAB_CHEMICALS_WWTP_FY23-24.pdf

Description

Signed Consent Form

Wastewater: FY23 & FY24
Chemicals

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
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	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS Adequate Funds are available in the FY23 Budget. Funds will be budgeted in the FY24 Budget.

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.09 16:37:01 -05'00'

Signature / Date

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.09 16:37:11 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval need updated w9 for: PUS Tech, Coyne.

Tyler Freese 11/9/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve - this chemical purchase will span 2 fiscal years. There is adequate funding in FY23 budget and it is anticipated to continue funding in FY24 budget process

Michelle H. 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Scott Newman 11/9/22

Signature / Date

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Date: 2022.11.08 16:37:01 -05'00'

Signature / Date

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Date: 2022.11.08 16:37:11 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Signature / Date

(3) Chief Financial Officer

COMMENTS

Signature / Date

(4) City Administrator

COMMENTS

Signature / Date

Water and Wastewater Chemical Bid Recommendation for FY23 & FY24

Operation and Account Number	FY23 Budgeted Amount	Item#	Description	Facility	Estimated Quantity	Unit	Recommended Vendor	Unit Cost	FY21/22 Projected Annual Cost
Wastewater Treatment Plant 54-71501									
559105	\$ 50,000	3	Ferric Chloride	Wastewater	60	Dry Ton	PVS TECHNOLOGIES	\$ 1,187.00	\$ 71,220.00
559115	\$ 10,000	5	12.5% Sodium Hypochlorite	Wastewater	12,000	Gallon	AMATO INDUSTRIES	\$ 3.80	\$ 45,600.00
559102	\$ 25,000	23	Defoamer	Wastewater	2,000	Gallon	MARYLAND BIOCHEMICAL CO.	\$ 7.74	\$ 15,480.00
559117	\$ 225,000	24	Thioguard (Magnesium Hydroxide)	Wastewater	100,000	Gallon	PREMIER MAGNESIA	NO BID	
5374-G0385	\$ 150,000	25	Methanol	Wastewater	80,000	Gallon	COLONIAL CHEM SOLUTIONS, INC	\$ 2.04	\$ 163,200.00
559116	\$ 60,000	32	Polymer (Zetag 8814)	Wastewater	5,000	Gallon	GEORGE S. COYNE CHEM CO., INC	\$ 18.71	\$ 93,550.00
Wastewater Collections 54-72601									
54-72601-559104	\$ 2,500	15	3" Tablet Chlorine	Wastewater	1,200	Pound	GEORGE S. COYNE CHEM CO., INC	\$ 2.63	\$ 3,156.00

Operation and Account Number	FY23 Budgeted Amount	FY22 Expenses	Description	FY23 Expenses
Wastewater Treatment Plant 54-71501				
559105	\$ 50,000	\$ 46,789	38% Ferric Chloride	\$ 19,610
559115	\$ 10,000	\$ -	12.5% Sodium Hypochlorite	\$ -
559102	\$ 25,000	\$ 23,370	Defoamer	\$ 7,295
559117	\$ 225,000	\$ 237,406	Thioguard	\$ 51,170
5374-G0385	\$ 150,000	\$ 146,532	Methanol	\$ 34,961
559116	\$ 60,000	\$ 74,363	Polymer (Zetag 8814)	\$ 33,480
Wastewater Collections 54-72601				
54-72601-559104	\$ 2,500	\$ -	3" Tablet Chlorine	\$ -
Total:	\$ 522,500	\$ 528,460		\$ 146,516

FY23/24 Estimated Expense

WASTEWATER TREATMENT/COLLECTIONS \$392,206

TOTAL ESTIMATED WASTEWATER COST \$392,206

This expense does not include Thioguard -
no bids were received for this chemical. Estimated

Annual Cost is: \$ 250,000

TOTAL ESTIMATED WASTEWATER COST \$642,206
with THIOGUARD

Bid Item No.	Description (Delivered Price per Unit of Measure)	Delivered Price Per Measure	Unit of Measure	Amato Industries, Inc./Amchlor Silver Springs, MD	Brenntag Northeast LLC Reading, PA	Colonial Chemical Solutions, Inc. Savannah, GA	George S. Coyne Chemicals Co, Inc. Croydon, PA	Kemira Water Solutions, Inc. Lawrence, KS	Maryland Biochemical Co. Inc. Bel Air, MD	Norwalk Wastewater Equipment Co dba Norweco, Inc. Norwalk, OH	PVC Technologies, Inc. Detroit, MI	Thatcher Co. of New York, Inc. Salt Lake City, UT	Univar Solutions USA, Inc. Morrisville, PA
3	Ferric Chloride (City of Hagerstown)	Dry Ton	Dry Ton					\$1,225.00			\$1,187.00		
5	12.5% Sodium Hypochlorite (City of Hagerstown)	Gallon	Gallon Bulk	\$3.80									
15	3" Tablet Chlorine (Calcium Hypochlorite) (City of Hagerstown)	Pound	50 - 100 Pound Drum				\$2.63			\$3.05			\$3.69
23	Defoamer - Anti-Foam (City of Hagerstown)	Gallon	55-Gallon Drum						\$7.74				
24	Thioguard (55% - 65% Magnesium Hydroxide) (City of Hagerstown)	Gallon	Gallon Bulk										
25	Methanol (mark-up over Methanex for September 2022) Index (City of Hagerstown)	Gallon	Gallon Bulk		\$3.19	\$2.04						\$3.02	\$2.11
32	Polymer (Zetag 8814) (City of Hagerstown)	Gallon	Gallon Bulk				\$18.71						

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

Topic:

Wastewater: Muffin Monster - JWC Environmental (Santa Ana, CA) \$24,481.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Wastewater_-_Muffin_Monster_Signed_Consent_Form.pdf

CONSENT___QUOTE_MUFFIN_MONSTER.pdf

Description

Signed Consent Form

Wastewater: Muffin Monster
for WWTP

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REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS JWC Environmental is this regional distributor - compatible equipment.

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.08 16:56:44 -05'00'

Signature / Date

Nancy Hausrath Digitally signed by Nancy Hausrath
Date: 2022.11.08 16:57:12 -05'00'

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval - need updated wq

Tyler Fries 11/9/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve - there is adequate funding in FY23 approved budget to cover this purchase.

Michelle Johnson 11/9/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Steve Newman 11/9/22

Signature / Date

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COMMENTS

Signature / Date

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COMMENTS

Signature / Date



JWC Environmental
2850 S. Red Hill Ave. Suite 125
Santa Ana, CA 92705
Phone: 949.833.3888
Toll Free: 800.331.2277
Fax: 714.242.0240
Page: 1

Quote # 67762

Please address Purchase Orders to:
JWC Environmental
2850 S. Red Hill Ave. Suite 125
Santa Ana, CA 92705
USA
Fax: 714.242.0240

To	Hagerstown, City of Attn: Robbie Eyer 1 East Franklin Street Hagerstown, MD 21740 US - UNITED STATES	Rep Phone	Watermark Environmental 610-363-6515
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We thank you for your inquiry and are pleased to quote pricing and delivery on the equipment listed below. This quotation is subject to terms and conditions listed on the JWC Environmental "Terms and Conditions" page, and any comments and exception listed below.

All orders will be billed the applicable sales tax, based on the "ship to address", unless a valid tax exemption certificate is provided prior to shipment.

Project	Hagerstown WWTP	Bid Date	
Quote Date	09/27/2022	FOB	Origin
Submittals	4 weeks after receipt of order	Expire Date	11/30/2022
Ship Equipment	8 weeks after approval/release	Terms	NET 30 DAYS
Consulting Engineer	None		
Spec. Section	None		

LINE ITEMS

Line No	Qty	Part/Description
1	1	30004T-1206-DI Muffin Monster 30004T-1206 Muffin Monster: Scope of supply to include: Grinder with top-tightening 12" cutter stack using 11-tooth cam cutters in alloy steel, tungsten carbide mechanical seals with BUNA-N elastomers rated for 90 psi, Cork & Rubber gaskets, Tnemec coated unibody housing with 06" dia. pipe flanges, 29:1 speed reducer and 5 hp TEFC 230/460v/3ph/60Hz electric motor.
2	1	PC2200-000-1-5HP-460V-60HZ Model PC2200 motor controller for 460V (Schematic Drawing # PC2200-000-1-D) in a NEMA 4X fiberglass ENCL. DWG# CF11-374 enclosure accepting 460V/3PH/60HZ input power for use with a 5HP motor. Controller includes an IEC starter with over-current protection, jam-sensing current transformer, one set of spare fuses and micro-PLC, with motor overtemp option (if applicable). Prog. # PC2220-001-A (120VAC control voltage)
3	3	O&M MANUALS HARD COPY
4	1	Shipping & Handling
5	1	Start Up One (1) day of start-up supervision by a factory-authorized representative.

Price	\$24,481.00
--------------	--------------------

Clarification

1. See attached standard JWC Terms and Conditions of Purchase.



Quote # 67762

2. Standard one year warranty is included.

Exclusions

Unless specifically stated above, this quotation does not include installation, bonds, sales taxes, use taxes, disconnect switches, anchor bolts, hydraulic fluid, mounting frames, guide rails, field wiring, spare parts, or special tools.

Authorized JWC Environmental Signature Eric Elam

JWC Environmental
2850 S. Red Hill Ave. Suite 125
Santa Ana, CA 92705
Phone: 949.833.3888
Toll Free: 800.331.2277
Fax: 714.242.0240
Page: 2



Quote #

67762

**JWC ENVIRONMENTAL
TERMS AND CONDITIONS OF SALE**

JWC Environmental
2850 S. Red Hill Ave. Suite 125
Santa Ana, CA 92705
Phone: 949.833.3888
Toll Free: 800.331.2277
Fax: 714.242.0240
Page: 3

Unless otherwise specifically agreed to in writing by the buyer ("Buyer") of the products and/or related services purchased hereunder (the "Products") and JWC Environmental (the "Seller"), the sale of the Products is made only upon the following terms and conditions. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Seller rejects all additional, conditional and different terms in Buyer's form or documents.

PAYMENT TERMS

Subject to any contrary terms set forth in our price quotation, order acceptance or invoice the full net amount of each invoice is due and payable in cash within 30 days from the date of the invoice. If any payment is not received within such 30-day period, Buyer shall pay Seller the lesser of 1 1/2% per month or the maximum legal rate on all amounts not received by the due date of the invoice, from the 31st day after the date of invoice until said invoice and charges are paid in full. Unless Sellers documents provide otherwise, freight, storage, insurance and all taxes, duties or other governmental charges related to the Products shall be paid by the Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller for said charges. In all cases, regardless of partial payment, title to the Products shall remain the Sellers until payment for the Products has been made in full. All orders are subject to credit approval by Seller. All offers by Seller and/or acceptance of Buyer's order shall be nullified by any failure of Buyer to obtain credit approval. Furthermore, Buyer shall not assert any claim against Seller due to Buyer's inability to obtain credit approval. Irrevocable Letter of Credit from Buyer in form and term acceptable to Seller is required for Product orders delivered outside the United States of America

DELIVERY

Unless otherwise provided in our price quotation, delivery of the Products shall be made F.O.B. place of manufacture. Any shipment, delivery, installation or service dates quoted by the Seller are estimated and the Seller shall be obligated only to use reasonable efforts to meet such dates. The Seller shall in no event be liable for any delays in delivery or failure to give notice of delay or for any other failure to perform hereunder due to causes beyond the reasonable control of the Seller. Such causes shall include, but not be limited to, acts of God, the elements, acts or omissions of manufacturers or suppliers of the Products or parts thereof, acts or omissions of Buyer or civil and military authorities, fires, labor disputes or any other inability to obtain the Products, parts thereof, or necessary power, labor, materials or supplies. The Seller will be entitled to refuse to make, or to delay, any shipments of the Products if Buyer shall fail to pay when due any amount owed by it to the Seller, whether under this or any other contract between the Seller and Buyer. Any claims for shortages must be made to the Company in writing within five calendar days from the delivery date and disposition of the claim is solely subject to Seller's determination

PRICES

Prices of the Seller's Products are subject to change without notice. Quotations are conditioned upon acceptance within 30 days unless otherwise stated and are subject to correction for errors and/or omissions. Prices include charges for regular packaging but, unless expressly stated, do not include charges for special requirements of government or other purchaser. Prices are subject to adjustment should Buyer place an order past the validity period of the quotation or delay delivery of Products beyond the quoted lead time for any reason.

RETURNS

No Products may be returned for cash. No Product may be returned for credit after delivery to Buyer without Buyer first receiving written permission from the Seller. Buyer must make a request for return of Product in writing to Seller at its place of business in Costa Mesa, California. A return material authorization number must be issued by the Seller to the Buyer before a Product may be returned. Permission to return Product to Seller by Buyer is solely and exclusively the Seller's. Product must be returned to Seller at Buyer's expense, including packaging, insurance, transportation and any governmental fees. Any credit for Product returned to Seller shall be subject to the inspection of and acceptance of the Product by the Seller and is at the sole discretion of the Seller.

LIMITED WARRANTY

Subject to the terms and conditions hereof, the Seller warrants until one year after commissioning (written notification to Seller by Buyer required) of the Product or until 18 months after delivery of such Product to Buyer, whichever is earlier, that each Product will be free of defects in material and workmanship. If (a) the Seller receives written notification of such defect during the warranty period and the defective Products use is discontinued promptly upon discovery of alleged defect, and (b) if the owner ("Owner") forwards the Product to the Seller's nearest service/repair facility, transportation and related insurance charges prepaid. The Seller will cause any Products whose defect is covered under this warranty to either be replaced or be repaired at no cost to the Owner. The foregoing warranty does not cover repairs required due to repair or alteration other than by the Seller's personnel, accident, neglect, misuse, transportation or causes other than ordinary use and maintenance in accordance with the Seller's instructions and specifications. In addition, the foregoing warranty does not cover any Products, or components thereof, which are not directly manufactured by the Seller. To the extent a warranty for repair or replacement of such Products or components not manufactured directly by the Seller is available to Buyer under agreements of the Seller with its vendors, the Seller will make such warranties available to Buyer. Costs of transportation of any covered defective item to and from the nearest service/repair center and related insurance will be paid or reimbursed by Buyer. Any replaced Products will become the property of the Seller. Any replacement Products will be warranted only for any remaining term of the original limited warranty period and not beyond that term.

DISCLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITIES

THE SELLER'S FOREGOING LIMITED WARRANTY IS THE EXCLUSIVE AND ONLY WARRANTY WITH RESPECT TO THE PRODUCTS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES (OTHER THAN THE WARRANTY OF TITLE), EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF THE SELLER OR OTHERS REGARDING THE PRODUCTS. THE OBLIGATIONS OF THE SELLER UNDER THE FOREGOING WARRANTY SHALL BE FULLY SATISFIED BY THE REPAIR OR THE REPLACEMENT OF THE DEFECTIVE PRODUCT OR PART, AS PROVIDED ABOVE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF THE SELLER TO BUYER AND OTHERS ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH BUYER'S PURCHASE, USE AND DISPOSITION OF ANY PRODUCT COVERED HEREBY SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT BY BUYER. NO ACTION, REGARDLESS OF FORM, ARISING FROM THIS AGREEMENT OR BASED UPON BUYER'S PURCHASE, USE OR DISPOSITION OF THE PRODUCTS MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, EXCEPT THAT ANY CAUSE OF ACTION FOR THE NONPAYMENT OF THE PURCHASE PRICE MAY BE BROUGHT AT ANY TIME

The remedies provided to Buyer pursuant to the limited warranty, disclaimer of warranties and limitations of liabilities, described herein are the sole and exclusive remedies.

Unless specifically agreed to in writing by the Seller, no charges may be made to the Seller by Buyer or any third party employed by buyer for removing, installing or modifying any Product.

The Seller and its representatives may furnish, at no additional expense, data and engineering services relating to the application, installation, maintenance or use of the Products by Buyer. The Seller will not be responsible for, and does not assume any liability whatsoever for, damages of any kind sustained either directly or indirectly by any person through the adoption or use of such data or engineering services in whole or in part.

CONFIDENTIAL INFORMATION

Except with the Seller's prior written consent, Buyer shall not use, duplicate or disclose any confidential proprietary information delivered or disclosed by the Seller to Buyer for any purpose other than for operation or maintenance of the Products.

CANCELLATION AND DEFAULT

Absolutely no credit will be allowed for any change or cancellation of an order for Products by Buyer after fabrication of the Products to fill Buyer's order has been commenced. If Buyer shall default in paying for any Products purchased hereunder, Buyer shall be responsible for all reasonable costs and expenses, including (without limitation) attorney's fees incurred by the Seller in collecting any sums owed by Buyer. All rights and remedies to the Seller hereunder or under applicable laws are cumulative and none of them shall be exclusive of any other right to remedy. No failure by the Seller to enforce any right or remedy hereunder shall be deemed to be a waiver of such right or remedy, unless a written waiver is signed by an authorized management employee of the Seller and the Seller's waiver of a breach of this agreement by Buyer shall not be deemed to be a waiver of any other breach of the same or any other provision.

CHANGES IN PRODUCTS

Changes may be made in materials, designs and specifications of the Products without notice. The Seller shall not incur any obligation to furnish or install any such changes or modifications on Products previously ordered by, or sold to, Buyer.

APPLICABLE LAW, RESOLUTION OF DISPUTES AND SEVERABILITY

This agreement is entered into in Costa Mesa, California. This agreement and performance by the parties hereunder shall be construed in accordance with, and governed by, the laws of the State of California. Any claim or dispute arising from or based upon this agreement or the Products which form its subject matter shall be resolved by binding arbitration before the American Arbitration Association in Los Angeles, California, pursuant to the Commercial Arbitration Rules, excepting only that each of the parties shall be entitled to take no more than two depositions, and serve no more than 30 interrogatories, 10 requests for admissions and 20 individual requests for production of documents, such discovery to be served pursuant to the California Code of Civil Procedure. Any award made by the arbitrator may be entered as a final judgment, in any court having jurisdiction to do so. If any provision of this agreement shall be held by a court of competent jurisdiction or an arbitrator to be unenforceable to any extent, that provision shall be enforced to the full extent permitted by law and the remaining provisions shall remain in full force and effect.

ASSIGNMENT

This agreement shall be binding upon the parties and their respective successors and assigns. However, except for rights expressly provided to subsequent Owners of the Products under "Limited Warranty" above,



JWC Environmental
2850 S. Red Hill Ave. Suite 125
Santa Ana, CA 92705
Phone: 949.833.3888
Toll Free: 800.331.2277
Fax: 714.242.0240

Quote # 67762

any assignment of this agreement or any rights hereunder by Buyer shall be void without the Company's written consent first obtained. Any exercise of rights by an Owner other than Buyer shall be subject to all of the limitations on liability and other related terms and conditions set forth in this agreement.

EXCLUSIVE TERMS AND CONDITIONS

The terms and conditions of this agreement may be changed or modified only by an instrument in writing signed by an authorized management employee of the Seller. This instrument, together with any amendment or supplement hereto specifically agreed to in writing by an authorized management employee of the Seller, contains the entire and the only agreement between the parties with respect to the sale of the Products covered hereby and supersedes any alleged related representation, promise or condition not specifically incorporated herein.

SELLER'S PRODUCTS ARE OFFERED FOR SALE AND SOLD ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN BUYER'S SEPARATE PURCHASE ORDERS OR OTHER ORAL OR WRITTEN COMMUNICATION, BUYER'S ORDER IS OR SHALL BE ACCEPTED BY THE COMPANY ONLY ON THE CONDITION THAT BUYER ACCEPTS AND CONSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN THE ABSENCE OF BUYER'S ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED HEREIN THE SELLER'S COMMENCEMENT OF PERFORMANCE AND/OR DELIVERY OF THE PRODUCTS, OR THE SELLER'S STATEMENT OF ACKNOWLEDGMENT OF THE RECEIPT OF BUYER'S PURCHASE ORDER, SHALL BE FOR BUYER'S CONVENIENCE ONLY AND SHALL NOT BE DEEMED OR CONSTRUED TO BE ACCEPTANCE OF BUYER'S DIFFERING TERMS OR CONDITIONS, OR ANY OF THEM. ANY DIFFERENT OR ADDITIONAL TERMS ARE HEREBY REJECTED UNLESS SPECIFICALLY AGREED UPON IN WRITING BY AN AUTHORIZED MANAGEMENT EMPLOYEE OF THE SELLER. IF A CONTRACT IS NOT EARLIER FORMED BY MUTUAL AGREEMENT IN WRITING, BUYER'S ACCEPTANCE OF ANY PRODUCTS COVERED HEREBY SHALL BE DEEMED ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS STATED HEREIN. THE SELLER'S FAILURE TO OBJECT TO PROVISIONS INCONSISTENT HERewith CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS CONTAINED HEREIN.

F360JWCE0107

Page: 4

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

Topic:

Approval of an Annexation Resolution: Annexation Case No. A-2022-02: Lands of GVP Hagerstown Owner LLC - 2 Western Maryland Parkway

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

MCC_packet_approval_of_resolution_Annexation_of_2_Western_Maryland_Parkway_11_22_2022.pdf

Packet for
Approval of
Annexation
Resolution
for 2
Western
Maryland
Parkway

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

DATE: **November 22, 2022**

TOPIC: **Approval of Resolution**

Annexation Case No. A-2022-02: Lands of GVP Hagerstown Owner, LLC

Charter Amendment	_____
Code Amendment	_____
Ordinance	_____
Resolution	__X__
Other	_____

MOTION: I hereby move that the Mayor and City Council Approve an Annexation Resolution for Annexation Case No. A-2022-02 known as "Lands of GVP Hagerstown Owner, LLC." The portion of property to be annexed is approximately 21.44 acres in size and is intended to be added to and made part of the adjacent municipal lands. The effective date of this annexation will occur when the project receives a certificate of completion for the shell building permit or on July 1, 2023, whichever comes first.

DATE OF INTRODUCTION:	08/23/22
HEARING DATE:	10/25/22
DATE OF PASSAGE:	11/22/22
EFFECTIVE DATE:	No earlier than 01/06/23 and no later than 07/01/23

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF HAGERSTOWN TO ENLARGE THE CORPORATE BOUNDARIES AND THEREBY AMEND THE CORPORATE BOUNDARIES AS CONTAINED IN SECTION 104 OF ARTICLE 1 OF THE CHARTER OF THE CITY OF HAGERSTOWN, MARYLAND AND AT THE SAME TIME ESTABLISH THE ZONING CLASSIFICATION OF THE AREA TO BE ANNEXED.

WHEREAS the City of Hagerstown, pursuant to its rights and authority under the Local Government Article, §4-403 of the Annotated Code of Maryland may annex into the City additional lands in accordance with the requirements set forth therein; and

WHEREAS, pursuant to the Maryland Annotated Code, Local Government Article, §4-401 *et seq.*, the City desires to enlarge the corporate boundaries of the City of Hagerstown, Maryland by adding or annexing thereto the within described areas which are immediately adjacent to and adjoining the present corporate boundaries thereof, pursuant to and as contained in a Pre-Annexation Agreement signed by the requisite number of persons as prescribed and set forth in Maryland Annotated Code, Local Government Article, §4-403(b)(2), as owners of realty contained within the area to be annexed, and same is incorporated herein by reference as if set forth into and made a part thereof. **See Exhibit A – Pre-Annexation Agreement;** and

WHEREAS, said annexation contains ±21.44 acres known as 2 Western Maryland Parkway (formerly known as 14 Western Maryland Parkway), Hagerstown, Washington County, Maryland and is identified as Tax Map 37, Grid 20, Parcel 821 (Tax ID No. 24-004953), which is shown on the Annexation Plat popularly known as GVP Hagerstown Owner, LLC Annexation and identified on "Boundary Survey for ACH, LLC" prepared by Frederick Seibert and Associates dated June 8, 2021; and identification of the same is incorporated herein by reference as if set forth into and made a part hereof. **See Exhibit B – Annexation Plat and Exhibits C – Metes and Bounds Description;** and

WHEREAS, pursuant to the Maryland Annotated Code, Local Government Article § 4-403(b) the City may initiate annexation of land with the consent of at least twenty-five (25) percent of the registered voters residing within the area to be annexed and the consent of the owners of at least twenty-five (25) percent of the assessed valuation of the real property in the area to be annexed, and this property being subject to a recorded pre-annexation agreement such that all necessary consents are deemed to have been obtained at the time of entering into the pre-annexation agreement. **See Exhibit A – Pre-Annexation Agreement;** and

WHEREAS, this Resolution for Annexation meets all the requirements of the law, and, pursuant to the Maryland Annotated Code, Local Government Article, §4-406(-c-), the Annexation was referred to the appropriate State, Regional, and County Planning authorities; and

WHEREAS, in accordance with historic City practice in processing annexations, the issue of the proposed zoning of the area to be annexed to the corporate limits was referred to the Planning Commission for the City of Hagerstown, Maryland which said Commission for the City of Hagerstown has studied the proposed zoning of the tracts described herein in relation to the Comprehensive Plan, the Zoning Ordinance, and all other applicable ordinances, the needs of the City and County, and the needs of the particular neighborhood and vicinities of the areas, and have approved the same and that the rezoning for the said tract of land is proper and desirable under all of the circumstances and should be accomplished at this time.

Section 1. Now, therefore, be it resolved by the Mayor and City Council of the City of Hagerstown, Maryland that the boundaries of the City, pursuant to the Local Government Article, Subtitle 4-401 et seq., be and are hereby amended so as to annex and include within said City all that certain area of land, contiguous to the corporate limits of the City and being more particularly described by metes and bounds and as Annexation Area in **Exhibit B – Annexation Plat** attached hereto and made a part thereof.

Section 2. And be it further resolved by the Mayor and City Council, that the subject properties to be annexed shall have zoning classifications of I-MU (Industrial – Mixed Use) upon annexation as shown in **See Exhibit D- Zoning Exhibit**.

Section 3. And be it further resolved that the annexation of the said area be made subject to the terms and conditions as set forth in the Pre-Annexation Agreement attached hereto as Exhibit A and the Annexation Plan attached hereto as Exhibit E and made part hereof upon final agreement and passage; **See Exhibit A – Pre-Annexation Agreement and Exhibit E – Annexation Plan**.

Section 4: And be it further resolved that the annexation of the said area be made subject to the terms and conditions as set forth in the Annexation Plan.

Section 5. And be it further resolved that the conditions and circumstances applicable to the change in said corporate boundaries and to the residents and property within the area so annexed shall be subject to the provisions of the Charter of the City of Hagerstown, the Code of the City of Hagerstown, and all acts, ordinances, resolutions and policies.

Section 6. And be it further resolved by the Mayor and Council, that this resolution shall take effect no sooner than forty-five (45) days from the date of passage and no later than when the project receives a certificate of completion for the shell building permit or on July 1, 2023, whichever comes first. The right of referendum terminates 45 days after passage of this resolution, as contained in the Local Government Article of the Maryland Code, as amended.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

BY ORDER OF THE MAYOR AND
THE CITY COUNCIL OF
HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

By:-----
Emily Keller
Mayor

Date Introduced: 08/23/2022
Hearing Date: 10/25/2022
Date of Passage: 11/22/2022
Effective Date: No earlier than 01/06/23 and no later than 07/01/2023

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT
BETWEEN THE CITY OF HAGERSTOWN AND GVP HAGERSTOWN OWNER, LLC
REGARDING THE ANNEXATION OF PROPERTY SITUATED AT 14 WESTERN MARYLAND
PARKWAY, HAGERSTOWN, MARYLAND**

RECITALS

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

WHEREAS, the City has established an annexation policy whereby an agreement to annex, except in certain situations, is a prerequisite to the City providing its public water and/or wastewater services to serve any properties beyond the current corporate boundaries of the City;

WHEREAS, the property owned by GVP Hagerstown Owner, LLC ("GVP"), located at 14 Western Maryland Parkway, Hagerstown, Maryland and further described in the attached Annexation Agreement (hereinafter the "**Property**") is contiguous to the current corporate boundary of the City and is subject to the City's annexation policy;

WHEREAS, as a condition to receiving City water and wastewater services, GVP has agreed to petition to have the Property annexed into the City or, in the alternative, consent to the introduction of an Annexation Resolution by the City proposing to annex the Property into the corporate boundaries of the City upon the terms and conditions set forth in the attached Agreement;

WHEREAS, the attached Agreement sets forth the terms and conditions under which the Property will be annexed into the City corporate boundaries of the City and upon which City water and wastewater services shall be provided to the Property;

WHEREAS, the Agreement requires that the annexation process will be initiated following the GVP's receipt of a building permit from Washington County for construction of the proposed warehouse building. The property will be zoned I-MU (Industrial Mixed-use) when the annexation is effective;

WHEREAS, the parties hereto now desire to enter into the Annexation Agreement, attached hereto and incorporated herein; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City to enter into the attached Annexation Agreement.

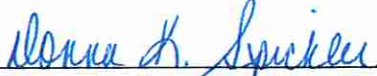
NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative

body, as follows:

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth *verbatim*.
2. That the Mayor and City Staff be and are hereby authorized to execute and deliver the Annexation Agreement between the City and GVP Hagerstown Owner, LLC, a copy of which is attached hereto and incorporated herein by reference and to act as signatory on behalf of the City on any other documentation necessary to effectuate the purpose of this ordinance.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL


Donna K. Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

By: 
Emily N. Keller, Mayor

Date of Introduction: March 8, 2022
Date of Passage: March 8, 2022
Effective Date: March 8, 2022

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

THIS AGREEMENT, MADE AND EXECUTED IN DUPLICATE, this 16 day of ~~February~~ ^{March} 2022 by and between GVP HAGERSTOWN OWNER, LLC, a Delaware limited liability company, party of the first part, hereinafter called "**Property Owner**" and the MAYOR AND CITY COUNCIL OF HAGERSTOWN, a municipal corporation of the State of Maryland, party of the second part, hereinafter called "**City**."

WITNESSETH:

WHEREAS, the City has established an annexation policy whereby an agreement to annex, except in certain situations, is a prerequisite to the City providing its public water and/or wastewater services to serve any properties beyond the current corporate boundaries of the City; and

WHEREAS, the property owned by the Property Owner, as hereinafter described (hereinafter the "**Property**") is contiguous to the current corporate boundary of the City and is subject to the City's annexation policy; and

WHEREAS, as a condition to receiving City water and wastewater services, the Property Owner has agreed to petition to have the Property annexed into the City or, in the alternative, consent to the introduction of an Annexation Resolution by the City proposing to annex the Property into the corporate boundaries of the City upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) paid by the Property Owner to the City, the mutual covenants and promises of the parties and other good and valuable consideration, receipt whereof is hereby acknowledged, and the further considerations of the City extending its water and wastewater services to serve the Property, it is hereby understood and agreed between the parties hereto as follows:

THIS AGREEMENT, MADE AND EXECUTED IN DUPLICATE, this 16 day of ~~February~~ ^{March} 2022 by and between GVP HAGERSTOWN OWNER, LLC, a Delaware limited liability company, party of the first part, hereinafter called "**Property Owner**" and the MAYOR AND CITY COUNCIL OF HAGERSTOWN, a municipal corporation of the State of Maryland, party of the second part, hereinafter called "**City.**"

WITNESSETH:

WHEREAS, the City has established an annexation policy whereby an agreement to annex, except in certain situations, is a prerequisite to the City providing its public water and/or wastewater services to serve any properties beyond the current corporate boundaries of the City; and

WHEREAS, the property owned by the Property Owner, as hereinafter described (hereinafter the "**Property**") is contiguous to the current corporate boundary of the City and is subject to the City's annexation policy; and

WHEREAS, as a condition to receiving City water and wastewater services, the Property Owner has agreed to petition to have the Property annexed into the City or, in the alternative, consent to the introduction of an Annexation Resolution by the City proposing to annex the Property into the corporate boundaries of the City upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) paid by the Property Owner to the City, the mutual covenants and promises of the parties and other good and valuable consideration, receipt whereof is hereby acknowledged, and the further considerations of the City extending its water and wastewater services to serve the Property, it is hereby understood and agreed between the parties hereto as follows:

1. The Property which is the subject of this Agreement is the Property known as 14 Western Maryland Parkway, Tax Map 37, Grid 20, Parcel 821 (Tax ID No. 24-004953) consisting of +/- 21.436 acres and as described on the attached metes and bounds description (**Exhibit A**) and illustrated on the attached survey plat (**Exhibit B**).

2. City agrees, subject to the terms and conditions of this Agreement, that the Property Owner shall be permitted to extend City water and wastewater services to and for the benefit of the Property.

3. The Property Owner shall pay all costs and expenses related to the extension of these services to the Property adhering to all of the requirements of the City of Hagerstown for the extension of water and wastewater services and the payment therefor.

4. Property Owner agree to pay all connection, benefit and other charges in accordance with the "In-City" rates then in effect according to the City Utility Department rules and regulations and applicable City Ordinances.

5. It is understood and agreed that the Property to be served shall be subject to all the Ordinances and rules and regulations of the City with respect to the water and wastewater services provided now in effect and which may be placed in effect at any future date.

6. Property Owner agrees that within fifteen (15) days immediately following the receipt of a building permit from Washington County expressly authorizing and granting Property Owner the right and ability to immediately commence construction of the proposed warehouse building on the Property (the "**Building Permit Condition**"), it shall submit a petition of annexation (the "**Annexation Petition**") requesting that the Property be annexed into the City with an I-MU (Industrial, Mixed-Use) zoning classification and is otherwise consistent with this Agreement. In the alternative, at its earliest opportunity following satisfaction of the Building Permit Condition, the City may introduce an Annexation Resolution (the "**Annexation**

Resolution”) proposing to annex the Property into the City with an I-MU (Industrial, Mixed-Use zoning) and which is otherwise consistent with this Agreement. Provided the Building Permit Condition has been satisfied, this Agreement shall constitute the Property Owner’s consent to the Annexation Resolution as required by Md. Code, Local Gov’t Law, §4-403.

7. It is distinctly understood and agreed that, if the Property Owner does not submit the Annexation Petition or takes action in opposition to the Annexation Resolution, this Agreement shall be void, and any City water and wastewater approvals provided during the County site plan review process shall be void and the City shall not be required to provide (and/or continue provision) of water and wastewater services to the Property and such services shall be disconnected due to breach of contract. Notwithstanding the foregoing, it is expressly understood and agreed that the Property Owner may refuse to submit the Annexation Petition or withdraw its consent to the Annexation Resolution until such time as the Building Permit Condition has been satisfied.

8. It is further understood and agreed that if the Mayor and City Council of the City approve the Property’s annexation, then upon the effective date of the adopted annexation resolution the Property shall be subject to all the Ordinances and rules and regulations of City (collectively, the “**City Regulations**”) and shall be entitled to all of the privileges of a citizen of Hagerstown, now in effect, or which may be placed in effect at any future date.

9. Additional Provisions:

a. In applying for and seeking its development and construction related approvals from Washington County (collectively, the “**Development Approvals**”), the Property Owner (i) shall modify its site plan to incorporate the additional landscaping and other requested elements noted on the drawing and list attached hereto and incorporated herein as **Exhibit C**; and (ii) shall modify its building plans to incorporate a two-way radio communications enhancement system

compliant with the City's standards and requirements therefor.

b. Prior to the effective date of the Annexation Resolution, the Property shall remain subject to the laws, ordinances, rules and regulations of Washington County and the Property Owner or any proposed tenant(s) for the Property shall be entitled to apply for, seek and obtain from Washington County any and all development or construction related permits or approvals.

c. All development or construction related plans or permits, including but in no way limited to site plans, stormwater management plans, forest conservation plans, grading permits, building permits and the like, pending with or approved by Washington County as of the effective date of the Annexation Resolution shall remain subject to the jurisdiction of Washington County for the purpose of inspections, release of performance surety, posting of maintenance surety, issuance of final use and occupancy permit and the like until completed.

d. From and after the effective date of the Annexation Resolution, the Property Owner or any proposed tenant(s) for the Property shall apply for, seek and obtain any and all development or construction related permits or approvals from the City of Hagerstown.

10. It is further agreed that the use of the masculine gender in this Agreement shall include all genders, and the word "Property Owner" shall include individuals, firms or corporations, as the case may be and each and every subsequent holder of any interest legal or equitable in the Property.

11. Except as expressly permitted herein for failure of the Building Permit Condition, if the Property Owner withdraws the Annexation Petition prior to approval of the Annexation Resolution, and/or otherwise opposes the City's introduction and adoption of the Annexation Resolution, this Agreement shall be void and any water and wastewater approvals which may have been granted will be void, and City shall not be required to provide (and/or continue provision) of water and wastewater services to the Property and such services shall be

disconnected due to breach of contract. A copy of this Agreement shall be recorded by the City among the Land Records of Washington County, Maryland.

12. Each party for himself, herself, itself, and for his or her or its respective heirs, personal representatives, and assigns agrees to join or to execute any instruments and to do any other act or thing that may be necessary or proper to effect any provision of this Agreement.

13. The parties agree that, except as expressly provided herein for failure of the Building Permit Condition, in the event that the Property Owner fails to comply with the terms of this Agreement or attempt to avoid the annexation of the Property pursuant to this Agreement, such failure shall be a breach of this Agreement and the City may, in addition to asserting any other legal right, seek to enforce the terms of this Agreement by a suit for specific performance.

14. This Agreement shall be governed by Maryland law, without regard to its conflicts of laws principles.

[SIGNATURES ON FOLLOWING PAGE]

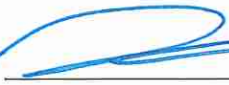
IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals, and the Mayor and City Council of Hagerstown has caused its name to be signed hereto by its Mayor, and its corporate seal to be hereunto affixed, duly attested by its City Clerk, all on the day and date first above written.

WITNESS:

PROPERTY OWNER

GVP HAGERSTOWN OWNER, LLC,
a Delaware limited liability company

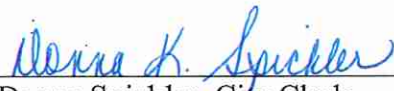

Alicia Pacheco

By:  (SEAL)

Name: RAJESH MENON
Title: CEO

ATTEST:

MAYOR AND CITY COUNCIL
OF HAGERSTOWN


Donna Spickler, City Clerk

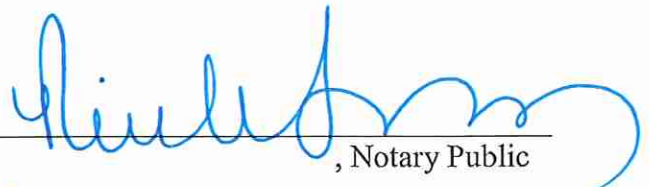

Emily Keller, Mayor

STATE OF ~~MARYLAND~~ Connecticut)
COUNTY OF ~~WASHINGTON~~ Fairfield) SS:

I hereby certify, that on this 14th day of ~~February~~ March 2022, before me, a Notary Public in and for said County and State, personally appeared Rajesh Menon and acknowledged the foregoing Agreement to be his/her act and deed, or the act and deed of GVP HAGERSTOWN OWNER, LLC, a Delaware limited liability company.

WITNESS my hand and Notarial Seal.

My Commission Expires: Nicole Lamoreaux
NOTARY PUBLIC
State of Connecticut
My Commission Expires 5/31/23


, Notary Public

STATE OF MARYLAND)
) SS:
COUNTY OF WASHINGTON)

I hereby certify, that on this 8th day of ~~February~~ ^{March} 2022, before me, a Notary Public in and for said County and State, personally appeared Emily Keller, Mayor of the City of Hagerstown who acknowledged the foregoing Agreement to be the act and deed of said municipal corporation.

WITNESS my hand and Notarial Seal.

My Commission Expires: December 8, 2022 Donna Kay Spickler
Donna Kay Spickler, Notary Public

MAIL TO: City of Hagerstown Planning and Code Administration Department
One East Franklin Street, Room 300
Hagerstown, Maryland 21740-4987

Exhibit A
(Metes and Bounds Description)

Situate at the northeast corner of the intersection of MD Route 144 (West Washington Street) and Western Maryland Parkway in District Number 24, Washington County, Maryland.

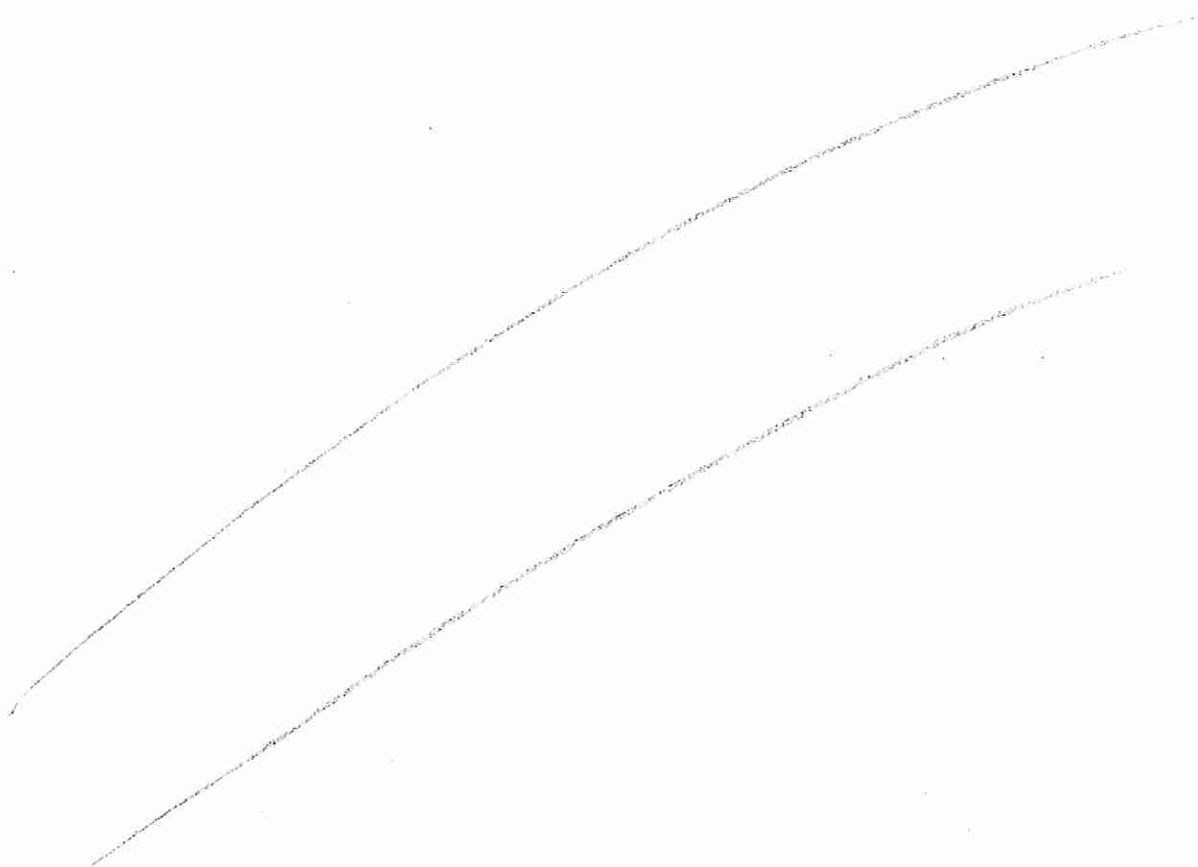
Beginning at a rebar and cap set in the northern right-of-way of MD Route 144 (West Washington Street), said point being the southwest corner of the lands of Dennis L. Price as described in a deed from Dennis L. Price and Nathan P. Leatherman to Dennis L. Price, dated April 2, 1999 and recorded among the land records of Washington County, Maryland in Liber 1486 at folio 1, thence running with the northern right-of-way of MD Route 144 (West Washington Street) the following six (6) courses;

- | | |
|----------------------------|--|
| 1) North 83° 10' 55" West | 1,225.87 feet to a rebar and cap set, thence |
| 2) North 06° 47' 11" East | 24.10 feet to a rebar and cap set, thence |
| 3) North 40° 07' 49" West | 35.35 feet to a rebar and cap set, thence |
| 4) North 83° 18' 35" West | 92.46 feet to a rebar and cap set, thence |
| 5) South 06° 41' 15" West | 20.71 feet to a rebar and cap set, thence |
| 6) North 83° 18' 44" West | 122.98 feet to a rebar and cap set in the eastern right-of-way of Western Maryland Parkway as shown on Washington County, Maryland Engineering Department Plat No. 100-10-334, recorded among the aforesaid land records, thence with the eastern and southern right-of-way of Western Maryland Parkway, as shown on Washington County, Maryland Engineering Department Plat No. 100-10-334, 100-10-335 and 100-10-336, the following seven (7) courses; |
| 7) North 37° 14' 44" West | 35.62 feet, thence with a non-tangent curve to the right, having a radius of 560.00 feet, an arc length of 854.64 feet, a delta of 87° 26' 31", and a chord of |
| 8) North 52° 57' 23" East | 774.08 feet, thence |
| 9) South 83° 19' 22" East | 547.58 feet, thence with a tangent curve to the left, having a radius of 640.00 feet, an arc length of 754.68 feet, a delta of 67° 33' 46", and a chord of |
| 10) North 62° 53' 46" East | 711.71 feet, thence |

- 11) North 29° 06' 54" East 570.00 feet, thence with a tangent curve to the left, having a radius of 739.99 feet, an arc length of 106.03 feet, a delta of 08° 12' 34", and a chord of
- 12) North 25° 00' 35" East 105.93 feet, thence
- 13) North 60° 58' 31" East 37.72 feet to the southern right-of-way of US Route 40 as shown on State Road Commission Plat No 14088, recorded among the said land records, thence with the southern right-of-way of US Route 40 by a non-tangent curve to the left, having a radius of 1,759.86 feet, an arc length of 39.83 feet, a delta of 01° 17' 48", and a chord of
- 14) South 76° 57' 16" East 39.83 feet to the northwest corner of the lands of the Mayor and Council of Hagerstown (Liber 143, folio 436, Parcel No. 17), thence with the western boundary of the lands of the Mayor and Council of Hagerstown (Liber 143, folio 436, Parcel No. 17)
- 15) South 29° 06' 54" West 939.65 feet, thence continuing with the western boundary of the lands of the Mayor and Council of Hagerstown (Liber 143, folio 436, Parcel No. 17), the western right-of-way of an unnamed alley as shown on the plat of Highland Park, recorded as Plat No. 63, and the western boundary of the lands of Dennis L. Price (Liber 1486, folio 1)
- 16) South 19° 10' 38" West 782.05 feet to the Point of Beginning containing 934,100 square feet or 21.44398 acres of land more or less.

Being the same lands conveyed by ACH, LLC to GVP HAGERSTOWN OWNER, LLC by deed dated December 22, 2021 and recorded in Book 6883 at Page 248 among the Land Records of Washington County, Maryland.

Exhibit B
(Survey Plat)





CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	7159.86'	39.21'	39.21'	N 76°55' W	1°16'00"
C2	740.00'	100.03'	100.94'	S 29°00' E	8°12'25"
C3	640.00'	754.88'	671.71'	S 62°35.41' W	67°33'48"
C4	560.00'	854.35'	773.89'	S 52°56'00" W	87°29'53"

[illegible]

June 2, 2021

Boundary Survey
for

ACH LLC

Situate along the south side of Western Maryland Parkway
and the North side of West Washington Street

WASHINGTON COUNTY, MARYLAND

TAX MAP 37-53-B, SHEET 24	
DRAWING NUMBER 1 OF 1	
DRAWN BY LEJ	DATE 6.8.2021
CHECKED BY	DATE
SCALE 1" = 200'	

**FREDERICK
SIEBERT &**

A ASSOCIATES, INC. ©2016

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS

128 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740

20 WEST BALTIMORE STREET, GREENCASTLE, PENNSYLVANIA 17225

(410) 794-3666 (412) 794-3666

(717) 794-3667 (717) 794-3668

5022

5022

**FREDERICK
S. EBERT &
A SOCIATES, INC.**  © 2015

CIVIL ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS LAND PLANNERS
1728 SOUTH POTOMAC STREET, HAGERSTOWN, MARYLAND 21740
20 WEST BALTIMORE STREET, GREENSBORO, PENNSYLVANIA 17225

(410) 797-1000 (412) 755-1000
FAX (410) 797-4400

JOB NUMBER 5022

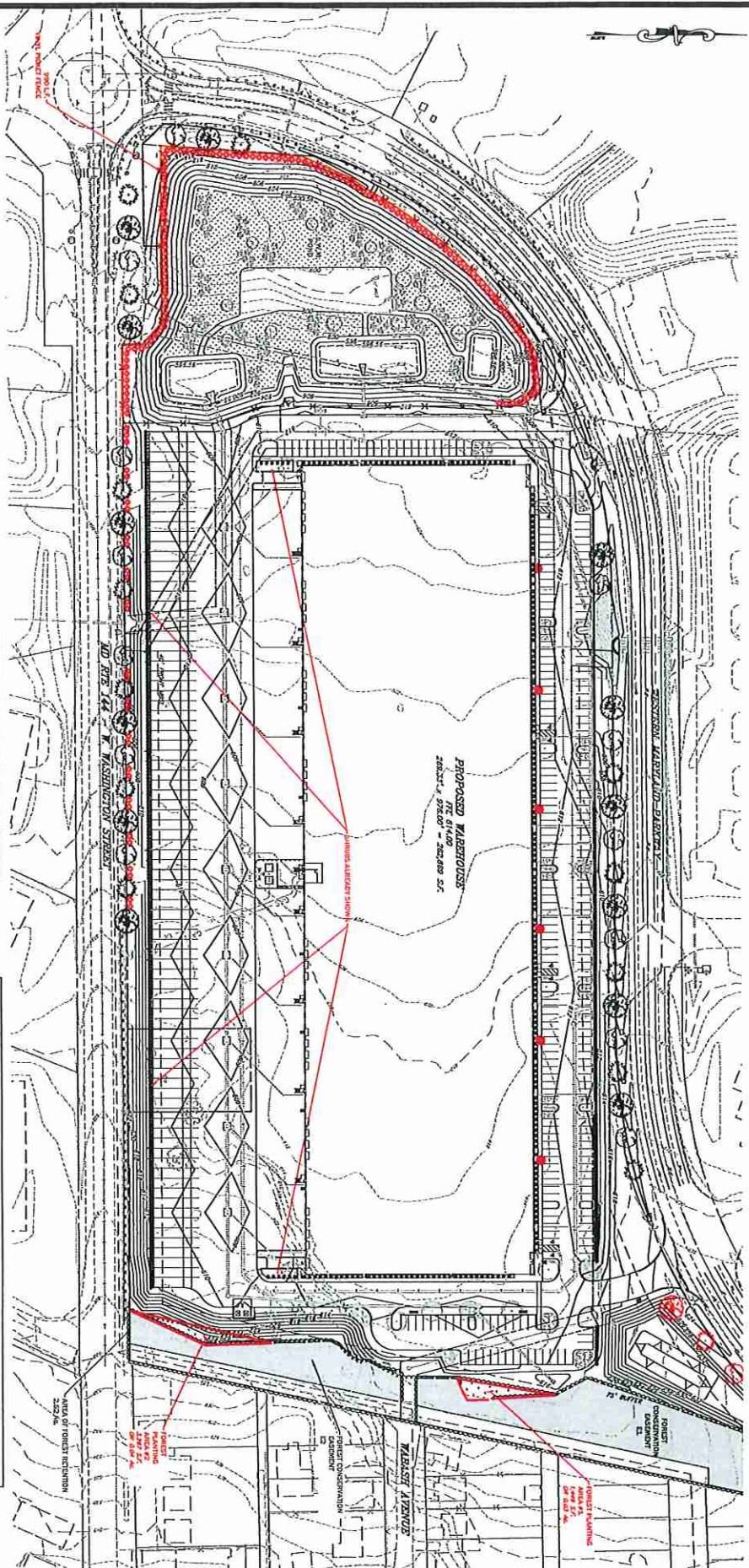
GRAPHIC SCALE
(IN FEET)

0 100 200 400

1 inch = 200 ft

Exhibit C
(Site Plan Modifications)





COUNTY LANDSCAPE SCHEDULE

COUNTY LANDSCAPE SCHEDULE					
TREES					
SYMBOL	DEPARTMENT NAME	COMMON NAME	PLANT	SEED	COMPOSITION
	LIQUID AMBAR STYRACIFLUA	FRANCISANA	M	1-1/2" - 2" DIA.	2 x 2
	ZELKOVA SCHUMACHERI	ELIZABETHAN STAR MAPLE	12	1-1/2" - 2" DIA.	2 x 2

REVISIONS

1. - 990 L.P. VINYL PICKET FENCE
2. 6 PYRAMIDAL ARBOREVITAE ALONG FACADE
3. 123 DWARF BURNING BUSH SCREEN BEHIND SWM FENCE
4. 29 DWARF BURNING BUSH ALONG MD 144
5. 3 ADDITIONAL STREET TREES AT THE SPOIL AREA

[illegible]

LANDSCAPE SCHEDULE

LANDSCAPE SCHEDULE						
SERVIRS						
SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	SIZE	CONDITION	
	ARIZO SAPOTINDO SAPOTINDO	JAWO DULAN BAWO	407	1' DULAN	GOOD	
	ALY CHENAIL WATER LILY	CHEN LILY	708	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	
	RED FLOWERS	RED FLOWERS	122	1' DULAN	GOOD	

ALTERNATE LANDSCAPE PLAN
WESTERN MD PKWY WAREHOUSE

SITUATE ON WESTERN MARYLAND PARKWAY
CITY OF HAGERSTOWN
WASHINGTON COUNTY, MARYLAND

SCALE: 1" = 60'

PROJECT NO. 21-51745
DRAWING NO.
DATE: NOVEMBER, 2021
DRAWN BY: RLB
CHECKED BY: GSP

SHEET 1 OF 1

FOX & ASSOCIATES, INC.
ENGINEERS • SURVEYORS • PLANNERS

681 MT. AETNA ROAD HAGERSTOWN, MD. 21740 PHONE: (301)733-8503 or (301)418-7250 FAX: (301)733-1853	82 WORMANS WILL COURT SUITE 'W' FREDERICK, MD. 21701 PHONE: (301)625-0880 FAX: (301)293-6009
---	--

FOX
 & ASSOCIATES INC.
 EST. 1965
 Copyright © 2022

Location	Comment	Response
Front Façade	A few columnar evergreens to break up mass of façade	Agreed. Will add columnar evergreens
Northeast side of property	Trees behind fence to buffer SWM	Northeast side of property is not a SWM facility; it is a berm intended to screen car parking and truck driveway to truck court. Nonetheless, will add three (3) trees to further enhance screening.
West side of property along SWM pond	Fence Material; Trees behind fence at SWM pond	Agreed. An alternative, more decorative fence along the pond side of Western Maryland Parkway and West Washington Street will be implemented. Also, additional trees and shrubs will be implemented to soften and screen the SWM pond.
Southwest side of property	4' tall 100 FT long masonry wall doubling as SWM fencing and can be used as signage	Will not be implemented due to excessive cost and limited to no value as signage location.
South side	Row of evergreens (pine?) behind street trees	Site elevation is several feet below West Washington Street (Route 144) meaning ground level plantings will have limited, if any, screening value. Nonetheless, additional shrubs and smaller trees will be included where street and site elevations converge.
East side of property	Pedestrian connection for access to park & employees living locally	Will not be provided due to safety and security concerns common to the industry. End user(s) of the building will need to keep tight control over property access meaning a pedestrian connection will have limited if any utility.
East side of property	Afforestation to achieve min 35' forest conservation area	Agreed. Developer will make sure that afforestation will min. 35' wide.

Location	Comment	Response
north side along façade and west side	1 ft short on planting width - 3 sides - 1516 LF, 1516 SF	Will not modify plan.
North side	4 short on parking lot trees	Will not modify plan.
southwest and southeast side of building	shrubs	Will not modify plan. Planting has been provided in this area. Additional planting will compromise visibility in high traffic work area thus compromising worker safety.
West side of building / east side of pond	70 shrubs at SWM pond	Will plant some additional shrubs to enhance entrance into property and soften appearance of pond, but it will not be 70 shrubs.
South side; end of truck court bottom of slope	400+ shrubs	Shrubs are already on plan. Will not modify plan any further. This area is several feet, up to 16 feet below street level; no headlights will impact road. Thus, shrubs will be of limited to no value and present a significant and unnecessary maintenance item.
around property	Sidewalks	Will not modify plan. West Washington Street and Western Maryland Parkway are State/County roadways; neither has requested sidewalks.

LR - Government
Instrument 0.00
Agency Name: City of
Hagerstown
Instrument List:
Agreement / Easement
Describe Other:
Ref:
=====

Total: 0.00
03/28/2022 02:00
CC21-XB
#16000213 CC0403 -
Washington
County/CC04.03.02 -
Register 02

This page not to be counted in calculating Recording Fee

**Clerk of Circuit Court
Washington County, Maryland**

Kevin R. Tucker, Clerk
24 Summit Avenue
Hagerstown, MD 21740
301-790-7991

For Clerks Use Only

Improvement Fee _____
Recording Fee _____
County Transfer Tax _____
Recordation Tax _____
State Transfer Tax _____
Non-Resident Tax _____
TOTAL _____

ADJOINER TABLE

OWNER	LF
1. GP HAGERSTOWN LIMITED PARTNERSHIP	1280-420
2. TR HAGERSTOWN MOB LLC	6409-388
3. SUMMIT RIDGE LLC	4405-434
4. RAMPF WASH CO LTD PARTNERSHIP	928-461
5. DELAPOSTA PROPERTIES LLC	9625-28
6. MCRAND LIMITED PARTNERSHIP	895-157
7. THE MARYLAND FOOD BANK INC	4673-326
8. REITINGER JAMES	1570-1031
9. PLUMBERS & STEAMFITTERS LOCAL UNION	6652-29
10. RAFFERTY SAMUEL P SR RAFFERTY SAMUEL P JR	5008-260
11. PRICE DENNIS L	1486-01
12. SNYDER JOHN ALAN	6532-01
13. RAGAN L & VICKY J SMITH	778-461
14. STATE OF MARYLAND	4905-199

Line #	Length	Direction	Line #	Length	Direction
L1	37.71	S60°55'20"W	L10	924.99	S20°19'27"E
L2	570.00	S29°06'49"W	L11	100.00	S80°19'27"E
L3	547.58	N83°19'27"W	L12	300.00	S20°19'27"E
L4	34.95	S37°45'50"E	L13	762.06	N19°10'30"E
L5	123.85	S83°20'13"E	L14	938.72	N29°06'49"E
L6	20.72	N00°30'47"E	L15	150.00	N00°47'32"E
L7	92.48	S83°20'13"E	L16	100.00	N83°19'27"W
L8	37.55	S30°38'51"E	L17	150.00	S00°40'33"W
L9	24.10	S00°40'33"W			

Curve #	Length	Radius	Chord Length	Chord Bearing
C1	106.03	740.000	105.94	S25°00'30"W
C2	754.68	640.000	711.71	S82°53'40"W
C3	854.37	500.000	773.89	S52°58'10"W
C4	38.21	1759.800	38.21	N76°57'20"W

*I hereby certify that the intent of this annexation plat is to incorporate these parcels into the corporate limits of the City of Hagerstown. The legal owners of record are Lands of GVP Hagerstown Owner, LLC. The undersigned adopted Resolution No. R-22 on 11-22-22. Lands of GVP Hagerstown Owner, LLC consented to the Annexation of their parcels, which consent is evidenced in Exhibit A attached to the Resolution.

Emily Keller, Mayor
of the City of Hagerstown

Date _____



LEGEND
CURRENT CORPORATE BOUNDARY
PROPOSED ANNEXATION
WASHINGTON COUNTY

ACREAGE TABLE	
PARCEL 1	21.09998 acres m/l
PARCEL 2	0.344 acres m/l
Total	21.44398 acres m/l

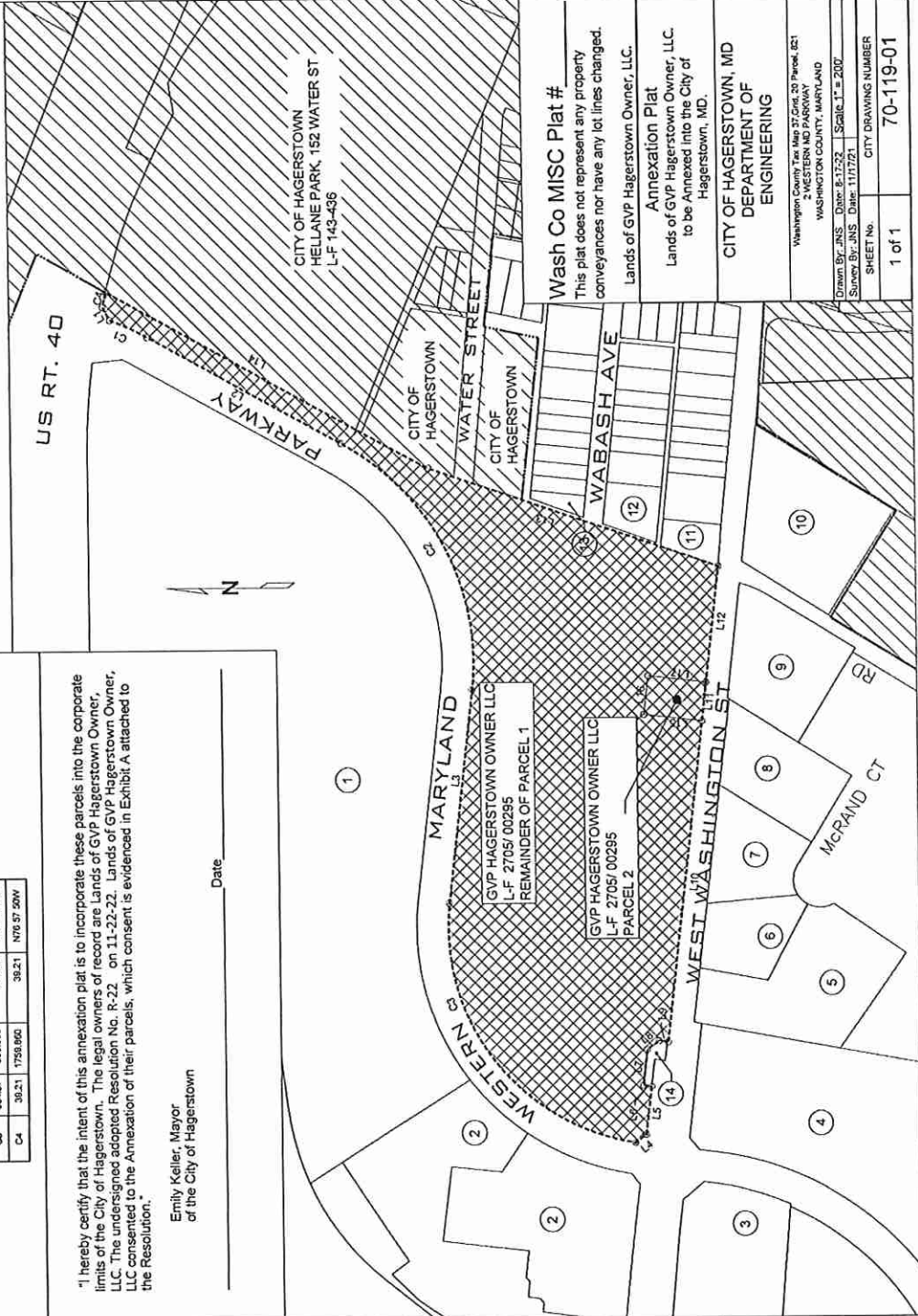
GENERAL NOTES:

- Coordinates and rotation based on a recent property survey by Frederick Seibert & Associates, job # 5022
- Current owners of record are:
Lands of GVP Hagerstown Owner, LLC, State of Maryland.
- Zoning Classifications:
Current County: HI
Proposed City: HAU
- Annexation Effective Date: 1-5-2023
Case # A-2022-02 Annexation of lands of GVP HAGERSTOWN, OWNER LLC



I hereby certify that the plat shown and described hereon is a true and correct survey to the accuracy required by the Hagerstown Planning Commission and that the monuments have been placed as shown hereon in accordance with Ordinance. This Plat was prepared by me or by my responsible change all with requirements set forth by COMAR 09.13.06.12

Jeff N. Swan, MD Professional
Licensing Number: 121552
License Expires: 12-31-25



Wash Co MISC Plat #

This plat does not represent any property conveyances nor have any lot lines changed.

Lands of GVP Hagerstown Owner, LLC.
Annexation Plat
Lands of GVP Hagerstown Owner, LLC
to be Annexed into the City of
Hagerstown, MD.

CITY OF HAGERSTOWN, MD
DEPARTMENT OF
ENGINEERING

Washington County Tax Map 37-G16, 20 Parcel 821
2 WESTERN MD PARCEL 1
WASHINGTON COUNTY, MARYLAND
Drawn By: JNS Date: 8-17-22 Scale: 1" = 200'
Survey By: JNS Date: 11-17-21
SHEET No. CITY DRAWING NUMBER
1 of 1 70-119-01

(Metes and Bounds Description)

Situate at the northeast corner of the intersection of MD Route 144 (West Washington Street) and Western Maryland Parkway in District Number 24, Washington County, Maryland.

Beginning at a rebar and cap set in the northern right-of-way of MD Route 144 (West Washington Street), said point being the southwest corner of the lands of Dennis L. Price as described in a deed from Dennis L. Price and Nathan P. Leatherman to Dennis L. Price, dated April 2, 1999 and recorded among the land records of Washington County, Maryland in Liber 1486 at folio 1, thence running with the northern right-of-way of MD Route 144 (West Washington Street) the following six (6) courses;

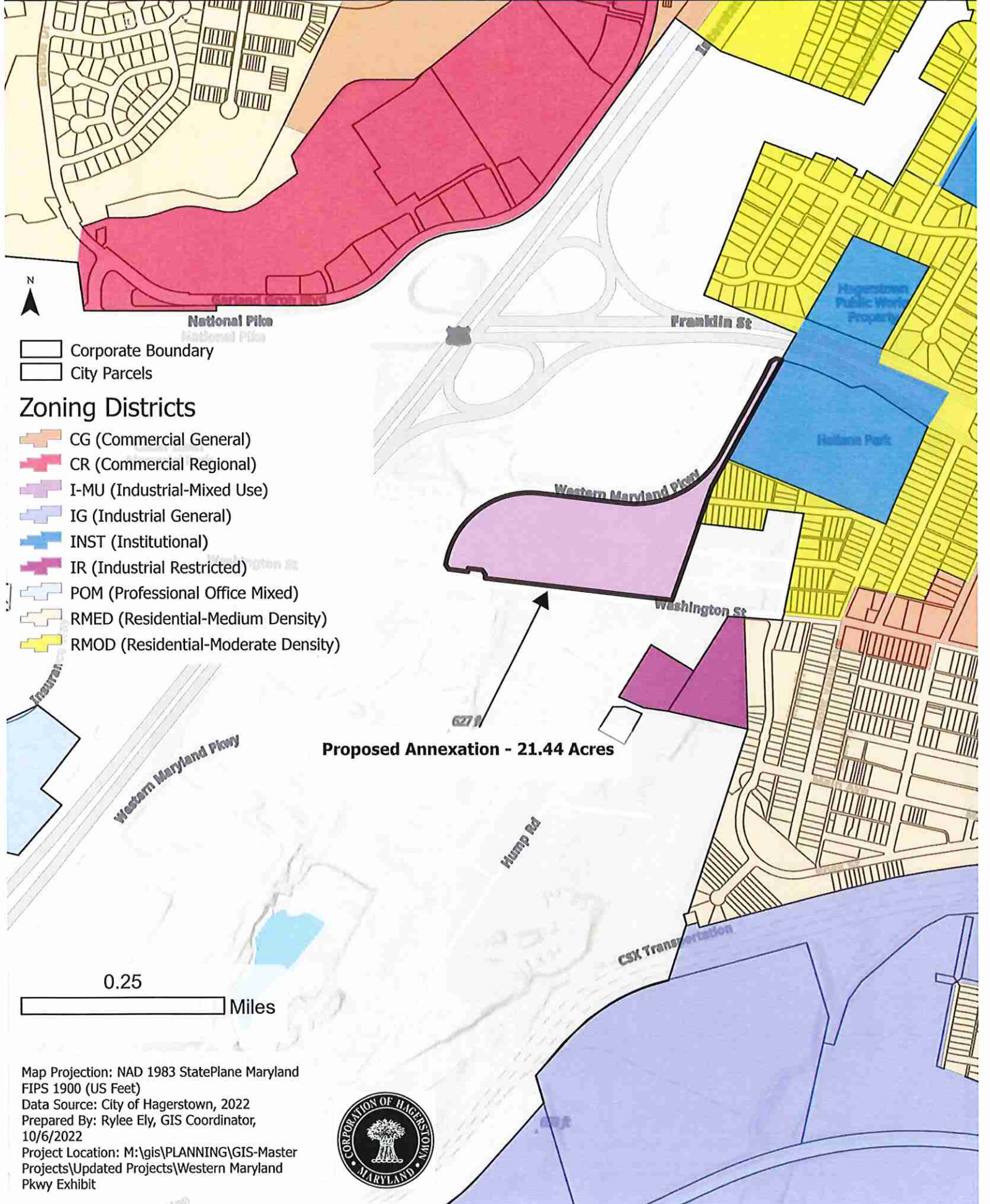
- | | |
|----------------------------|--|
| 1) North 83° 10' 55" West | 1,225.87 feet to a rebar and cap set, thence |
| 2) North 06° 47' 11" East | 24.10 feet to a rebar and cap set, thence |
| 3) North 40° 07' 49" West | 35.35 feet to a rebar and cap set, thence |
| 4) North 83° 18' 35" West | 92.46 feet to a rebar and cap set, thence |
| 5) South 06° 41' 15" West | 20.71 feet to a rebar and cap set, thence |
| 6) North 83° 18' 44" West | 122.98 feet to a rebar and cap set in the eastern right-of-way of Western Maryland Parkway as shown on Washington County, Maryland Engineering Department Plat No. 100-10-334, recorded among the aforesaid land records, thence with the eastern and southern right-of-way of Western Maryland Parkway, as shown on Washington County, Maryland Engineering Department Plat No. 100-10-334, 100-10-335 and 100-10-336, the following seven (7) courses; |
| 7) North 37° 14' 44" West | 35.62 feet, thence with a non-tangent curve to the right, having a radius of 560.00 feet, an arc length of 854.64 feet, a delta of 87° 26' 31", and a chord of |
| 8) North 52° 57' 23" East | 774.08 feet, thence |
| 9) South 83° 19' 22" East | 547.58 feet, thence with a tangent curve to the left, having a radius of 640.00 feet, an arc length of 754.68 feet, a delta of 67° 33' 46", and a chord of |
| 10) North 62° 53' 46" East | 711.71 feet, thence |

- 11) North 29° 06' 54" East 570.00 feet, thence with a tangent curve to the left, having a radius of 739.99 feet, an arc length of 106.03 feet, a delta of 08° 12' 34", and a chord of
- 12) North 25° 00' 35" East 105.93 feet, thence
- 13) North 60° 58' 31" East 37.72 feet to the southern right-of-way of US Route 40 as shown on State Road Commission Plat No 14088, recorded among the said land records, thence with the southern right-of-way of US Route 40 by a non-tangent curve to the left, having a radius of 1,759.86 feet, an arc length of 39.83 feet, a delta of 01° 17' 48", and a chord of
- 14) South 76° 57' 16" East 39.83 feet to the northwest corner of the lands of the Mayor and Council of Hagerstown (Liber 143, folio 436, Parcel No. 17), thence with the western boundary of the lands of the Mayor and Council of Hagerstown (Liber 143, folio 436, Parcel No. 17)
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Being the same lands conveyed by ACH, LLC to GVP HAGERSTOWN OWNER, LLC by deed dated December 22, 2021 and recorded in Book 6883 at Page 248 among the Land Records of Washington County, Maryland.

A-2022-02: Annexation of Lands of GVP Hagerstown Owner, LLC

EXHIBIT D



City of Hagerstown, Maryland
Annexation Case No. A-2022-02

Property Owners: GVP Hagerstown Owner LLC
Applicant: City of Hagerstown
Location of Property: 2 Western Maryland Parkway (Map 37, Parcel 821)

Annexation Plan

Pursuant to the Annotated Code of Maryland, Local Government Article, Section 4-415, herewith is a proposed outline for extension of services and public facilities into the areas proposed to be annexed.

It is also noted that any future amendments to the Annexation Plan may not be construed in any way as an amendment to the resolution, nor may they serve in any manner to cause a re-initiation of the annexation procedure then in process.

I. Land Use Patterns of Areas Proposed to be Annexed -

- A. The area of annexation is approximately 21.44 acres.
- B. The proposed zoning is I-MU (Industrial Mixed-Use). The purpose of the I-MU District is to provide locations for general industrial uses and some mixed uses. The property is designated as Business Employment on the City's Future Land Use Map which identifies POM (Professional Office Mixed-Use) or I-MU (Industrial Mixed-Use) as compatible zoning districts.

The I-MU zoning classification proposed for this site is substantially similar to the industrial and professional/technical service sector side of the County's current zoning of HI (Highway Interchange) while not allowing some of the commercial zoning uses in the HI. The City's I-MU is intended to be a more focused business employment land use category rather than one that combines the broader array of land use categories found in the County's HI.

- C. It is within the City's Medium Range Growth Area, an area intended for new or expanded water and wastewater service based on development potential, as defined in the City's 2018 comprehensive plan, *visionHagerstown 2035*.
- D. It is within the County's Urban Growth Boundary (UGA) and the State's designated Priority Funding Area.

II. Availability of Land Needed for Public Facilities -

- A. The uses of the annexation area are non-residential in nature and will have no additional impact on Washington County Board of Education facilities with respect to school capacity.
- B. The uses of the annexation area are non-residential in nature will have no additional impact to the Washington County Free Library as a result of the annexation.

III. Schedule and Method of Financing the Extension of Each Municipal Service Currently Performed Within the City of Hagerstown into the Area Proposed to be Annexed.

- A. The area of annexation is under construction with a Washington County approved site plan and Washington County issued building permit. The property is approved for City Wastewater service per an annexation agreement and per approval of the utility plan for the site plan and per approval of the building permit. Sufficient capacity exists to serve the proposed plan.
- B. The area of annexation is under construction with a Washington County approved site plan and Washington County issued building permit. The property is approved for City Water service per an annexation agreement and per approval of the utility plan for the site plan and per approval of the building permit. Sufficient capacity exists to serve the proposed plan.
- C. The Electric Distribution System is external to the Hagerstown Light Department electric utility operating territory. Electric utility service is provided by the Potomac Edison Company of First Energy.

The Hagerstown Light Department provides street lighting services to public streets and supplies the personnel and equipment to maintain the installation after construction by the developer and acceptance by the HLD. Contact the HLD for details regarding street light installation requirements.

- D. No significant impact on emergency medical service delivery is expected.
- E. The area proposed for annexation fronts two public roads: Western Maryland Parkway and West Washington Street. No change to current

ownership or service is proposed. Any public roads constructed in the future within the area of annexation will be completed at the direction of the City Engineer at the developer's expense and constructed per the City's Public Ways Construction Standards by the developer.

- F. Parks and recreation facility expansion are not proposed for this annexation.
- G. Police protection will be provided by the Hagerstown Police Department. Fire protection will be provided by the Hagerstown Fire Department.
- H. Maintenance (i.e. snow removal, mowing of right-of-ways, litter removal) of Western Maryland Parkway is performed by the Maryland State Highway Administration (SHA). Maintenance of West Washington Street is performed by Washington County. Any public roads constructed in the future within the area of annexation will be maintained by the City Public Works Department.
- I. All future owners and businesses within the area proposed to be annexed shall obtain or be entitled to existing benefits of the City of Hagerstown. They shall also be required to pay for all applicable utility services, charges, assessments, taxes, and other costs and expenses which are required of property owners and businesses in the City of Hagerstown, unless alternative arrangements are provided for the Annexation Resolution.

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

Topic:

Approval of an Ordinance: Cable Franchise Agreement with Comcast

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion - Approval of Ordinance -
_Cable_Franchise_Agreement_with_Comcast.pdf

Description

Motion, Ordinance,
Agreement - Cable
Franchise Agreement with
Comcast

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval of an Ordinance: Approving Cable Television Franchise Agreement with Comcast**

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

MOTION:

I hereby move to approve an ordinance authorizing the approval of a nonexclusive franchise agreement with Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC.

As indicated in the attached agreement, the term of the Franchise will be from November 22, 2022 to November 21, 2027, with the provision for one automatic extension of an additional five year term.

DATE OF INTRODUCTION: November 1, 2022

DATE OF PASSAGE: November 22, 2022

EFFECTIVE DATE: December 23, 2022



November 22, 2022

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

Dear Mr. Nicewarner:

The purpose of this letter agreement is to provide further information and confirm the understanding that has been reached between Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC ("Comcast") and the City of Hagerstown, MD ("City") with respect to certain matters that were discussed with the City during franchise renewal negotiations that are in addition to the Cable Television Franchise Agreement between the parties, that is effective November 22, 2022 ("Franchise Agreement").

The City Code, §70-6, provides for a \$25,000 application fee for an initial cable franchise agreement, to cover costs associated with processing the application, and reimbursement of any additional costs in processing an application exceeding the \$25,000 application fee. Comcast's position is that federal law prohibits fees beyond those that are "incidental" to granting a cable franchise, where the cable franchise includes the statutory maximum (5%) franchise fee, and that \$25,000 exceeds an amount that would qualify as incidental. The City's position is that there are presently no cable franchise fees being paid by Comcast (significant construction has not started on the cable system) and that because this process has been ongoing since January, 2022, the application fee and additional costs associated with processing the application as specified in the City Code are reasonable. In the interest of finalizing the Franchise Agreement in order to bring additional competition to the City related to video and other services, Comcast and the City agree that Comcast will pay the application fee and reimburse the City for additional costs incurred by the City consistent with the requirements of City Code Section 70-6 subject to the conditions as indicated below.

(i) Comcast agrees to pay a \$25,000 application fee to the City prior to execution of the Franchise Agreement by both parties. Comcast will not offset the application fee from future franchise fees to be paid to the City under the Franchise Agreement.

(ii) Within thirty (30) days of the City's approval of the Franchise Agreement, the City shall provide a comprehensive, itemized statement showing the costs incurred by the City consistent with the requirements of City Code Section 70-6, and Comcast shall pay to the City any additional amounts referenced in the statement in excess of \$25,000 within thirty (30) days. Comcast may recover any additional amounts paid to the City per this letter agreement, beyond the \$25,000 application fee, through an offset from future franchise fees to be paid to the City under the Franchise Agreement.

Failure of Comcast to make timely payment of the application fee or the additional costs associated with processing the application shall constitute a material violation of the Franchise Agreement.

Sincerely,

Misty Allen
Regional Vice President, Government Affairs & Regulatory Affairs

Accepted and agreed to this 22nd day of November, 2022.

City of Hagerstown, Maryland

By: _____
Scott A. Nicewarner - City Administrator

CABLE TELEVISION FRANCHISE AGREEMENT

This Cable Television Franchise Agreement ("Franchise") is entered into this 22nd day of November, 2022, by and between the City of Hagerstown, Maryland ("City"), and Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC ("Grantee").

RECITALS

WHEREAS, the City is authorized to grant franchises for the installation, operation and maintenance of cable television systems within the City; and

WHEREAS, the Grantee has applied to the City for a cable television franchise to construct, operate and maintain a cable television system within the City; and

WHEREAS, the Grantee is willing to accept this Franchise subject to the terms and conditions stated herein, and to abide by these terms and conditions; and

WHEREAS, the public has had adequate notice and opportunity to comment on the Grantee's proposal to provide cable television service within the City; and

WHEREAS, the City Council hereby finds that it would serve the public interest of the citizens of the City to grant a new cable television franchise to the Grantee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and Grantee do hereby agree as follows:

SECTION 1. DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words, and their derivations have the meanings given herein or ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §521 et seq. (the "Cable Act"), unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, the word he shall be gender neutral and shall include all persons, words in the plural number include the singular number, and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

1.1 "Access" means the availability for noncommercial use by various educational institutions in the community, and the City and its designees, of the Access Channels.

1.2 "Access Channel" means any video Channel, which Grantee makes available for non-commercial Educational or Government (EG) Access use for the transmission of EG Access video programming as directed by the City.

1.3 "Affiliate" when used in connection with Grantee, means any Person, or entity, who owns or controls, is owned or controlled by, or is under common ownership or control with Grantee,

excluding affiliates that are not involved with the use, management, operation, construction, repair and/or maintenance of Comcast's cable systems.

1.4 "Bad Debt" means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.5 "Basic Service" means the lowest Cable Service Tier which includes, at a minimum, the retransmission of local broadcast television signals, carried in fulfillment of the requirements of 47 U.S.C. §§ 534 and 535, and all EG Access Channels required by the Franchise to be provided to Subscribers as Basic Service.

1.6 "Cable Act" means the Communications Act of 1934 as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and all additional amendments thereto.

1.7 "Cable Operator" means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more Affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.8 "Cable Service" means the one-way transmission to Subscribers of Video Programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service.

1.9 "Cable System" means a facility, consisting of a set of closed transmissions paths and associated Signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within the Franchise Area, but such term does not include (A) a facility that serves only to retransmit the television Signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an Open Video System that complies with federal statutes; or (E) any facilities of any electric utility used solely for operating its electric utility systems. As used herein, the term Cable System shall mean Grantee's cable communications facilities located in the City.

1.10 "Channel" means a time or frequency slot or technical equivalent on the Cable System in a specified format, discreetly identified and capable of carrying full motion, color video and audio, and may include other non-video subcarriers and digital information.

1.11 "City" is the City of Hagerstown, a body politic and corporate under the laws of the State of Maryland, and all of the area within its boundaries, as such may change from time to time.

1.12 "City Council" means the Hagerstown City Council, or its successor, the governing body of the City.

- 1.13 "Commercial Subscribers" means any Subscribers other than Residential Subscribers.
- 1.14 "Demarcation Point" means a point located at an Access Channel origination site and shall be the point of input to Grantee's equipment for the Designated Access Provider's encoded video and audio. Under current technology, that point is the SDI input to the Grantee's encoder at the Access Channel origination site.
- 1.15 "Designated Access Provider" means the entity or entities designated now or in the future by the City to manage or co-manage the Government Access Channel and Educational Access Channel, and facilities. The City may be a Designated Access Provider.
- 1.16 "Downstream" means carrying a transmission from the Headend to remote points on the Cable System.
- 1.17 "Dwelling Unit" means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy.
- 1.18 "Educational Access Channel" means an Access Channel made available for non-commercial use by educational institutions in the City for the purpose of showing programming related to education.
- 1.19 "Expanded Basic Service" means the digital Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service.
- 1.20 "FCC" means the Federal Communications Commission, or successor governmental entity thereto.
- 1.21 "Franchise" means the document, together with any Exhibit attached hereto, in which this definition appears, i.e., the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.
- 1.22 "Franchise Area" means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise.
- 1.23 "GAAP" means generally accepted accounting principles.
- 1.24 "Government Access Channel" means an Access Channel made available for non-commercial use by the City for the purpose of showing governmental programming.
- 1.25 "Grantee" means Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC or its lawful successor, transferee or assignee.
- 1.26 "Gross Revenues" means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliate that is the cable operator of the Cable System, from the operation of Grantee's Cable System to provide Cable Services within the City. Grantee

will calculate gross revenues in accordance with General Accepted Accounting Principles (“GAAP”). Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade, or similar charges associated with changes in Subscriber Cable Service tiers;
- fees for service calls related to Cable Service;
- fees for additional outlets of Cable Service;
- fees paid to Grantee for channels designated for commercial/leased access use within the City, which shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the programming;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined in this Section;
- late fees, convenience fees, administrative fees and other multiservice fees, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees;
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the City;
- revenue from the lease of the Cable System to provide Cable Services in the Franchise Area; and
- payments or other consideration received from programmers for carriage of programming on the Cable System and recognized as revenue under GAAP.

(A) “Advertising Revenues” shall mean revenues derived from the sale of advertising that are made available to Grantee’s Cable System subscribers within the City and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, representative fees, Affiliated Entity fees, or rebates paid to the National Cable Communications and

Comcast Effectv or their successors or other affiliated advertising agencies associated with the sale of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) "Gross Revenues" shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- any taxes and/or fees on services furnished by Grantee imposed by a municipality, state, or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- other fees imposed by any municipality, state, or other governmental unit on Grantee, including but not limited to the EG Capital Fee;
- except as provided above, launch fees and marketing co-op fees; and
- unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, or where any multi-service fees are assessed and not directly attributable to a particular line of business, such as late fees, such revenue shall be allocated to Cable Service and non-Cable Service in accordance with GAAP. It is expressly understood that in some cases equipment and other non-service charges may be subject to inclusion in the bundled price at full rate card value due to requirements related to sales taxes or similar tax requirements. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee's calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document any changes to the City upon request or as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to subsection (E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles ("GAAP") as promulgated and defined by the FASB, EITF and/or the SEC. Notwithstanding the forgoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues and calculation of Franchise Fees, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.27 "Headend" means the control center of the Cable System, where incoming Signals are amplified, converted, processed and/or combined for transmission to Subscribers.

1.28 "Leased Access Channel" means a Channel on the Cable System designated by the Grantee pursuant to Section 612 of the Cable Act (47 U.S.C. § 532).

1.29 "Person" means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.30 "Residential Subscriber" means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.31 "Right-of-Way" means the surface and the area across, in, over, along, upon, above and below the surface of each of the following which are located within the City and have been dedicated to the public or are hereafter dedicated to the public and maintained by the City: streets, roadways, highways, avenues, lanes, alleys, freeways, drives, circles, roads, courts, ways, boulevards, bridges, and sidewalks, and other public Rights-of-Way as defined in City Code Sections 70-2 and 216-3, as the same now or may hereafter exist, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a Cable System. Public Right-of-Way also means any easement now or hereafter held by the City within the Franchise Area for the purpose of public travel, or for utility or public service use utilized for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to their use, for example, for the purposes of installing, operating, and maintaining the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and appurtenant to the Cable System. Use of any City owned utility poles shall be subject to a separate Pole Attachment Agreement.

1.32 "Schools" means all accredited public elementary and secondary schools. Schools shall also mean Special Programs and the Technical High School and any other school affiliated with Washington County Public Schools (WCPS). However, Schools do not include "home schools" or "cyber schools" (with the exception of a cyber school that is affiliated with WCPS).

1.33 "State" means the State of Maryland.

1.34 "Subscriber" means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully activated to receive Cable Service from Grantee's Cable System.

1.35 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. 153(50)).

1.36 "Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. 153(53)).

1.37 "Tier" means a group of Channels for which a periodic subscription fee is charged.

1.38 "Two-Way" means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.39 "Upstream" means carrying a transmission to the Headend from remote points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the City to own, construct, operate, extend, maintain, reconstruct, rebuild and upgrade a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise. Nothing in this Agreement shall be construed to prohibit the Grantee from offering any service over the Cable System that is allowed by Federal, State, or local law. This Franchise shall constitute both a right and an obligation to provide the Cable Service required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City law existing as of the Effective Date of this Franchise.

(C) Grantee is subject to generally applicable local law, including, but not limited to, those laws related to cable operators, State law, federal law, the Charter of the City of Hagerstown and the ordinances and regulations enacted pursuant thereto. Except as otherwise provided in Section 2.5, in the event of a conflict specifically between the ordinances or regulations and this Franchise, this Franchise shall prevail.

(D) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Franchise.

(E) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other applicable permit or authorization generally required and subject to applicable law for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City.

(2) Any applicable permit, agreement, or authorization subject to applicable law and required by the City for similarly-situated Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any applicable permits or agreements subject to applicable law and required for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(F) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way.

(G) This Franchise does not waive any lawful requirements the City may have a right to impose on the other services offered on the Cable System by the Grantee.

(H) The parties to this Franchise shall cooperate in good faith in advancing its underlying objectives. In particular, the City, in its administration of the Franchise, shall consider costs and other operational burdens on Grantee and any adverse effects on Grantee and its ability to serve existing and potential subscribers.

2.2 Use of Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, rebuild, reconstruct, upgrade, own, operate, extend, maintain, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Cable System within the City.

(B) Grantee must follow applicable City-established requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the City, or which is installed without prior City approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal.

2.3 Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on November 22, 2022 (the "Effective Date"), and shall terminate on November 21, 2027, unless terminated sooner as hereinafter provided. This Franchise shall be automatically extended for one (1) additional term of five (5) years unless either party notifies the other in writing of its desire to not extend the Franchise at least one (1) year before the expiration of the then-current Franchise. Notice under Section 626(a)(1) of the Cable Act, 47 U.S.C § 546 – Renewal, shall not constitute notification for purposes of this section.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the City to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the City to use the same for any purpose it

deems fit, including the same or similar purposes allowed Grantee hereunder. The City has and may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the City deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City through its lawful exercise of its police powers, or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power, and any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter; provided that such ordinances shall be reasonable and not destructive of the rights granted in this Franchise. If the reasonable and lawful exercise of the City's police power results in any material alteration of the terms and conditions of this Franchise, then the Grantee may notify the City that it desires to have this Franchise modified or that other appropriate action needs to be taken. Upon such notification, the parties shall negotiate in good faith to modify this Franchise, or take other appropriate action, such that, to the reasonable satisfaction of both parties, any negative effects on Grantee of the material alteration are ameliorated.

2.6 Grant of Other Franchises

(A) After the Effective Date, in the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other Person or entity other than the Grantee to enter into the City's Rights-of-Way for the purpose of constructing or operating a facilities-based system to provide wireline, multichannel video programming services (excluding over-the-top ["OTT"] services) to any part of the Franchise Area, in which the material provisions thereof (including provisions related to the geographic scope of service, subject to reasonable build-out requirements as specified by the FCC) are more favorable or less burdensome than those contained in this Franchise, then Grantee may request amendments to this Franchise to provide Grantee with competitive equity. The foregoing provision shall not be operative until the competitor actually provides video services in the City. The modification process shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (a) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (b) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (c) providing text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent. The parties agree that these provisions shall not require identical word for word provisions so long as the regulatory and financial burdens on each entity are materially equivalent when comparing this Franchise to a new competing franchise as a whole. The City shall not permit Cable Service competition without a City franchise unless the competitor is duly authorized by Federal or State law. The protections afforded Grantee under this section shall also apply to any action taken by the City, or any entity affiliated with the City, to construct or operate a Cable System or to provide cable service in competition with Grantee. The City shall notify Grantee in the event any entity applies for authority to provide Cable Service to any part of the Franchise Area.

(B) If during this Franchise's term, any laws, rules, regulations or governmental authorizations would allow a competing provider of facilities based, wireline multichannel video programming service (excluding OTT service) in the City's Rights-of-Way to provide Cable Service or materially equivalent service under less burdensome regulations or regulatory structure than Grantee is operating under in this Franchise, the more burdensome terms and conditions of Grantee's Franchise shall be modified to correspond to the less burdensome requirements applicable to the competing provider. The parties agree that this shall not require identical word for word provisions so long as the regulatory and financial burdens on each entity are materially equivalent taken as a whole. The parties agree that (a) video service provided through an "Open Video System" (as specified in Federal laws or regulations); (b) video service provided through the public Internet without any affiliated occupation of the City's Rights-of-Way; and (c) video service provided through wireless distribution shall not trigger the relief available under these provisions.

(C) In the event that Grantee elects to pursue the relief provided under subsections (A) or (B) above, Grantee shall notify the City in writing, and the parties shall engage in good faith negotiations, which shall conclude within a ninety (90) day time period unless that time period is reduced or extended by mutual agreement of the parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City and Grantee shall amend this Franchise to include the modifications. If the City and Grantee are unable to reach agreement on the Franchise modifications to ensure a competitive Franchise, then Grantee may enforce in a court of competent jurisdiction its right to a franchise modification pursuant to subsection (A) or (B) above or may terminate this Franchise subject to subsection (D) below. In the event that Grantee secures any franchise modification in a judicial proceeding under these provisions, the City shall reimburse any Franchise-related fees paid to the City subsequent to the initiation of said judicial proceeding that exceed the Franchise-related fee obligations established as a result of that proceeding; and, if the court finds the City did not engage in good faith negotiations, the City shall reimburse Grantee's reasonable attorneys' fees. Nothing in Section 2.6 shall limit Grantee's right to pursue any other cause of action available to it, including, but not limited to, the right to pursue the modification procedures set forth in Section 625 of the Cable Act.

(D) As specified in subsection (C) above, in the event Grantee fails to secure a satisfactory modification from the City, Grantee shall have the option of shortening the term of this Franchise (while retaining full substantive renewal rights, including, but not limited to, the renewal rights provided under this Franchise and Section 626 of the Cable Act) such that this Franchise expires on a date twenty-four (24) months after Grantee provides notice to the City of such intent to terminate the Franchise; provided, however, in no event shall Grantee invoke this provision by providing notice to the City during the initial four (4) year period of this Franchise.

(E) The City shall not be obligated to amend this Franchise unless the new entrant makes Cable Services or materially equivalent service available for purchase by subscribers or customers.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered all requirements and provisions of this Franchise and finds that the same are commercially practicable at this time.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to applicable law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fees

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the City's Rights-of-Way, Grantee shall pay as a franchise fee to the City, throughout the duration of this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues. Accrual of such franchise fees shall commence as of the Effective Date of this Franchise.

3.2 Payments

Grantee's franchise fee payments to the City shall be computed quarterly for the preceding calendar quarter. Each quarterly payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter.

3.3 Acceptance of Payment and Recomputation

The acceptance of any payment required by the City shall not be construed as an acknowledgement or an accord and satisfaction that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release or waiver of any claim which the City may have for additional sums due and payable. However, if the City accepts payment of the amount determined to be due to the City through an audit, that shall be construed as an accord and satisfaction.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the City, verified by an officer of Grantee, containing an accurate statement in categorized form of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System and shall be drafted in accordance with GAAP and all of the provisions of this Franchise (including, but not limited to, Subsection 1.26 herein).

3.5 Audits

(A) The City shall have the right to inspect books and records of Grantee and its Affiliates and to audit and recompute any amounts determined to be payable under this Franchise; provided, however, that any such inspection shall take place within three (3) years from the date the City receives such payment, after which period any such payment shall be considered final.

(1) Upon the completion of any such audit by the City, the City shall provide to the Grantee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Final Settlement Amount." For purposes of this Section, the term "Final Settlement Amount(s)" shall mean the agreed upon underpayment, if any, to the City by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

(2) Any "Final Settlement Amount(s)" due to the City as a result of such audit shall be paid to the City by the Grantee within thirty (30) days from the date the parties agree upon the "Final Settlement Amount." Once the parties agree upon a Final Settlement Amount and such amount is paid by the Grantee, the City shall have no further rights to audit or challenge the payment for that period.

(B) The City's expenses, fees, and costs for an audit or financial review shall be borne by the City unless the audit or financial review discloses an underpayment of five percent (5%) or more, in which case the costs shall be borne by the Grantee, not to exceed thirty thousand dollars (\$30,000) for the audit period.

(C) Disputed amounts recovered by the City shall be subject to the additional payment of interest as provided for in this Franchise.

3.6 Late Payments

In the event that the Franchise Fees herein required are not tendered on or before the date due as identified above, interest on such fees shall accrue from the date due at the then current bank prime rate of interest as published in the Wall Street Journal.

3.7 Alternative Compensation

In the event the obligation of Grantee to compensate the City through franchise fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City such other compensation as is required by applicable law.

3.8 Tax Liability

The franchise fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the franchise fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator.

3.9 No Limitation on Authority

Nothing in this Franchise shall be construed to limit any authority of the City to impose any tax, fee, or assessment of general applicability on Grantee or its Subscribers.

3.10 Financial Records

Upon sixty (60) days written request, Grantee shall make information available reasonably necessary to review Grantee's methodology of record-keeping, financial reporting, the computing of franchise fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records as necessary for the purpose of verifying compliance with the terms and conditions of this Franchise. Additionally, upon thirty (30) days prior written request by the City, Grantee agrees to meet virtually with the City or its designee to discuss any of the foregoing methodologies to verify compliance by Grantee under this Franchise.

3.11 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available through the security and surety mechanisms provided by the Grantee.

3.12 Bundling of Cable Service and Non-Cable Service

If Grantee offers bundled Cable and non-Cable Services, any discount applied to a Cable Service under this Franchise shall not be applied in a manner so as to evade the payment of Franchise Fees. Any discounting shall be done reasonably among Cable and non-Cable Services so as not to evade the payment of Franchise Fees. For the purpose of determining the amount of Franchise Fees due on a discounted Cable Service, or where any multi-service fees are assessed and not directly attributable to a particular line of business, such as late fees, Grantee shall use GAAP in applying the requirements of this Franchise.

3.13 Additional Commitments Not Franchise Fees

The EG Capital Contribution pursuant to Section 9.1, as well as any charges incidental to the awarding or enforcing of this Franchise (including, without limitation, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages) and Grantee's costs of compliance with Franchise obligations (including, without limitation, compliance with customer service standards and build out obligations) shall not be offset against Franchise Fees. Furthermore, the City and Grantee agree that any local tax of general applicability shall be in addition to any Franchise Fees required herein, and there shall be no offset against Franchise Fees. Notwithstanding the foregoing, Grantee reserves all rights to offset cash or non-cash consideration or obligations from Franchise Fees, consistent with applicable law, with the stipulation that any in-kind services may only be valued at their marginal cost. The City likewise reserves all rights it has under applicable law. Should Grantee elect to offset the items set forth herein, or other Franchise commitments against the Franchise Fees in accordance with applicable law, including any Orders

resulting from the FCC, Grantee shall provide the City advance written notice. The City shall notify Grantee, within one hundred twenty (120) days whether it elects the amount due each month to be invoiced for payment or offset from Franchise Fees if Grantor concurs with Grantee, or elects to negotiate modification of the obligation as set forth in applicable law by amendment of this Franchise, or opposes the offset as not being consistent with applicable law.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) To the extent permitted under federal, State and local law, the City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof to any agent in its sole discretion. The City shall identify a single point of contact at the City to administer this Franchise.

(B) Nothing in this Franchise shall limit nor expand the City's right of eminent domain under State law.

4.2 Rates and Charges

The City reserves its rights to regulate Grantee's cable rates and charges to the full extent authorized by applicable law.

4.3 Filing of Rates and Charges

(A) Upon the Effective Date, and subsequently upon written request throughout the term of this Franchise, Grantee shall provide written notification to the City of its complete schedule of applicable rates and charges for residential Cable Services, along with a complete listing of such Cable Services, provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to provide written notice of its rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Grantee shall apply its rates in accordance with governing law without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military, or physical or mental disability or geographic location within the City. Grantee may engage in reasonable review of creditworthiness and impose reasonable conditions (e.g., equipment deposits) based on that review and past payment history. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit the offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or the Grantee from establishing different rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

(C) Upon request of the City, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by

Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.4 Performance Evaluations

(A) The City may hold a performance evaluation session during Year three (3) of this Franchise, and if the Franchise is extended, another performance evaluation session during Year eight (8).

(B) Special evaluation sessions may be held at any time by the City during the term of this Franchise.

(C) All evaluation sessions shall be open to the public. Grantee shall receive ninety (90) days prior written notice of an evaluation session.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, compliance with technical standards, construction standards, consumer protection standards, customer service standards and financial reporting.

(E) During evaluations under this subsection, Grantee shall comply with the City's reasonable requests for information related to compliance with the terms and conditions of this Franchise in a timely manner.

4.5 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum other than collection fees that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with applicable law.

(B) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the Subscriber.

(C) Except as otherwise provided herein, nothing in this subsection shall be deemed to limit or affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums, for Grantee's other services or activities it performs in compliance with applicable law, including FCC rules and regulations.

4.6 Force Majeure

Notwithstanding any other provision of this Franchise, the Grantee shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Franchise due directly or indirectly to severe or unusual weather conditions, strike, labor disturbance, lock-out, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of the public enemy, acts of terrorism, accidents for which Grantee is not primarily responsible, fire, flood or other Acts of God, pandemics, epidemics, sabotage, action or inaction of any government instrumentality or public utility including condemnation, public health emergencies, and work delays caused by waiting for utility providers to service or monitor utility poles to which

Grantee's Cable System is attached, the unavailability of material and/or qualified labor to perform the work necessary, or other events to the extent that such causes or other events are beyond the reasonable control of the Grantee. In the event that any such delay in performance or failure to perform affects only a part of the Grantee's capacity to perform, the Grantee shall perform to the maximum extent it is able to perform and shall take all reasonable steps within its power to correct such causes in as expeditious a manner as possible. The City's lawful exercise of its appropriate and reasonable regulatory authority under this Franchise Agreement shall not constitute Force Majeure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) Grantee shall fully indemnify and hold harmless the City and its officers, agents, and employees from and against any and all losses, claims, damages, expenses, or liabilities, joint or several, to which they or any of them may become subject, and except as hereinafter provided, to reimburse each of them for any legal or other expenses reasonably incurred in connection with the investigating or defending of any action (whether or not resulting in any final and appealable adjudication or liability), arising directly or indirectly out of or from the actions of Grantee, or any of its employees, agents, or independent contractors in the establishment, construction, operation or maintenance of the Cable System or Cable System facilities or in the execution or performance of any of their duties or functions contemplated under the provisions of this Franchise including without limitation damage to persons or property, both real and personal except for damage caused by the City, its officers, employees, or agents. Grantee shall not indemnify the City for any claims resulting from acts of willful misconduct or gross negligence on the part of the City. The City may participate in any defense of a claim at its own cost and expense.

(B) Grantee shall be liable for the acts or omissions of its Affiliates while such Affiliates are involved directly or indirectly in the operation of the Cable System as if the acts or omissions of such Affiliates were the acts or omissions of Grantee.

(C) As promptly as practicable after receipt by the City of notice of the commencement of any action subject to indemnification under this Franchise, but in no event more than ten (10) business days after the date the City receives notice, the City shall notify Grantee of the commencement thereof. In case any such action is brought against the City or any other indemnified party and notice thereof is given to Grantee, Grantee shall participate in and assume the defense thereof with counsel. Grantee shall consult with the City regarding the development of available legal defenses, and the City shall cooperate in Grantee's defense of any indemnification action. Grantee may not settle any claim or action without the advance written consent of the City, such consent not to be unreasonably withheld. In the event that any such proposed settlement includes the release of the City, and the City does not consent to the amount of any such settlement or compromise, the Grantee shall not settle the claim or action, but its obligation to indemnify the City shall in no event exceed the amount of such settlement. The City agrees that it will take all necessary action to avoid a default judgment and not prejudice the Grantee's ability to defend the claim or action.

(D) The City shall, at its sole cost and expense, indemnify and hold harmless Grantee against any claims arising out of the City's use of the Cable System and the Government Access Channel. Other than to the extent provided by law, the City shall not be liable to Grantee for any damage or loss caused to any facility under the control of Grantee as a result of protecting, breaking through, moving, removing, altering or relocating any part of the Cable System by or on behalf of the

City or Grantee in connection with any declared emergency, public work or public improvement. The City shall not be held liable for the interruption of Cable Service by lawful actions of City employees in performance of their duties nor shall the City be held liable for the failure of Grantee to perform due to Force Majeure.

5.2 Insurance

(A) Grantee shall carry insurance throughout the term of this Franchise and any renewal period. The City shall be named as an additional insured. Insurance companies shall carry an A minus rating and be licensed to do business in the State of Maryland. The policies shall indemnify Grantee and the City from and against any and all claims for injury or damage to persons and property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of Grantee's Cable System. If Grantee is self-insured, it must so notify the City of the level of risk, in terms of dollar coverage, the Grantee has assumed.

(B) The minimum coverage for Commercial General Liability insurance for Grantee pursuant to this Franchise shall be one million dollars (\$1,000,000) and excess liability shall be provided for in an umbrella policy of not less than five million dollars (\$5,000,000). Grantee shall be solely liable for payment of premiums due on each policy.

(C) Grantee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Section 5.2. Grantee shall provide the City with at least thirty (30) days prior written notice by certified mail in the event there is an adverse material change in coverage or the policies are cancelled or not renewed.

(D) Grantee shall file certificates of insurance with the City within five (5) days of the effective date of this Franchise, which certificates of insurance shall be on standard industry forms.

(E) In the event of cancellation of any insurance policy required herein or upon Grantee's failure to procure said insurance, the City shall have the right to terminate the Franchise, or alternatively, to procure such insurance and charge the cost thereof to Grantee. Such costs may be paid for from Grantee's surety or by any means deemed appropriate by the City.

5.3 Construction Bonds

Grantee shall be required to obtain construction bonds in an amount to cover the costs of Grantee's construction in accordance with the City's ordinary practices applicable to users of the Rights-of-Way. The construction bond(s) shall be with a surety or sureties and in a form or forms acceptable to the City. Grantee shall pay all premiums or costs associated with maintaining the bond(s), and shall keep the same in full force and effect at all times during construction.

5.4 Letter of Credit

(A) Grantee shall provide a letter of credit from a financial institution in the amount of \$50,000 in a form acceptable to the City. In the event of any transfer of this Franchise, the City may require the new franchisee to increase the amount of the letter of credit to \$100,000.

(B) In the event it becomes necessary for the City to draw upon the letter of credit, the City will follow the procedures and requirements detailed in the letter of credit. The letter of credit shall be conditioned to be drawn upon by the City to compensate itself for any damages, costs or expenses consistent with this Franchise, and subject to providing Grantee with notice and a reasonable opportunity to cure. In particular, but without limitation, such letter of credit shall be drawn on in the case of any default or failure of Grantee to pay any fees, claims, damages, liens or taxes due under the Franchise. The City shall give Grantee ten (10) business days' notice of its intent to draw on the letter of credit. Grantee shall, within ten (10) business days, take action required to restore the letter of credit to its original full amount. The City may not draw from the letter of credit while a judicial action has been instituted by Grantee to challenge the amount owed.

5.5 Rights Reserved to the City

The rights reserved to the City with respect to the letter of credit and bonds are in addition to all other rights of the City, whether reserved by this Franchise or authorized by law, and no action or proceeding or exercise of a right with respect to such letter of credit or bonds shall affect any other right the City may have, although nothing herein is intended to allow duplicative recovery from or duplicative payments by Grantee or its surety(s).

5.6 No Limitation

Neither the provisions of this Franchise, or any bond accepted pursuant hereto, or any damages recovered hereunder shall be construed to excuse unfaithful performance by Grantee of the terms and conditions of this Franchise; or to limit the liability of Grantee under this Franchise. Any cancellation by the surety or sureties during the term of the Franchise, whether for failure to pay a premium or otherwise, without thirty (30) days advance written notice mailed by the surety or sureties, or Grantee, to the City shall be a violation of this Franchise.

SECTION 6. CUSTOMER SERVICE STANDARDS

6.1 Customer Service Standards

Grantee shall comply with the Customer Service Standards set forth in Exhibit A which is attached hereto and incorporated herein by reference. Nothing herein prohibits the City from exercising any additional customer service standard rights it has under applicable law.

6.2 Subscriber Privacy

Grantee shall comply with all applicable laws regarding the privacy rights of Subscribers and of records and correspondence pertaining thereto, including, but not limited to, any information obtained through marketing efforts or Subscriber surveys.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or the requirements of any applicable customer service standard. Upon request, Grantee will provide to the City a sample of the Subscriber contract or service agreement then in use.

SECTION 7. REPORTS AND RECORDS

7.1 Recordkeeping

Grantee's books and records shall be maintained in accordance with all federal, state, and local laws, rules and regulations. Subject to applicable law, this Franchise and the City's regulatory powers, the City shall have the right to inspect and copy all books and records, including documents in whatever form maintained, including electronic media, to the extent that such books and records are necessary for the purpose of verifying compliance with the terms and conditions of this Franchise. The inspection shall take place during Normal Business Hours, upon reasonable notice by the City of not less than fifteen (15) business days, and at Grantee's place of business unless at a location otherwise mutually agreed upon by the parties. Such notice shall reasonably identify the books, records and materials or general categories of such the City requires to inspect. The City shall take reasonable steps to protect the proprietary and confidential nature of any such documents to the extent that such documents are identified as such by Grantee or as may be covered under applicable State law. Grantee shall be responsible for marking any construction documents that it deems proprietary and confidential.

7.2 Records Required

(A) Upon request, Grantee shall provide during the term of this Franchise annual reports for activation of new types of service and Subscriber numbers for the system. Such information shall be kept confidential to the extent provided by law and in a format reasonably acceptable to the City.

(B) Reports shall be subject to the subscriber privacy provisions of the Cable Act.

(C) Grantee shall maintain all records required under federal law in addition to any records required under this Franchise. Records required under this Franchise shall be retained in a reasonable form, for three (3) years.

(D) During periods of initial construction or reconstruction of the Cable System or construction or reconstruction of a major residential subdivision of the City, Grantee shall furnish monthly construction reports. During all other periods of major construction, quarterly reports shall be filed with the City. The type and form of the report shall be provided in a format reasonably acceptable to the City.

(E) Upon request, Grantee shall provide reports of the number of Dwelling Units passed by the Cable System during the term of this Franchise. The type and form of this report shall be provided in a format reasonably acceptable to the City.

(F) Grantee may file reports required above in an electronic format convenient and available to the City and Grantee.

(G) Upon request, Grantee shall file with the City a list of all petitions, documents, applications, reports and communications submitted or filed by Grantee, or its parent, with the FCC or any governmental agency or entity having jurisdiction with respect to Grantee's Cable System that specifically relate to Grantee's Cable System within the City.

(H) From time to time, the City will review its record reporting and retention policies to ascertain their usefulness to the City.

(I) Upon written request, copies of all current rules, regulations, terms, Subscriber contract forms, rates, and conditions established or imposed by Grantee in connection with the construction, operation and maintenance of the Cable System, including revised construction manuals, shall be provided to the City.

(J) Upon written request, Grantee shall provide a link to Grantee's, or its parent organization's Form 10-K.

(K) Grantee shall provide the City such other information as is reasonably requested by the City which is necessary for the enforcement of the Franchise, provided that Grantee is given thirty (30) days prior written notice of such request.

(L) The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the City may reasonably request related to compliance with the terms and conditions of this Franchise (not including clerical errors or errors made in good faith), may be deemed a violation of this Franchise.

7.3 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the City under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall offer broad categories of programming services designed to meet the needs and interests of its Subscribers, similar to broad categories of programming offered in other jurisdictions.

8.2 Obscenity

In accordance with applicable law, Grantee shall not transmit any programming which is obscene under, or violates any provision of, applicable law relating to obscenity, and is not protected by the Constitution of the United States or the State of Maryland, provided however, Grantee shall in no way be responsible for programming over which it has no editorial control, including EG Access programming. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.3 Parental Control Device

The Grantee shall provide adequate security provisions in its Subscriber site equipment to permit parental control over the use of Cable Services on the System.

8.4 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored; provided, however, Grantee reserves the right to deny service for good cause, including but not limited to non-payment or theft of service, vandalism of equipment, or documented or proven harassment or abuse of Grantee's employees or agents. The Grantee shall act to the best of its ability so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for repair, maintenance or testing.

(B) In the event of a transfer of the Franchise, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to its reasonable costs for services rendered (as requested by the City) when it no longer operates the Cable System.

(C) In the event Grantee willfully fails to operate the Cable System for seven (7) consecutive days without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected.

(D) Subject to applicable law, for a reasonable period of time, not to exceed three (3) months, in the period between revocation, termination or forfeiture of this Franchise and the transfer of the Cable System to a qualified Person approved by the City, the Grantee shall continue to provide technical and operational services including all programming services, including EG Access services and other services, in accordance with the terms and conditions of this Franchise. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to its reasonable costs for services rendered when it no longer operates the Cable System.

8.5 Services for the Disabled

Grantee shall comply with all applicable federal regulations, including the Communications Act of 1934, as amended, and the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., that ensure the provision of Cable Services and related equipment are accessible to and usable by persons with disabilities, if readily achievable. It is the Subscriber's responsibility to notify the Grantee that he/she is disabled and requires special accommodation and to provide a reasonable amount of time for the Grantee to comply.

SECTION 9. ACCESS

9.1 EG Capital Contribution and Supplemental Fee

(A) Unless the City notifies Grantee of a lesser amount, Grantee shall provide to the City Seventy Cents (\$0.70) per month per Residential Subscriber for EG Access capital costs (the "Capital Contribution"). Grantee shall not be responsible for collecting or paying the Capital

Contribution with respect to gratis or bad debt accounts. Within ninety (90) days of a written request from the City, Grantee shall provide a report to the City regarding such gratis and bad debt accounts.

(B) The Capital Contribution shall take effect on the Effective Date and payments hereunder shall be due and payable no later than thirty (30) days following the end of each quarter. The City shall have discretion to allocate the Capital Contribution in accordance with applicable law, provided that, upon written request of the Grantee, the City submits a summary of EG capital expenditures from the Capital Contribution to Grantee within ninety (90) days of the end of each calendar year. To the extent the City makes Access capital investments using City funds prior to receiving necessary Capital Contribution funds, the City is entitled to credit such investments against subsequent Capital Contribution payments due from Grantee.

(C) Additionally, during the first five (5) years of the term of the Franchise Agreement, and provided the Franchise is mutually extended beyond the initial five (5) year term in accordance with Section 2.3 herein, for an additional three (3) years or more, Grantee shall, for a period not to exceed eight (8) years, provide to the City a Supplemental EG Capital Fee of Ten Cents (\$0.10) per month per Residential Subscriber (the "Supplemental Fee"). Grantee shall not be responsible for collecting or paying the Supplemental Fee with respect to gratis or bad debt accounts. The Supplemental Fee shall take effect on the Effective Date and payments hereunder shall be due and payable no later than thirty (30) days following the end of each quarter. The City shall have discretion to allocate the Supplemental Fee in accordance with applicable law, provided that, upon written request of the Grantee, the City will submit a summary of expenditures from the Supplemental Fee to Grantee within ninety (90) days of the end of each calendar year. To the extent the City makes Access capital investments using City funds prior to receiving necessary Supplemental Fee funds, the City is entitled to credit such investments against subsequent Supplemental Fee payments due from Grantee.

(1) If the incumbent cable operator no longer maintains an institutional network for the City of Hagerstown or begins to offset its marginal cost related to any institutional network from its franchise fees paid to the City, Grantee shall no longer be obligated to provide the Supplemental Fee.

(D) To the extent permitted by federal law, Grantee may (i) recover the costs of the Capital Contribution, Supplemental Fee, or any other costs arising from the provision of EG services, from Subscribers, (ii) include such costs as a separately billed line item on each Subscriber's bill; and (iii) externalize, line-item, or otherwise pass-through costs to Subscribers.

9.2 Management and Control of Access Channels

The City shall have the responsibility for identifying the Designated Access Providers and sole and exclusive responsibility for allocating the Access Channel resources under this Section to control and manage the use of the Access Channels provided by Grantee under this Franchise, which are used or useable for the Educational Access Channel and Government Access Channel ("EG" or "EG Access"). The City may authorize Designated Access Providers to control and manage the use of any and all EG Access facilities provided by Grantee under this Franchise, including, without limitation, the operation of EG Access Channels. To the extent of such designation by the City, the Designated Access Provider shall have the responsibility for operating and managing such EG Access facilities. The City shall require any Designated Access Provider, at its sole cost and expense, to indemnify and hold harmless Grantee against any claims arising out of the Designated Access

Providers use of the Cable System and Access Channels. The City or its designee may formulate rules for the non-commercial operation of the EG Access Channels, consistent with this Franchise. Grantee shall cooperate with the City and Designated Access Providers in the use of the Cable System and EG Access facilities for the provision of the Government and Educational Access Channels. Nothing herein shall prohibit the City from authorizing itself to be a Designated Access Provider. Nothing herein shall prohibit the City from assigning several Designated Access Providers to share a single EG Access Channel. Nothing herein shall prohibit the City, at its discretion, from reallocating use of the Access Channels established under subsection 9.3 in order to best meet community needs. Any reallocated use must comply with the requirements of this Franchise.

9.3 Access Channels

(A) Grantee shall, at its expense, within six (6) months after the Effective Date make available to the City or its Designated Access Provider two (2) standard-definition ("SD") Downstream Access Channels and simulcast two (2) high-definition ("HD") Downstream Access Channels. These Access Channels initially shall be allocated as follows: one (1) Governmental Access Channel in SD and HD for use by the City; and one (1) Educational Access Channel in SD and HD to be used primarily by the Washington County Board of Education ("BOE"). The HD channels shall mirror the content from the respective SD channels.

(1) For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of 720p, 1080i, or greater.

(2) Grantee shall not be required to carry HD Access Channels in a higher quality format than that of the HD Access Channel signals delivered to Grantee. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming.

(3) Grantee shall carry the HD Access Channel simultaneously in SD format until SD channels are no longer provided over the Cable Systems.

(4) Grantee shall be responsible for all costs associated with the transmission of HD Access signals on its side of the Demarcation Point. The City or Designated Access Provider shall be responsible for costs associated with HD Access signal transmission on its side of the Demarcation Point.

(5) The City or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) The City acknowledges that to view Access Channels in HD Subscribers may have to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers or the City.

(B) The Educational Access Channel shall be made available to the BOE/Schools and local higher educational institutions free of charge. Grantee, the City and representatives from the BOE/Schools/local higher educational institutions may meet to determine the rules for use of the Channel and facilities.

(C) The Access Channels shall not be under the direction, control, supervision or management of Grantee except that Grantee can require that the signals meet applicable technical standards.

(D) There shall be no restriction on Grantee's technology used to deploy and deliver Access Channel signals so long as the requirements of the Franchise are otherwise met. Grantee may implement carriage of the EG channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that does not materially degrade the signal provided by the City or Designated Access Provider so that the EG Channels are reasonably comparable and functionally equivalent to similar commercial channels carried on the Cable System. In the event the City believes that Grantee fails to meet this standard, the City will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner.

(E) The City shall require all users of any of the EG facilities or Channels to execute a compliance form, and Grantee shall transmit programming consistent with this Franchise and such EG users shall defend and hold harmless Grantee and the City from and against any and all liability or other injury, including the reasonable cost of defending claims or litigation, arising from or in connection with claims arising out of the content of the material furnished for cablecast.

9.4 Competitive Services

(A) Neither Government Access or Educational Access users shall use the Access Channels, equipment, or facilities to provide programming, production or advertising services that are in competition with the programming, production or advertising services of Grantee.

(B) Educational programming produced by School or local higher educational institution personnel or staff or purchased by the Schools or local higher educational institutions for educational purposes shall not be considered competitive services.

(C) An Access Channel may not be leased to any third party for any type of service without the express written approval of the Grantee and City.

9.5 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access Channel services or programming, Grantee shall at its own expense take necessary technical steps including the acquisition of all necessary equipment, on Grantee's side of the Demarcation Point, to ensure that the capabilities of EG Access Channel services are not diminished or adversely affected by such change. The City, or Designated Access Provider, shall at its own expense, provide any necessary equipment on its side of the Demarcation Point, which may be reimbursed from the EG Capital Contribution.

9.6 Underutilized Access Channels

(A) Grantee and the City agree that it is their mutual goal to fully and efficiently use the Channel capacity of the Cable System, which may include allowing the Grantee to use underutilized

time on Access Channels. If Grantee believes that any Access Channel has underutilized time, Grantee may file a request with the City to use that time. In response to the request, the City will consider a combination of factors, including but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the programming carried on the Access Channel. The City will also take into account the mission of the Access programming, whether it is feasible for the Designated Access Providers to cluster Access Channel programming into blocks of time such that the Channel space can be compatibly shared between the Designated Access Provider and the Grantee and/or if several Designated Access Providers can combine their programming onto a single Access Channel. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the Access Channel or portion of the Access Channel may be used by the Grantee, then Grantee may begin using such time ninety (90) days after receipt of the decision. Any permission granted pursuant to this subsection for use of an Access Channel or a portion thereof shall be considered temporary.

(B) At such time as a Designated Access Provider believes that it has the resources and ability to utilize the Access Channel time currently used by the Grantee pursuant to this subsection, a Designated Access Provider may request that the City return such Channel or portion of the Channel for Access Channel purposes. In response to the request, the City will consider a combination of factors, including but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the programming proposed to be carried on the Access Channel as well the applicant's ability and resources to acquire or produce the proposed Access Channel programming. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the evidence exists to support the return of the Access Channel or portion of the Access Channel to the Designated Access Provider, then Grantee shall surrender the requested time on the Access Channel within ninety (90) days of receiving the decision. The Designated Access Provider's request shall not be unreasonably denied.

9.7 Access Channels On Basic Service

All Access Channels provided to Subscribers under this Franchise shall be included by Grantee, without limitation, as a part of Basic Service. If Basic Service is no longer provided by Grantee, Access Channels shall continue to be provided to all Subscribers subject to applicable law and the requirements of this Franchise.

9.8 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of Access Channel assignments.

9.9 EG Access Channel Identification

Anytime an EG Access Channel is moved from its identified channel location, the Grantee shall provide ninety (90) days' notice to the City and thirty (30) days' notice to Subscribers. The Grantee shall use reasonable means of notification so that Subscribers are made aware of the change in channel assignment. In the event that an EG Access Channel has developed logos and identification with the prior channel assignment identified, the Grantee shall pay, up to Five Thousand Dollars (\$5,000) for the reasonable documented out-of-pocket costs to recreate logos and identification materials that identify the EG Access Channel with the new channel assignment and where necessary pay for the printing of replacement paper stock with the new channel information.

The requirements herein shall not apply for EG Access Channel assignment relocations due to factors not within Grantee's control, including changes in the channel designation of must-carry Channels or other Federal, state or local requirements. Grantee does not relinquish its ownership of or ultimate right of control over a channel by designating it for access programming use.

9.10 Interconnection

The Grantee shall maintain its Cable System so that it may be interconnected with other City franchised Cable Systems in order to make EG Access, in any form, widely available.

9.11 Return Lines

Concurrent with the System build-out, Grantee shall, at its expense, provide throughout the term of this Franchise a fiber optic return line to the headend from City Hall, at 1 East Franklin Street, Hagerstown, MD 21740 ("City Hall") in order to enable the distribution of Access Channel programming to Residential Subscribers. In addition, Grantee shall provide and maintain a fiber optic return line from the Washington County Board of Education, at 820 Commonwealth Avenue, Hagerstown, MD 21740, to City Hall to consolidate EG Access signals for delivery to Grantee's headend. At the City's or Designated Access Provider's expense, which may be reimbursed from the EG Capital Contribution, Grantee shall provide any additional return lines, or relocation of return lines, requested during the term of the Franchise. Grantee shall provide and maintain the equipment on its side of the Demarcation Point. The City shall provide and maintain the equipment on its side of the Demarcation Point. Such channel transmission, reception and switching equipment shall be capable of transporting an HD signal for Access Channels provided under Section 9.3. Notwithstanding the requirements above, Grantee as an alternative to providing fiber optic return lines, may, at its sole discretion, interconnect its Cable System with other providers in order to receive and transmit EG Channel programming.

(1) Notwithstanding the requirements above, Grantee may interconnect Access Channels with the incumbent cable operator in the City in the event that Grantee determines, in its sole discretion, that it would be economically burdensome to construct and maintain return lines for receipt of the Access Channel(s) programming versus interconnecting with the incumbent cable operator. Grantee shall be responsible for negotiating and constructing the interconnect with the incumbent operator in a timely manner, not to exceed six (6) months from the Effective Date, and for Grantee's costs in constructing and maintaining the interconnect.

9.12 Repair and Replacement

The Grantee shall be responsible for maintaining the return line(s) so long as the City provides Grantee with access to such locations and access to the EG Access Channel equipment within such locations. Any replacement or upgrade of signal transmitter and channel modulation equipment at EG Access origination sites shall be at the City's or Designated Access Provider's expense on the City's or Designated Access Provider's side of the Demarcation Point. Any replacement or upgrade of signal receiver, demodulation and processing or remodulation equipment on Grantee's side of the Demarcation Point or at the Grantee's headend for EG Access purposes shall be at Grantee's expense. If Grantee intends to charge the marginal cost for the maintenance of the return line(s), it will give the City one hundred twenty (120) days' notice of the commencement of charges. If the City believes that the marginal cost has not been reasonably substantiated, it will

notify Grantee and discussions will ensue within the 120-day period until the City and Grantee determine a mutually agreeable marginal cost. The Grantee will disclose in writing the amount due and provide the City, in writing, with reasonable detail sufficient to substantiate the marginal cost and the amount due.

9.13 Access Program Listings in Subscriber Guides

(A) For purposes of this Section, "Electronic Program Guide" or "EPG" means the program guide, navigation system and search functions accessible on Grantee's digital Cable Services through the Subscriber set-top unit and remote control, or their successor technology.

(B) Grantee shall make available to the City and any Designated Access Providers the third-party vendor contact information to participate in the Electronic Program Guide ("EPG") carried on the Cable System, and take any necessary steps to authorize and facilitate a request to place programming on the EPG.

(C) The City and its Designated Access Providers shall be responsible for providing the Access Channel programming information in the format and within the appropriate timeframe for insertion into program guides to the third-party guide providers.

(D) The City or the Designated Access Provider, whichever is applicable, shall bear the capital, implementation and operating costs to include the Access Channel programming information into the EPG for Subscribers.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Required Authorizations

No substantial construction or reconstruction can take place within the City without the City's knowledge and appropriate authorizations including authorizations from the FCC and State agencies, as may be required. A permit or permits, when issued, will satisfy this requirement to provide knowledge to, and receive appropriate authorization from, the City for such work.

10.2 Use of the Rights-of-Way

Grantee's Cable System and facilities, including poles, lines, antennas, satellite dishes, microwave dishes, other equipment and all appurtenances shall be located and erected so as:

- (A) Not to endanger or interfere with the health, safety, or lives of Persons;
- (B) Not interfere with improvements the City may deem proper to make;
- (C) Not interfere with the free and proper use of the Rights-of-Way, places or property except to the minimal extent possible during actual construction and/or repair;
- (D) Not interfere with the rights and reasonable convenience of private property owners, except to the minimal extent possible during actual construction and/or repair; and

(E) Not to obstruct, hinder, or interfere with any gas, electric, water, or telephone facilities or other utilities located within the City.

10.3 Change in Right-of-Way

In the event that all or part of a Right-of-Way is eliminated, discontinued, modified or closed, all rights and privileges granted pursuant to this Franchise with respect to said Right-of-Way, or any part thereof so eliminated, discontinued, modified or closed, shall cease upon the date on which the Right-of-Way, or part thereof, is affected. Nonetheless, the City shall provide Grantee with sixty (60) days prior written notice of said elimination, discontinuance, modification or closure. Where reasonably possible and to the extent consistent with the treatment of other utility facilities in the former street or Right-of-Way, the City shall reserve easements for Grantee to continue to use the former street or Right-of-Way. The Grantee shall bear the cost of any removal or relocation of the Cable System unless the vacation is primarily for the benefit of a private party, in which case the private party shall bear such costs. If public funds are available to any other user of the Right-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall notify Grantee of such funding and make available such funds to the Grantee within a reasonable timeframe.

10.4 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which the Grantee is made aware, regarding Rights-of-Way, joint trenching and boring issues that may impact the Cable System. The City shall provide ten (10) days' written notice of any such meetings.

10.5 Joint Trenching

Grantee shall endeavor to limit the cutting of streets, sidewalks and other Rights-of-Way through joint trenching. Grantee shall contact the Department of Engineering prior to any street cuts or disturbance of a sidewalk to determine if utilities or telecommunications companies or other cable operators are scheduled to cut the same street or disturb the same sidewalk. A permit, when issued, will satisfy this requirement. Upon discovery of other like plans to disturb the Right-of-Way, Grantee shall contact the other users and, where practicable, plan for joint trenching.

10.6 General Standards

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be durable and installed in accordance with sound engineering practices. Grantee will take prompt corrective action if it finds that any facilities or equipment in the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or applicable law.

10.7 Permits Required for Construction

No Cable System construction work shall take place without a City permit and the payment of the permit fee as required by the City Code. Notwithstanding the requirements herein, Grantee shall not be required to obtain a permit for individual drop connections to Subscribers, servicing or installing pedestals or other similar facilities, or other instances of routine maintenance or repair to its Cable System. The City shall not be required to make inspections or approve Grantee's Cable System or construction plans and specifically disclaims such obligation. Grantee is also responsible for

securing and paying for any and all State permits and is responsible for displaying the appropriate permits, upon request, at the work site. Any other related construction shall also be subject to the requirements of the City Code and the payment of all associated fees.

10.8 Emergency Permits

In the event that emergency repairs are necessary, that would under normal conditions require a permit from the City under Section 10.7, Grantee may initiate such emergency repairs and shall apply for appropriate permits with the City's Engineering Department the next business day.

10.9 Maps

(A) Upon thirty (30) days' written request, Grantee shall provide strand maps in hard copy or electronic form of all constructed areas and maps of proposed construction in sufficient detail as reasonably requested by the City. The maps are not required to depict cable types, number of cables, electronic equipment, and service lines to individual Subscribers.

(B) The City does not guarantee the accuracy of any of its maps showing the horizontal or vertical location of existing substructures.

10.10 Movement of Facilities During Emergencies

During emergencies, the City may move Grantee's facilities without prior notice. The City shall use reasonable efforts to minimize the impact on Grantee's facilities related to any emergency movement. Grantee shall be entitled to compensation for expenses incurred for replacement or repair related to any emergency movement by the City to the extent that other wired users of the Right-of-Way are so compensated.

10.11 Compliance with Construction Standards

(A) Grantee shall construct, maintain, operate and repair its Cable System in accordance in all material respects with applicable sections of the following most current editions and standards, to the extent that such standards and regulations remain in effect and are applicable to the Grantee's Cable System: Occupational Safety and Health Act, as amended; National Electrical Safety Code ("NESC") and National Electrical Code ("NEC"), as amended; Federal Aviation Administration rules and regulations, as amended; FCC rules and regulations, as amended; County, State, and City environmental permits and procedures; and generally applicable provisions of the City Code as amended from time to time. Grantee shall also comply in all material respects with any common joint trenching agreements to which Grantee is a party; any pole attachment agreements; and any federal, state or applicable local laws and regulations that may apply to the operation, construction, maintenance or repair of Cable Systems, including without limitation local zoning and construction codes and laws, all as hereafter may be amended or adopted.

(B) Grantee's Cable System, including drop cables, shall be grounded in accordance with the latest version of the NESC, the NEC, or in a pole attachment agreement. The City's adoption of the latest NESC or NEC standards shall not be required to enforce these provisions.

10.12 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits; pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the City's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not unduly interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not unduly obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.13 Main Roads and Streets

Grantee shall not unduly create traffic congestion on main roads and streets due to construction or maintenance of the Cable System. In compliance with generally applicable permitting requirements, construction and maintenance shall be scheduled around morning and evening rush hours on North and South Potomac, East and West Washington, North and South Burhans Blvd, Northern Avenue and Eastern Blvd, when practicable. In the event that construction or maintenance must be conducted during such times at such places, the Grantee shall notify the City's Department of Engineering. The City may deny Grantee's use of said streets and roadways during said periods.

10.14 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition.

10.15 Marking

Grantee will comply with and adhere to State and local regulations relating to the locating and marking of its underground facilities.

10.16 Notice Regarding Right-of-Way

Grantee shall give not less than seven (7) calendar days' notice to private property owners of construction work in adjacent Rights-of-Way.

10.17 Underground Construction and Use of Poles

- (A) The Grantee shall utilize existing poles and conduit wherever possible.

(B) In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) In areas where electric and telephone wires are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality, at no expense to the City unless funding is generally available for such relocation to all users of the Rights-of-Way. Nothing in this Franchise shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment, although such related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules applicable to cable systems.

(D) Upon the decision of the City to require the undergrounding of all aerial utility and Cable System facilities within an area, the City shall notify Grantee ninety (90) days prior to the requirement to place its facilities and cables underground. Unless Grantee's reimbursement is otherwise directed or prohibited by applicable law, Grantee's reasonable relocation costs shall be included in any computation of necessary project funding by the City or private parties. It is understood that there is no guarantee by the City that public or private funds will be available or that such funds, if available, will cover the entire cost of any such project.

(E) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper City authorities.

(F) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person. Grantee shall obtain a separate pole attachment agreement with the City prior to attaching or installing facilities on any City owned poles, which shall be in a form mutually agreeable to the City and Grantee. To the extent another Person owns poles or facilities, Grantee shall be required to obtain an agreement with such other Person prior to installation of Grantee's facilities and equipment.

(G) The Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for fiber optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the City in any construction by the Grantee that involves trenching or boring, provided that the City has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the City to lay its cables, conduits and fiber optics in the Grantee's trenches and bores, provided the City pro rata shares in the cost of the trenching and boring on the same terms and conditions as the Grantee. The City shall not use, or permit any other entity or person, to use the City's cables, conduits and fiber optics placed in trenches or bores opened by the Grantee to provide any service or products that directly or indirectly compete with any product or

services provided by the Grantee. The City shall be responsible for maintaining its respective cables, conduits and fiber optic facilities buried in the Grantee's trenches and bores under this paragraph.

10.18 Installation In Public Buildings

Grantee shall secure, if required under applicable City building ordinances, a permit for installations in public buildings and facilities.

10.19 Poles, Towers, and Satellite Dishes and Antennas

(A) Grantee shall comply with the applicable provisions of the City's Zoning Ordinance, and other applicable ordinances, related to the erection of poles, towers, satellite dishes or antennas.

(B) No location of any pole, antenna or tower of Grantee shall be a vested right and such pole, antenna or tower shall be removed or modified by Grantee at its own expense whenever the City determines that the public convenience or public safety would be enhanced thereby.

(C) Grantee shall, to the extent technically feasible, utilize existing poles, towers and other structures in the construction of its Cable System. The City in its deliberations may consider economic considerations brought forward by Grantee which may impact Grantee's use of existing poles, towers and structures.

(D) Nothing in this Franchise prohibits, restricts or seeks to regulate Grantee's contractual freedom to negotiate for collocation upon the towers or poles of telecommunications providers, other cable systems or upon the City's towers and poles; or from seeking to rent to telecommunications providers and other cable operator's space upon Grantee's poles and towers.

10.20 Restoration of Public and Private Property

(A) Grantee shall be responsible for restoring, replacing or repairing public and private property disturbed by Grantee's construction, reconstruction, maintenance or other activity that causes a disturbance to property. Property shall be restored, replaced or repaired at Grantee's sole cost and expense to a condition reasonably comparable to that prior to the conditions which caused the disturbance, injury or damage. Absent unusual or extraordinary circumstances, Grantee shall use its best efforts to repair, restore or replace property within ten (10) days from the date the work causing damage is complete. In the event Grantee fails to perform replacement, restoration or repair in a satisfactory manner, as determined by the City, the City shall have the right to make the correction at the sole expense of Grantee and may demand payment from Grantee, which payment shall be made within thirty (30) days after completion of the work. In the event a private property owner claims that his property has not been fully restored or restored in accordance with the conditions described herein, that owner shall file a written complaint with the Grantee with a copy to the City stating the damage to the property and request that the restoration be completed. If the restoration is not satisfactorily completed within thirty (30) days of notice from the owner to the Grantee, the owner shall notify the City. Failure to restore property in accordance with the terms and conditions of this Section shall be considered a violation of this Franchise.

(B) The Grantee shall have the authority to cut or trim trees, or other natural vegetative growth, encroaching or overhanging any of its Cable System in the Franchise Area so as to prevent contact with or potential damage to Grantee's wires, cable, or other equipment. Grantee shall comply

with federal, state, or generally applicable local law related to any such work. Grantee shall not cut or trim any tree, shrub or vegetation on public property, other than in the Right-of-Way, without first obtaining written authorization from the City. Written authorization shall not be required for emergency work or work to restore service outages. However, authorization must be obtained once the emergency is concluded or the outage is resolved. Any such work shall be done at Grantee's expense. Grantee shall not perform any such work on private property without first securing permission of the property owner.

10.21 Inside Wiring

Grantee shall comply with the federal inside wiring rules and regulations, as amended from time to time.

10.22 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to permanently discontinue using any facility within the Rights-of-Way, Grantee shall notify the City of its intent regarding such discontinuance. Grantee may remove the facility or request that the City allow it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, Access Channel purposes.

10.23 Movement of Cable System Facilities For City Purposes

(A) The City has the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City when reasonable public convenience requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Such work shall be performed at the Grantee's expense. The City shall provide reasonable notice to Grantee, not to be less than thirty (30) days, except in the case of an emergency, and allow Grantee the opportunity to perform such action.

(B) In the event of any capital improvement project exceeding \$500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least thirty (30) days' written notice to Grantee. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. If the City requires Grantee to relocate its facilities located within the Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way.

(C) If the Grantee fails to complete this work within the time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the City due to Grantee's delay. In such event, the City shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

(D) If public funds are available to any other user of the Right-of-Way for the purpose of defraying the cost of any of the foregoing, the City shall notify Grantee of such funding and make available proportionate funds to the Grantee within a reasonable timeframe.

10.24 Emergencies

In the event of an emergency, or where the Cable System has been determined by the City to be constituting an imminent danger to health, safety, life or property, Grantee shall remove or relocate any or all parts of the Cable System at the request of the City. If Grantee refuses or fails to comply with the City's request, the City may remove or relocate any or all parts of the Cable System upon reasonable notice to Grantee. The City shall bill the Grantee, or deduct the costs from the letter of credit or bonds, for the City's actual costs and expenses in performing the work. The City shall use reasonable efforts to minimize the impact on Grantee's facilities related to any emergency removal, but the City shall not be liable to Grantee for any real or consequential damages sustained by Grantee or its Subscribers or any other users of the Cable System. Grantee shall be entitled to compensation for expenses incurred for replacement or repair related to any emergency removal by the City to the extent that other users of the Rights-of-Way affected by the same emergency are so compensated.

10.25 Movement of Cable System Facilities for Other Franchise or Permit Holders

If any removal, replacement, modification or disconnection of the Cable System is reasonably required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise or permit holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the expense of such removal, replacement, modification or disconnection of the Cable System be paid by the benefitted party, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.26 Temporary Movement of Cable

Upon not less than ten (10) business days written notice, Grantee shall temporarily raise and lower its aerial cable and associated structures upon a request by a person holding a valid permit from the City. The requesting party shall be responsible for all costs and expenses associated with the movement of the cables and structures. Grantee may require prepayment of the fees and expenses. A statement of fees for such temporary raising and lowering of cables and structures shall be provided to the requesting party at the time of the request, and the requesting party shall sign a document agreeing to the charge and the payment thereof or the Grantee shall not be required to move its cable plant and structures.

10.27 Reservation of City Use of Right-of-Way

Nothing in this Franchise shall prevent the City or public utilities owned, maintained or operated by public entities other than the City from constructing sewers; grading, paving, repairing or

altering any Right-of-Way; repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.28 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment or construction at any time during Normal Business Hours upon at least two (2) business days' notice, or, in case of an emergency related to facilities in the Right-of-Way, at any time, upon demand without prior notice in order to ensure compliance with the terms and conditions of this Franchise. Any such inspection shall not interfere with the Grantee's operations. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to bill the Grantee, or deduct the costs from the bonds, for the City's actual costs and expenses in performing the work. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City. The Grantee shall have the right to have a representative present at any such inspection. Both parties shall make a good faith effort to work with each other to schedule any such inspections at a mutually convenient time. The City shall have the right to charge generally applicable inspection fees therefor.

10.29 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.30 Contractors and Subcontractors

Any contractor or subcontractor used for work or construction, installation, operation, maintenance or repair of Grantee's Cable System must be properly licensed under the laws of the State of Maryland and in accordance with all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as Grantee would have if the work were performed by Grantee. Grantee shall employ contractors, subcontractors and employees to perform work for it who are trained and experienced in their duties. Grantee shall be responsible for ensuring that the work performed is consistent with the obligations of this Franchise and applicable

laws, regulations, policies and procedures, and shall be responsible for promptly correcting acts, as necessary, or omissions by any contractor or subcontractor. Contractors and subcontractors shall maintain, at a minimum, insurance appropriate to, and at sufficient levels for, the scope of each such contractor's or subcontractor's work.

10.31 Single Point of Contact

The City shall designate a single point of contact at the City for the administration of Right-of-Way matters.

SECTION 11. CABLE SYSTEM CONFIGURATION, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee shall build, maintain and operate an activated Cable System with a minimum equivalent bandwidth of 1 GHz and provide two-way capability throughout the service area.

(B) Equipment must be installed so that all closed captioned programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all signals received in stereo are retransmitted in stereo.

(C) Grantee's construction decisions shall not discriminate based on the income level of any particular community within the Franchise Area.

11.2 Standby Power

Grantee shall provide standby power generating capacity at the Headend capable of providing at least twenty-four (24) hours continuous emergency operation. Grantee shall maintain standby power system supplies, rated for at least four (4) hours duration, throughout the trunk and distribution networks. Grantee shall also deploy status monitoring equipment at strategic locations throughout its Cable System and in accordance with industry practice, make commercially reasonable efforts to maintain portable motorized generators to be deployed, prior to system failure, in the event that the duration of the power disruption is potentially going to exceed four (4) hours.

11.3 Emergency Broadcasts

Grantee shall install and maintain as part of its Cable System an Emergency Alert System (EAS) consistent with federal requirements.

11.4 FCC Technical Standards

Grantee shall comply in all material respects with applicable FCC Technical Standards, as amended from time to time.

11.5 Cable System Performance Testing

(A) Grantee shall, at its expense, perform all tests on its Cable System required by the FCC, and the City under Section 11.6, and shall maintain written records of its test results, including in its public file as required by the FCC. Copies of such test results will be provided to the City upon request.

(B) Upon written request, required tests may be observed by representatives of the City. Grantee will notify the City of Cable System tests at least ten (10) days before, and provide the opportunity to observe, any such tests the City has requested to witness.

(C) Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a violation of this Franchise. Sites shall be re-tested following correction.

11.6 Additional Tests

Where there exists significant evidence which in the judgment of the City reasonably casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority, upon thirty (30) days prior written notice to require Grantee to perform additional applicable tests to show compliance with FCC standards, and to analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required by the City.

SECTION 12. CABLE SYSTEM BUILD-OUT AND SERVICE TO PUBLIC BUILDINGS

12.1 Cable System Construction

(A) The parties acknowledge that Grantee is not the first entrant into the wireline video market in the City. As a new entrant, investment in and expansion of Grantee's Cable System should be driven by market success, and not a contractual requirement for ubiquitous coverage. To demonstrate its commitment to provide Cable Service in the City, Grantee agrees that within three (3) years from the Effective Date of this Franchise, Grantee shall use commercially reasonable efforts to make Cable Services available to at least forty percent (40%) of the Dwelling Units in the City ("Initial Service Area"). Grantee shall not be obligated to expand its Cable System beyond the Initial Service Area until at least twenty-five percent (25%) of the Dwelling Units in the Initial Service Area purchase Cable Services from Grantee ("Initial Subscription Threshold"). Once the Grantee achieves the Initial Subscription Threshold, Grantee agrees that within two (2) years from the date Grantee meets the Initial Subscription Threshold, Grantee shall make a further investment in the Cable System to ensure that Grantee has the capability to offer Cable Services to at least an additional

twenty percent (20%) of the Dwelling Units in the City ("Additional Service Area"). Grantee shall not be obligated to expand its Cable System beyond the "Additional Service Area" until at least twenty-five percent (25%) of the Dwelling Units in the Additional Service Area purchase Cable Services from Grantee ("Additional Subscription Threshold"). Provided the Franchise is mutually extended beyond the initial five (5) year term, once the Grantee achieves the Additional Subscription Threshold, Grantee agrees that within two (2) years from the date the Grantee meets the Additional Subscription Threshold, Grantee shall make a further investment in the Cable System to ensure that the Grantee has the capability to offer Cable Services to at least eighty-five percent (85%) of the Dwelling Units in the City ("Ending Service Area").

(1) Except as provided in Section 12.2(D), Grantee shall not be obligated to extend its Cable System to areas where the average density is below twenty (20) Dwelling Units per mile, as measured in strand footage from the nearest technically feasible point on the active Cable System trunk or feeder line from which a usable cable signal can be obtained. For purposes of this Subsection, a home shall only be counted as a Dwelling Unit if such home is not currently passed by the Cable System and is within three hundred (300) feet drop distance of the Grantee's proposed distribution cable in the Right-of-Way.

(2) A Dwelling Unit shall be counted toward the Initial Service Area, Additional Service Area, or thereafter when Grantee's Cable Service passes the Dwelling Unit's route of vehicular or wireline utility ingress or egress regardless of whether providing Cable Service to the Dwelling Unit would require additional cost to the customer for a non-standard drop or Cable System extension.

(3) Dwelling Units requiring private easements for trunk or feeder line construction will be excluded from the Initial Coverage Threshold calculation unless Grantee is able to secure such private easement.

(4) Subject to the build out requirements in this Section 12.1(A) or Section 12.2(D), Grantee shall offer Cable Service to Dwelling Units within one hundred twenty-five (125) feet of drop distance from its distribution cable in the Right-of-Way at its standard installation rate. Grantee may charge a Dwelling Unit the incremental cost required to reach such Dwelling Unit beyond the one hundred twenty-five (125) foot drop distance. The Grantee may require such cost to be paid in advance.

(5) Grantee shall not be held in non-compliance with these build-out requirements caused by delays in the receipt of all necessary easements, permits, pole licenses, pole attachment agreements, locates, or other required authorizations, when the delay is not the fault of the Grantee.

(B) Nothing herein shall preclude Grantee from constructing additional Cable System extensions or making Cable Service available to additional Dwelling Units at its discretion.

(C) While Grantee is granted a franchise to serve the entire City, subject to the provisions of this subsection and Section 9.11, the parties acknowledge that Grantee shall have the sole discretion to determine where and when to activate and offer Cable Services to Subscribers.

12.2 Service Availability

(A) In General. Under Normal Operating Conditions, Grantee shall provide a standard installation of Cable Service within seven (7) days of a request by any potential Residential Subscriber within its service area in the City, except that the time deadline shall not apply where line extension construction or extensive internal wiring is required to provide such service, or where the potential Residential Subscriber requests an installation date beyond seven (7) days. For purposes of this subsection, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. This standard shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis. Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise;

(2) At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot aerial drop connecting to the exterior demarcation point for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing, upon request, to the City;

(B) Non-discriminatory Service. Grantee shall not arbitrarily refuse to provide Cable Services to any Person within its Franchise Area. Grantee reserves the right to refuse to provide Cable Service for good cause, including but not limited to non-payment, theft of service, damage to equipment or abusive conduct directed towards Grantee's employees or agents. Subject to the installation requirements above, all Dwelling Units passed by the Cable System in the Franchise Area shall have the same availability of Cable Services from Grantee's Cable System at non-discriminatory rates. Notwithstanding the foregoing, Grantee may impose reasonable requirements (e.g., equipment deposits) based on creditworthiness and past payment history and introduce new or expanded Cable Services on a geographically phased basis, where such services require an upgrade of the Cable System. Nothing contained herein shall prohibit the Grantee from offering promotions, discounts, or other marketing techniques.

(C) Service to Multiple Dwelling Units. The parties hereto acknowledge and agree that installation and provision of Cable Service to MDUs are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and the Grantee. Unless the Grantee has entered into a bulk services agreement with the building owner, landlord or governing body, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the serviceability of the building in accordance with this Section and Grantee having legal access to the building and said unit. Grantee may charge installation fees in connection therewith.

(D) Customer Charges for Extensions of Service. For areas with an average density of less than twenty (20) Dwelling Units per mile under Section 12.1(A)(1) that are not otherwise going to be served by Grantee, or subsequent to the completion of the Ending Service Area build, for service requests outside of Grantee's Ending Service Area, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements.

For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which service may be expanded, Grantee will contribute an amount equal to the total construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of Dwelling Units per 5,280 cable-bearing strand feet of its trunk or distribution cable from the nearest technically feasible point on the Cable System from which a usable signal can be obtained and whose denominator equals twenty (20). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. For purposes of this Subsection, a home shall only be counted as a Dwelling Unit if such home is not currently passed by the Cable System and is within three hundred (300) feet drop distance of the Grantee's proposed distribution cable in the Right-of-Way. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

(E) Upon written request, the Grantee shall provide the technical specifications required to be met for the Dwelling Unit owner to dig the trench and/or install appropriate conduit, consistent with the technical specifications of the Grantee. If the owner elects to conduct trenching and/or install appropriate conduit at the owner's expense, the Grantee's cost estimate shall be modified to take into account any cost savings or increases that may result.

(F) Exceptions to the above density computation and line extension requirements are businesses located in IR, JG, CL, CG, CC-MU, CR, POM and I-MU zoning districts, as amended from time to time, as it is the intent of this subsection to exclude industrial parks and shopping centers.

12.3 Service to Community Facilities.

Upon written request, the Grantee shall provide Basic and Expanded Basic Cable Service and a Standard Installation at one outlet to fifteen (15) Public Building locations or Schools as defined in Section 1.32 of this Franchise, located in the Franchise Area within one hundred twenty-five (125) feet of the Grantee's distribution cable. No charge shall be made for installation or Basic or Expanded Basic Cable Service, except that Grantee may charge for installation beyond one hundred twenty-five (125) feet of distance of the cable plant. Notwithstanding the foregoing requirement, Grantee may charge the marginal cost for Basic and/or Expanded Basic Cable Service in accordance with applicable law. If Grantee intends to charge the marginal cost for the services required by this Section, it will give the City one hundred twenty (120) days' notice of the commencement of charges. The Grantee will disclose in writing the amount due and provide the City, in writing, reasonable detail sufficient to substantiate the marginal cost and the amount due. If the City believes that the marginal cost has not been reasonably substantiated, it will notify Grantee within sixty (60) days of receipt of the notice of the commencement of charges, identifying the information it reasonably requires to substantiate marginal cost. Grantee, within the 120-day period shall provide the City with the information requested. Charges may include those for services and equipment, if any, at each location. Charges may include all applicable fees and taxes and shall be subject to adjustment at a time consistent with Grantee's retail rate adjustments. The City may remove locations or change the level of Cable Service with thirty (30) days' written notice to the Grantee. Such obligation to provide such Cable Service shall not extend to areas of City buildings where the Grantee would normally enter into a contract to provide Cable Service. Outlets of Basic and Expanded Basic Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be

used for lawful purposes. The City shall designate a City representative to monitor the above complimentary video service and cable drop requirements.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Notice of Noncompliance

(A) In the event the City believes that Grantee has not complied with the material terms of the Franchise, the City shall notify Grantee in writing of the alleged noncompliance; state the nature of the noncompliance; and reference the sections of the Franchise for which Grantee is alleged to be out of compliance.

(B) The Grantee shall have thirty (30) days from receipt of the City's written notice to: (i) come into compliance as provided for; (ii) propose an alternative remedy which the City may deem acceptable that would have the effect of placing the Grantee in compliance; (iii) in the event that, by nature of the noncompliance, such noncompliance cannot be cured within the thirty (30) day period, initiate commercially reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that the cure will be completed; or respond to the City contesting the assertion of noncompliance. Noncompliant action may lead to revocation of the Franchise as provided for in this Franchise or for certain violations the imposition of liquidated damages.

(C) In the event the Grantee fails to respond to the City's notice, if the alleged noncompliance is not remedied within thirty (30) days or the date projected by the Grantee, or if the City disagrees with the Grantee's assertion contesting the noncompliance, the City shall schedule a public hearing to investigate the default. Such public hearing shall be held at a time that is no less than ten (10) business days therefrom. The City shall notify the Grantee in advance, in writing of the time and place of such hearing and provide the Grantee with a reasonable opportunity to be heard.

(D) A public hearing under this section stays all other proceedings in furtherance of the alleged noncompliance.

(E) Subject to applicable federal and state law, in the event the City, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the City may: (i) seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; (ii) pursue liquidated damages in accordance with Section 13.7 below; or (ii) in the case of a substantial default of a material provision of the Franchise, initiate revocation proceedings in accordance with Section 13.2 below.

13.2 Franchise Forfeiture, Revocation and Termination

(A) Subject to applicable federal and state law, in addition to all other rights and powers retained by the City under this Franchise, or otherwise, the City reserves the right to forfeit, revoke and terminate the Franchise and all rights and privileges of the Grantee in the event of a substantial breach of the material terms and conditions of the Franchise.

(B) If Grantee practices any intentional fraud or deceit upon the City or its Subscribers, or if Grantee becomes insolvent or bankrupt, as adjudged by a court of competent jurisdiction, then this Franchise may be revoked.

(C) In accordance with Section 13.1 herein, Grantee shall be given a written notice from the City, an opportunity to cure, and public hearing prior to revocation, termination or forfeiture of this Franchise. In the event that the City believes that grounds for revocation, termination or forfeiture exist or have existed, the City shall give written notice to the Grantee of its intent to revoke, terminate, or forfeit the Franchise, including an instance of substantial non-compliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have sixty (60) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response from the Grantee or upon receipt of the response does not agree that the allegations of noncompliance have been or will be resolved, it may then seek revocation of the Franchise at a public hearing. The City shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request revocation of the Franchise.

(D) At the designated public hearing, the City shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, in accordance with the standards of a fair hearing applicable to administrative hearings in the State of Maryland, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the City shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court.

(E) In the event that the City has revoked this Franchise for cause, the City shall comply with Section 627 of the Cable Act as to the disposition of the Cable System, or the City may require removal of the System in accordance with this Franchise. Upon a decision to acquire the Cable System, the City shall exercise its option to acquire the Cable System within four (4) months from the date of revocation of this Franchise or the entry of a final order of Grantee's judicial appeal of the City's revocation order, whichever is later. Notwithstanding the above, Grantee shall not be required to remove its Cable System, or to relocate the Cable System, or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Services, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

13.3 Judicial Relief

No provision of this Franchise shall be deemed to bar the right of the City or Grantee from seeking judicial relief for a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated hereunder. Neither the existence of other remedies identified in the Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages, as allowed under applicable law, or to seek judicial enforcement by means of specific performance, injunctive relief or mandate, or pursue any other judicial remedy available at law or in equity, although nothing herein is intended to allow duplicative recovery from or duplicative payments by Grantee or its surety(s).

13.4 Sale or Acquisition of Cable System

The sale or acquisition of the Cable System due to non-renewal of the Franchise shall be governed by the Cable Act.

13.5 Receivership and Foreclosure

(A) At the option of the City, subject to applicable law, this Franchise may be revoked one hundred eighty (180) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred eighty (180) days of appointment; or

(2) The receiver or trustee has, within one hundred eighty (180) days after his/her election or appointment, fully complied with all the terms and provisions of this Franchise and remedied all defaults under the Franchise. Additionally, the receiver or trustee shall have executed an agreement duly approved by the court having jurisdiction, by which the receiver or trustee assumes and agrees to be bound by each and every term, provision and condition of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, subject to applicable law, unless:

(1) The City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this Franchise.

13.6 City Immunity

This Franchise shall not be read to limit any immunities the City may enjoy under federal, State or local law.

13.7 Liquidated Damages

(A) Prior to the imposition of any liquidated damages by the City, the Grantee shall be given notice and an opportunity to cure, and public hearing, in accordance with Section 13.1 herein.

(B) In the event of a violation of this Franchise, the City may pursue actual or liquidated damages. If the City pursues liquidated damages, such action shall be in lieu of pursuing actual damages on behalf of the City for the violation. The City in its sole discretion may assess Grantee or charge to and collect from the letter of credit or bonds provided for in this Franchise, the following liquidated damages for:

(1) Failure to construct and activate the Cable System in accordance with the terms of this Franchise, unless the delay is authorized by the City, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(2) Failure to provide data, documents, reports or information, one hundred dollars (\$100) per day for each day, or part thereof, such failure occurs or continues.

(3) Failure to cooperate with the City during any performance evaluation, technical audit or financial audit, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(4) Failure to comply with FCC technical standards, five hundred dollars (\$500) per day for each day, or part thereof such failure occurs or continues.

(5) Failure to comply with customer service standards, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(6) Failure to notify the City of a transfer, five hundred dollars (\$500) per day for each day, or part thereof, such failure occurs or continues.

(7) Failure to provide the Emergency Alert System or failure of the EAS system to work properly due to fault of the Grantee, five hundred dollars (\$500) per day for each day, or part thereof, such failure occurs or continues.

(8) Failure to restore City property or Rights-of-Way in accordance with this Franchise, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(9) Failure to operate the Cable System or provide Cable Service over the required portion of the Franchise Area for three (3) consecutive days, two hundred fifty dollars (\$250) per day for each day, or part thereof, such failure occurs or continues.

(C) In calculating the potential forfeitures under this provision, such forfeitures shall be assessed only on a category-by-category basis, without simultaneous assessments within the same category. For example, a failure to provide multiple reports shall be assessed as a single per day forfeiture of \$100. Liquidated damages awarded under this Franchise shall be limited to no more than \$25,000 per year. Nothing herein is intended to allow duplicative recovery from or payments by Grantee or its surety(s).

(D) The City may, in its discretion, waive in full or in part any or all liquidated damages.

(E) Subject to the provisions of Section 14.7 (A) above, liquidated damages shall be paid by the Grantee to the City. If the liquidated damages are not paid in full and in a timely manner, the City may draw upon the letter of credit to satisfy the obligations as provided herein.

(F) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period if granted by the City.

13.8 Effect of Abandonment

(A) If the Grantee abandons its Cable System during the Franchise term, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System

temporarily until the Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City; or obtain an injunction requiring the Grantee to continue operations.

(B) The City shall be entitled to exercise its options herein if the Grantee willfully fails to provide Cable Service over a substantial portion of the Franchise Area for seven (7) consecutive days.

(C) If Grantee arbitrarily and capriciously discontinues Cable Service to Subscribers, this Franchise may be revoked or terminated by the City Council in accordance with Sections 13.1 and 13.2 herein.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

14.2 Transfers

(A) This Franchise and the Cable System shall not be assigned, transferred, sold, or disposed of in whole, or in part, by voluntary sale, sale and leaseback, merger, consolidation, exchange of stock, by provision of a management agreement, or otherwise, or by forced or involuntary sale, without the prior written consent of the City.

(B) Prior approval of the City shall be required where a controlling interest in Grantee is to be acquired during the term of this Franchise in any transaction, or series of transactions, by a person or group of persons acting in concert, none of whom owned or controlled Grantee, singularly or collectively on the Effective Date of the Franchise. The term "controlling interest" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.

(C) The approval of a transfer in one instance shall not render unnecessary approval of any subsequent transfer.

(D) Approval of a transfer by the City does not constitute a waiver or release by the City of its rights under this Franchise (unless otherwise stated in writing), whether arising before or after the date of the transfer, nor does such approval constitute a waiver or release of the rights of the City in and to the Rights-of-Way or public land, or release of any police powers.

(E) A transfer of this Franchise shall be conducted in accordance with the Cable Act and applicable federal rules and regulations, and the requirements set forth in this Franchise. The City may request any information it deems reasonable to evaluate the financial, technical, and legal qualifications of the transferee. Grantee and the transferee shall provide the information requested by the City in a timely manner. Any questions raised by the City, and any decision made by the City,

regarding a transfer request shall be directly related to *bona fide* concerns regarding the qualifications of the transferee and the ability of the transferee to comply with the existing Franchise terms.

(F) If a transfer occurs within three (3) years of the Effective Date, a transferee and the Grantee requesting a transfer of this Franchise shall be responsible for the City's reasonable direct and indirect costs, consultants' and attorneys' fees and other fees and expenses of the transfer process in an amount up to \$12,500.

(G) The City's consent to a transfer shall not be unreasonably withheld.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for (i) a transfer in trust, by mortgage, hypothecation, or by assignment to a financial institution of any right, title or interest of Grantee in the Franchise or in the Cable System in order to secure indebtedness; or (ii) a transfer to an entity directly or indirectly owned and/or controlled by Comcast Corporation; or (iii) subject to the provisions of subsection 14.2(B), the sale, conveyance, transfer, exchange or release of less than fifty percent (50%) of Grantee's equitable ownership in the Cable System or this Franchise.

SECTION 15. REMOVAL OF CABLE SYSTEM

Grantee shall apply for and obtain encroachment permits, licenses, authorizations or approvals as may be necessary for removal of the Cable System. Grantee shall pay any and all fees, costs and expenses associated with the removal of its Cable System and shall deposit with the City an acceptable security deposit, if required, prior to the removal of any part of its Cable System. Grantee shall be responsible for the restoration of all affected public and private property, public buildings and Rights-of-Way that may be damaged during the removal of its Cable System or due to the removal of its Cable System. The removal shall be completed within twelve (12) months following the date of this Franchise's expiration, termination, forfeiture or revocation unless the City and Grantee agree in writing to a different length of time. In the event the Grantee fails to remove all of its Cable System, the City may remove same and charge the cost of removal to the letter of credit and bonds. The City also has the right, in accordance with applicable law, to condemn any remaining part of the Cable System and take ownership accordingly. Grantee shall not be required to remove its Cable System or to sell the Cable System, or any portion thereof as a result of revocation, denial of renewal, or any other lawful action to forbid or disallow Grantee from providing Cable Service, if the Cable System is actively being used to facilitate any other services not governed by the Cable Act.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Equal Employment and Non-discrimination

Throughout the term of this Franchise, Grantee shall fully comply with all equal employment and non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Localism

(A) Whenever practicable, Grantee shall make its employment opportunities in the City, to provide, install, sell, market and deliver its Cable Services, available to City residents to apply. Additionally, Grantee shall make a reasonable effort to coordinate with the State of Maryland's, or

other State or County Employment or Social Service Agencies', workforce programs when posting employment opportunities (e.g. Maryland Workforce Exchange).

(B) Wherever practicable, Grantee shall make a reasonable effort to allow City businesses to contend for supplying goods and providing services to install, sell, market and deliver Grantee's Cable Services.

16.3 Notices

(A) The agents for the receipt of notice shall be:

To the City:

City of Hagerstown
1 East Franklin Street
Hagerstown, MD 21740
Attention: City Administrator

To the Grantee:

Comcast Cable
1215 East Fort Avenue, Suite 103
Baltimore, MD 21230
Attention: Government Affairs Department

With copies to:

Comcast Cable Northeast Division
676 Island Pond Rd.
Manchester, NH 03109
Attention: Government Affairs Department

(B) All notices shall be in writing and deemed served upon receipt.

16.4 Captions and Headings

The captions and headings of the sections and subsections set forth herein are intended solely to facilitate the reading hereof. Such captions and headings shall not affect the meaning or interpretation of this Franchise.

16.5 Attorneys' and Consultants' Fees, Costs and Expenses

If any action or suit arises in connection with this Franchise other than renewal proceedings, the prevailing party (either the City or Grantee, as the case may be) shall be entitled to recover all of its reasonable attorneys' fees, consultants' costs and expenses and other costs and expenses in connection therewith in accordance with applicable law, in addition to such other relief as the court may deem proper.

16.6 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.7 Authority to Amend

This Franchise may be amended at any time by written agreement between the parties.

16.8 Venue

Venue for any judicial dispute between the City and Grantee arising under or out of this Franchise shall be in Circuit Court in Washington County, Maryland, or federal court in Baltimore, Maryland.

16.9 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.10 Waiver

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision. The failure of the Grantee at any time to require performance by the City of any provision hereof shall in no way affect the right of the Grantee hereafter to enforce the same. Nor shall the waiver by the Grantee of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.11 Cumulative Rights

The rights and remedies reserved to the City by this Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this Franchise.

16.12 Construction of Agreement

This Franchise shall be governed, construed and enforced in accordance with the laws of the State of Maryland (as amended), the Cable Act as amended, any applicable rules, regulations and orders of the FCC, and any other applicable local, State and federal laws, rules regulations, legislation or orders (as such now exist, are later amended or subsequently adopted).

16.13 Actions of the City or Grantee

In any action by the City or Grantee mandated or permitted under the terms hereof, it shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or

consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.14 Entire Agreement

This Franchise and Exhibit and a letter agreement dated November 22, 2022 represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral and written negotiations between the parties.

16.15 Time Is of the Essence

In determining whether a party has complied with this Franchise, the parties agree that time is of the essence.

16.16 Severability

If any Section, subsection, paragraph or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

IN WITNESS WHEREOF, this Franchise is signed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF HAGERSTOWN:

City Clerk

Mayor

ATTEST:

COMCAST OF CALIFORNIA/
MARYLAND/PENNSYLVANIA/
VIRGINIA/WEST VIRGINIA, LLC

Title: _____

Title: _____

EXHIBIT A - CUSTOMER SERVICE STANDARDS

I. POLICY

The Grantee shall be permitted the option and autonomy to first resolve citizen Complaints without delay and interference from the City.

Where a given Complaint is not addressed by the Grantee to the citizen's satisfaction, the City may intervene.

These Standards are intended to be of general application; however, the Grantee shall be relieved of any obligations hereunder if it is unable to perform due to force majeure. The Grantee is free to exceed these Standards for the benefit of its Customers and such shall be considered performance for the purposes of these Standards.

II. DEFINITIONS

When used in these Customer Service Standards (the "Standards"), the following words, phrases, and terms shall have the meanings given below.

"Complaint" shall mean a Customer expression of dissatisfaction that is within Grantee's control and requires a corrective measure on the part of Grantee, whether written or oral, that is directed to Grantee's system office or to the City for resolution. This does not include routine inquiries, service requests and initial contacts where an issue is concurrently resolved to the Subscriber's satisfaction.

"Customer" or "Subscriber" shall mean any person who lawfully receives cable service from the Grantee.

"Customer Service Representative" (or "CSR") shall mean any person employed by the Grantee to assist, or provide service to Customers, whether by answering public telephone lines, answering Customers' questions, or performing other customer service related tasks.

"Normal Business Hours" shall mean those hours during which most similar businesses in the City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.

"Normal Operating Conditions" shall mean those service conditions that are within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages not within the control of the Grantee, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

"Service Interruption" shall mean the loss of picture or sound on one or more cable channels.

III. CUSTOMER SERVICE

A. Courtesy

All employees of the Grantee shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with Customers.

B. Accessibility

1. Grantee's customer service centers and bill payment locations will be open at least during Normal Business Hours and will be conveniently located. The Grantee shall post a sign at service centers advising Customers of its hours of operation. The Grantee shall maintain options for bill payment within the City and convenient options for processing change of service requests, addressing Customer inquiries and requests and for equipment return and exchange. Grantee may satisfy equipment return and/or exchange through in-person locations within the Hagerstown Metropolitan area, pickup and/or replacement at Subscribers' addresses, or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer). Subscribers may utilize, at their preference, any options for equipment return or exchange made available by the Grantee. The Grantee shall provide free exchanges of faulty converters at the Customer's address.

2. The Grantee shall maintain local telephone access lines or a toll-free telephone number that shall be available 24 hours a day, seven days a week for service/repair requests.

3. The Grantee shall have technicians on call 24 hours a day, seven days a week, including legal holidays.

4. During Normal Business Hours and under Normal Operating Conditions, the Grantee shall retain trained Customer Service Representatives and have telephone line capacity available to ensure that telephone calls to service/repair and billing inquiries are answered within 30 seconds or less, and that any transfers to a customer service representative are made within 30 seconds. These standards shall be met no less than 90 percent of the time, under Normal Operating Conditions, measured quarterly.

5. After Normal Business Hours, the telephone lines may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Customer Service Representative on the next business day.

6. Under Normal Operating Conditions, the total number of calls receiving busy signals shall not exceed 3% of the total telephone calls. This standard shall be met 90 percent or more of the time measured quarterly.

7. Grantee shall not be required to acquire equipment or perform surveys to measure compliance with any of the telephone answering standards above unless and until the City requests such action(s) based on a historical record of complaints indicating a clear failure to comply.

C. Responsiveness

1. Residential Installation

a. The Grantee shall complete all standard residential installations requested by Customers within seven (7) business days after the order is placed, under Normal Operating Conditions 95% of the time measured on a quarterly basis, unless the Customer requests a later date for installation. "Standard" residential installations are those located within 125 feet from the existing distribution system. If the Customer requests a nonstandard residential installation, or the Grantee determines that a nonstandard residential installation is required, the Grantee shall provide the Customer in advance with a total installation cost estimate and an estimated date of completion.

b. Absent unusual circumstances, all new underground cable drops from the curb to the home shall be buried in accordance with the requirements of applicable regulations, and within a reasonable period of time (but no later than fourteen (14) days, weather permitting) from the initial installation, or at a time mutually agreed upon between the Grantee and the Customer. Grantee shall not be held in non-compliance with these burial requirements caused by delays in the receipt of all necessary easements, permits, locates, or other required authorizations, when the delay is not the fault of the Grantee.

2. Service Appointments

a. The appointment window alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the Customer. Absent unusual circumstances, the Grantee may not cancel an appointment with a Customer after close of business on the day before the scheduled appointment.

b. If Grantee's representative is running late for an appointment with a Customer and will not be able to keep the appointment as scheduled, the Customer will be contacted. The appointment will be rescheduled, as necessary, at a time, consistent with Grantee's standard service hours, which is convenient for the Customer.

c. The Grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, provided that the technician has all necessary parts and equipment to complete the specified work order. If the Customer is absent when the technician arrives, the technician shall leave notification of timely arrival.

3. Outages and Service Interruptions

a. In the event of a system outage (loss of reception on all channels) resulting from Grantee equipment failure affecting five (5) or more Customers, the Grantee shall respond promptly and shall remedy the problem as quickly as is feasible.

b. Under Normal Operating Conditions, the Grantee shall begin working on Service Interruptions promptly and in no event later than twenty four (24) hours after the interruption becomes known.

c. The Grantee shall keep an accurate and comprehensive file of any and all Complaints received during the existing and preceding calendar year regarding the Cable System or its operation of the Cable System, in a manner consistent with the privacy rights of Customers, and the Grantee's actions in response to those Complaints. The Grantee shall provide the City an executive summary upon fifteen (15) days' written request which shall include information concerning Complaints.

d. Under Normal Operating Conditions, the Grantee shall use its best efforts to begin working on all outages and service interruptions for any cause beyond the control of the Grantee within thirty-six (36) hours, after Grantee becomes aware that the conditions beyond its control have subsided but not later than forty-eight (48) hours.

4. TV Reception

a. The Grantee shall render efficient service, make repairs promptly, and make reasonable efforts to interrupt service only for good cause and for the shortest time possible. Under Normal Operating Conditions, the Grantee shall make reasonable efforts to provide prior notice to Subscribers and the City before interrupting service for proactive planned maintenance or construction, except where such interruption is expected to be three (3) hours or less in duration, or performed between the hours of 12 A.M and 6 A.M. Such notice shall be provided by methods reasonably calculated to give Subscribers actual notice of the planned interruption.

b. If a Customer experiences poor signal quality attributable to the Grantee's equipment, the Grantee shall begin actions to correct the problem within the next business day or twenty-four (24) hours, whichever is later, following the Customer notification of the service problem provided that the Customer is available and the repair can be made within the allotted time. If an appointment is necessary, the Customer may choose the blocks of time described in Section 2(a). At the Customer's request, the Grantee shall repair the problem at a time within Grantee's standard service hours, which is convenient for the Customer.

5. Problem Resolution. A Customer Service Representative shall have the authority to provide credit for interrupted service, to waive fees, to schedule service appointments and to change billing cycles, where appropriate. Any difficulties that cannot be resolved by the Customer Service Representative shall be referred to the appropriate supervisor or department for resolution.

6. Billing, Credits, and Refunds

a. The Grantee shall allow at least fifteen (15) days for payment of a Customer's service bill. If the Customer's service bill is not paid within forty-five (45) days, the Grantee may perform a disconnect of the Customer's service. Grantee shall provide Customers with at least fourteen (14) days' written notice prior to disconnection, which may be part of the Customer's service bill.

b. The Grantee shall issue refund checks promptly but no later than either the Customer's next available billing cycle following resolution of the request or within thirty (30) days, whichever is later, or the return of the equipment supplied by the Grantee if service is terminated.

c. Credits for service will be issued no later than the Customer's next available billing cycle following the determination that a credit is warranted.

7. Notice/Work. Except in the case of an emergency involving public safety or service interruption to a large number of Subscribers, the Grantee shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed. Nothing herein shall be construed as authorizing access or entry to private property, unless such right to access or entry is otherwise provided by law. Any work on private property shall be conducted in accordance with an agreement between the Grantee and property owner. If damage is caused by any Grantee activity, the Grantee shall reimburse the property owner for the cost of the damage or replace or repair the damaged property to a condition reasonably comparable to the condition of such property before the Grantee's activity commenced. Adjacent or affected property owners shall be reasonably notified in advance of major construction or installation projects in the Rights-of-Way or on private property. In the case of an emergency, the Grantee shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made.

D. Customer Information

1. Upon installation, and at any time the Customer may request, the Grantee shall provide the following information, in clear, concise written form:

- a. Products and services offered by the Grantee, including its channel lineup;
- b. The Grantee's complete range of service options and the prices for those services;
- c. Instruction on the use of cable TV service;
- d. The Grantee's billing, collection and disconnection policies;
- e. Customer privacy requirements;
- f. All applicable Complaint procedures, including the telephone numbers and where to find the mailing addresses of the Grantee and the contact at the City;
- g. Use and availability of parental control/lock out devices;
- h. Where to locate the days, times of operation, and location of service centers.

2. Customers will be notified of any changes in rates, programming services or channel positions in writing. Notice must be given to Customers a minimum of thirty (30) days in advance of such changes if the change is within the control of Grantee. Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by any federal agency, State or the City on the transaction between Grantee and the Customer. Advance notice is not required for the launch of new channels when offered on a subscription basis or added to an existing service tier at no additional cost to the Subscriber. The written notices required by this section may be provided electronically and by any other reasonable means (such as video scroll message) through which notifications are usually, customarily, and typically provided to Subscribers.

3. All officers, agents, and employees of the Grantee or its contractors or subcontractors who personally visit any residential dwelling shall be issued identification cards bearing their name and photograph. The Grantee shall account for all identification cards at all times. Every vehicle of the Grantee shall be visually identified to the public as working for the Grantee. Every vehicle of a subcontractor or contractor, used for installation or maintenance activities, shall be labeled with the name of the contractor or subcontractor, and shall be further identified as contracting or subcontracting for the Grantee.

4. Each CSR, technician or employee of the Grantee in each contact with a Customer shall state the estimated cost of the service, repair, or installation prior to delivery of the service or before any work is performed, and shall provide the Customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work is to be performed.

E. Safety

The Grantee shall install and locate its facilities, cable system, and equipment in compliance with all federal, state and local safety standards applicable to similarly-situated users of the Right-of-Way including cable operators, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever the Grantee receives notice that an unsafe condition exists with respect to its equipment, the Grantee shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.

IV. COMPLAINT PROCEDURE

A. Complaints to the Grantee

1. The Grantee shall establish written procedures for receiving, acting upon, and resolving Complaints without intervention by the City (except where necessary) and shall publicize such procedures through printed documents at the Grantee's sole expense.

2. Within fifteen (15) calendar days after receiving a Complaint, the Grantee shall notify the Customer of the results of its investigation and its proposed action or credit.

3. The Grantee shall also notify the Customer of the Customer's right to file a Complaint with the City in the event the Customer is dissatisfied with the Grantee's decision, and shall explain the necessary procedures for filing such Complaint with the City.

4. The Grantee's Complaint procedures shall be filed with the City.

B. Complaints to the City

1. Any Customer who is dissatisfied with any proposed disposition of a Complaint by the Grantee or who has not received a decision within the fifteen (15) calendar day period shall be entitled to have the Complaint reviewed by the City.

2. The Customer may initiate the review either by calling the City or by filing a written request together with the Grantee's written decision, if any, with the City.

3. The Customer shall make such filing and notification within twenty (20) days of receipt of the Grantee's decision or, if no decision has been provided, within thirty (30) days after filing the original Complaint with the Grantee.

4. If the City decides that further evidence is warranted, the City shall require the Grantee and the Customer to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions.

5. The Grantee and the Customer shall produce any additional evidence, including any reports from the Grantee, which the City may deem necessary to an understanding and determination of the Complaint.

6. If the City determines that the Complaint is valid and that the Grantee did not provide the complaining Customer with the proper solution and/or credit, the City may assert noncompliance in accordance with Section 13.1 of the Franchise.

C. Overall Quality of Service

The City may evaluate the overall quality of Customer service provided by the Grantee to Customers:

1. In conjunction with any performance evaluation provided for in the Franchise; or

2. At any other time, in its sole discretion, based on the number of Complaints received by the Grantee or the City, and the Grantee's response to those Complaints.

D. Procedures for Remedying Violations

If the City has reason to believe that the Grantee has failed to comply with any of these Standards, or has failed to perform in a timely manner, the City may assert noncompliance in accordance with Section 13.1 of the Franchise.

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

Topic:

Introduction of an Ordinance: Purchase of 50-58 West Antietam Street

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion - Introduce Ordinance to Purchase 50-58 West Antietam Street.pdf

Description

Motion - Ordinance to Purchase 50-58 West Antietam

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: Introduction of an Ordinance to Purchase 50-58 West Antietam Street

Charter Amendment _____

Code Amendment _____

Ordinance **X**

Resolution _____

Other _____

MOTION: I hereby move to introduce an Ordinance to approve the “Agreement of Sale” for the purchase of real property known as 50-58 West Antietam Street for the construction of a parking deck.

Date of Introduction: 11/22/2022

Date of Passage: 12/20/2022

Effective Date: 01/19/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO APPROVE THE PURCHASE
OF REAL PROPERTY KNOWN AS
50-58 WEST ANTIETAM STREET, HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, Hager5, LLC, a Maryland limited liability company, owns real property located at 50-58 West Antietam Street in Hagerstown, Maryland (hereinafter the "Property"); and

WHEREAS, the Property is currently used as a parking lot; and

WHEREAS, the Property's location makes it ideal for construction of a parking deck to serve identified parking needs of the City; and

WHEREAS, the Mayor and Council believe that the acquisition of the Property is consistent with the goals and priorities of the Mayor and Council; and

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to do so;

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 purchase of 50-58 West Antietam Street be and is hereby approved.
3. That the Mayor be and is hereby authorized to execute and deliver the Agreement of Sale for 50-58 West Antietam Street, a copy of which is attached hereto and incorporated herein by reference.
4. That the Mayor and 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 Agreement of Sale, including but not limited to the assignment and assumption of any leases relating to the Property.

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 Keller, Mayor

Date of Introduction: November 22, 2022
Date of Passage: December 20, 2022
Effective Date: January 19, 2023

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("Agreement") is made as of the ____ day of _____, 2022 by and between **HAGER5, LLC, a Maryland limited liability company** (the "Seller") and the CITY OF HAGERSTOWN, a Maryland municipal corporation, or its nominee or assignee (the "Buyer"), under the following circumstances:

Seller is the fee simple owner of those certain parcels of real property, located at 50-58 West Antietam Street in Washington County, Maryland consisting of +/- 38,225.1 square feet as more particularly shown and described on the Boundary Line Survey attached hereto and incorporated herein as **Exhibit A** (the "Land"), saving and excepting the +/- 0.05 ac. (2,333 sf.) previously sold and transferred to Buyer by Deed dated May 27, 2021 and recorded among the Land Records of Washington County at Book 6640, Page 169 and as shown and described on the Plat recorded among the Land Records of Washington County at Plat 11255-11256. Seller desires to sell the Property (hereinafter defined) to Buyer, and Buyer desires to acquire the Property for purposes of constructing a parking deck. Following execution of this Agreement of Sale, but prior to any closing, Buyer shall engage in its procurement process for construction of the parking deck. If, after evaluating the resulting bids, Buyer determines it cannot proceed with construction of the parking deck, Buyer shall be released fully from its obligations under this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - PURCHASE AND SALE

1.1 **Recitals.** The foregoing recitals be and are hereby incorporated herein by reference.

1.2 **Property.** "Property" shall mean, collectively: (a) the Land, (b) all improvements constructed upon Land, (c) all mineral rights, rights of way or use, servitudes, easements, and appurtenances belonging to the Land, (d) to the extent of Seller's interest therein, the bed of any street, alley, or road adjoining the Land, and (e) all land use, zoning, subdivision and other governmental approvals, permits and entitlements which are applicable to the Land, including all rights of Seller to any plans and specifications relating thereto (collectively, the "Plans").

1.3 **Purchase and Sale.** Seller agrees to sell and Buyer agrees to purchase the Property, upon the terms and conditions set forth herein.

1.4 **Purchase Price.** The purchase price to be paid for the Property (the "Purchase Price") shall be ONE MILLION TWO HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,200,000.00).

1.5 **Deposit.** Within TWO (2) business days after the Effective Date (hereinafter defined), Buyer shall deliver to Lincoln Title & Settlement Services, LLC ("Escrow Agent" and "Title Company"), in cash or by wire transfer of immediately available funds, the sum of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) (the "Deposit"). Upon expiration of the Inspection Period, the Deposit shall become non-refundable except in the event of a default by Seller or failure of any express condition of Closing as provided for herein.

1.6 **Escrow Agent.** Escrow Agent shall hold and disburse the Deposit in accordance with the terms and provisions hereof. If a dispute arises between Seller and Buyer concerning the distribution of the Deposit, Escrow Agent may deposit the Deposit with a court of competent jurisdiction and interplead Seller and Buyer with respect thereto. Seller and Buyer shall each reimburse Escrow Agent for one-half of any reasonable costs and expenses incurred by Escrow Agent as a result of any such dispute.

1.7 **Inspection Period; Survey.** (a) Buyer shall have SIXTY (60) days from the Effective Date (the "Inspection Period") during which to inspect and investigate the Property and determine if the Property is suitable for Buyer's intended use. Without limitation, Buyer may, upon reasonable notice to Seller, enter upon the Property at any reasonable time to conduct and perform such tests, surveys and evaluations as Buyer deems necessary. Buyer's right to enter and inspect the property as described above shall continue until the Closing (or earlier termination of this Agreement as permitted hereby). Buyer shall have the right to terminate this Agreement by providing written notice to Seller prior to 5:00 p.m. Eastern Time on the last day of the Inspection Period. Upon providing said written notice, the Agreement shall be deemed terminated, the Deposit shall be

returned to Buyer and, except as otherwise expressly provided for in this Agreement, the parties shall be relieved of any and all further obligations hereunder.

(b) Buyer will advise Seller in writing at least 48 hours before entry of the dates of any and all tests and will schedule all such tests during evening or weekend hours whenever feasible unless otherwise requested by Seller. Seller will have the right to have a representative of Seller accompany Buyer and Buyer's representatives, agents or designees while they are on Property and prior to Buyer's communication with any tenants or vendor/service provider of Seller. Any entry by Buyer, its representative, agents or designees will not materially interfere with Seller's or any tenants' use of the Property.

(c) Buyer will restore any damage to the property caused by Buyer or its agents at Buyer's sole cost and expense if this transaction does not close. Until restoration is complete, Buyer will take all steps necessary to ensure that any conditions on the Property created by Buyer's testing will not materially interfere with the normal operation of the Property or tenants or their employees, or create any dangerous, unhealthy, unsightly or noisy conditions on the Property.

(d) Before commencing any entry involving physical testing, drilling or other physical disturbance, Seller may require Buyer to provide Seller with proof of comprehensive or commercial general liability insurance covering Buyer or its consultant or contractor performing the work, which insurance shall include, but not be limited to, completed operations and broad form property damage coverage and which shall name Seller as an additional insured. The insurers and the amounts and coverages of such policies shall be satisfactory to Seller. This provision will survive the Closing or any earlier termination of this Agreement.

1.8 Seller's Materials. Within FIVE (5) business days after the Effective Date, Seller shall deliver to Buyer copies of all surveys, soil tests, environmental reports, traffic studies, building or site plans, correspondence from any governmental authority, or other similar documents or reports, if any, which are within Seller's possession or control.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

2.1 Covenants, Representations, and Warranties of Seller. (a) Seller represents and warrants to Buyer that, to the best of Seller's knowledge as of the Effective Date: (1) other than the Parking Agreement (defined below) and Short Term Parking Permits (defined below), Seller has not executed any leases, easements, or other encumbrances or agreements affecting all or any portion of the Property which are not recorded and which will remain in effect after Closing; (2) Seller has the power and authority to execute and deliver this Agreement and to perform all of its obligations hereunder, and upon such execution and delivery, this Agreement shall be valid and enforceable against Seller in accordance with its terms; (3) Seller is not a party or a potential party to any pending, contemplated, or (to Seller's knowledge) threatened bankruptcy or similar proceeding or litigation, under any federal, state, or local law, which might adversely affect the Property or Seller's ability to perform its obligations hereunder; (4) the execution of this Agreement by Seller will not violate any law, rule, regulation, court order, contract, agreement, or commitment or obligation by which the Property or Seller is affected; (5) except as specifically set forth in any environmental reports delivered to Buyer, no hazardous materials are present or have been released in, on, or under the Property prior to or during Seller's ownership of the Property; (6) Seller is not a "foreign person" as defined in Section 1445(b)(2) of the Internal Revenue Code, as amended ("FIRPTA"); and (7) all bills and claims for labor performed or materials furnished to or for the Property have been fully paid. The foregoing representation and warranties are referred to as "**Seller's Representations**." All of Seller's Representations shall be deemed to be remade as of the Closing Date. As used and referred to herein, the "**Parking Agreement**" refers to that certain Parking Space Rental Agreement with BCP Hagerstown LP, a Delaware limited partnership, dated March 10, 2022 and recorded among the Land Records of Washington County at Book 6950, Page 386, a copy of which is attached hereto and incorporated herein as Exhibit B. As used and referred to herein, the "**Short Term Parking Permits**" shall mean collectively

those certain short term lease agreements for monthly parking permits listed and identified on Exhibit C attached hereto and incorporated herein.

(b) Seller shall execute and deliver to the Title Company at Closing an affidavit (the “**Owner’s Affidavit**”) in form and content reasonably approved by Seller and the Title Company in order to satisfy any reasonable “seller” requirements for issuance of an ALTA form owner’s policy of title insurance (“**Title Policy**”) to Buyer.

2.2 Representations and Warranties of Buyer. Buyer covenants, represents, and warrants to Seller, as of the Effective Date and as of the Closing Date, that: (a) Buyer has the power and authority to execute and deliver this Agreement and to perform all of its obligations hereunder, and upon such execution and delivery, this Agreement shall be valid and enforceable against Buyer in accordance with its terms; and (b) Buyer is not a party or a potential party to any pending, contemplated, or (to Buyer’s knowledge) threatened bankruptcy or similar proceeding under any federal, state, or local law.

ARTICLE III - CLOSING

3.1 Closing. (a) Closing under this Agreement (“**Closing**”) shall occur at the offices of the Title Company on a date (the “**Closing Date**”) designated by Buyer, not later than THIRTY (30) days immediately following Buyer’s award of a bid for construction of the parking deck. In the event Buyer has not awarded a bid for construction and proceeded to Closing prior to April 1, 2023 (the “**Outside Closing Date**”) then Seller shall have the right to terminate this Agreement upon providing no less than THIRTY (30) days advance written notice to Buyer.

(b) At Closing, Seller shall deliver to the Title Company the following: (i) a special warranty deed from Seller to Buyer, in form reasonably acceptable to Buyer and the Title Company, conveying good and marketable fee simple title to the Property, free and clear of all liens and encumbrances of any kind, except for Permitted Exceptions (defined below) (the “**Deed**”); (ii) an affidavit as required under FIRPTA; (iii) the Owner’s Affidavit; (iv) a settlement statement setting forth all amounts to be paid or received by Buyer or Seller at Closing, as reasonably approved by the parties consistent herewith (the “**Settlement Statement**”); (v) such documents and other evidence as are required to satisfy all requirements for issuance of the Title Policy by the Title Company other than those imposed upon Buyer; (vi) a reaffirmation of Seller’s Representations as of the Closing Date; (vii) an Assignment and Assumption Agreement, in form and substance mutually satisfactory to Buyer and Seller (the “**Assignment Agreement**”), assigning the Parking Agreement and Short Term Parking Permits (excluding those provided to F&M Trust Bank and the United Way pursuant to separate lease agreements for office space in the adjacent building owned by Seller. Assignment of the parking spaces used by the Public Defender’s Office shall be contingent upon and subject to mutual agreement of a Lease Amendment permitting said assignment) to Buyer, the form of which is attached hereto and incorporated herein as Exhibit D; and (viii) such other documents as may be reasonably necessary to consummate Closing. “**Permitted Exceptions**” shall mean and refer to the Parking Agreement, Short Term Parking Permits, an easement to be retained and reserved by Seller whereby Seller may mount upon any structure constructed by the Buyer on the Property a satellite dish or other signal booster/repeater device capable of maintaining “line of sight” between the properties owned by Seller located at 81 W. Washington Street and 37 W. Antietam Street (which shall be provided for in the Deed and shall permit the Buyer, in its reasonable discretion, to approve the placement location and appearance of the device to be utilized), and all easements, covenants, conditions, restrictions and other title matters encumbering the Land as of the date hereof, or otherwise permitted under the terms of this Agreement, except for monetary encumbrances, all of which shall be paid by Seller at or before Closing, and except for any matters which Seller agrees in writing to cure.

(c) At Closing, Buyer shall deliver to the Title Company the following: (i) the balance of the Purchase Price; (ii) such other amounts as may be necessary to consummate Closing, as shown on the Settlement Statement; (iii) the Settlement Statement; (iv) the Assignment Agreement; and (v) such documents and other evidence as are required to satisfy all requirements for issuance of the Title Policy by the Title Company other than those imposed upon Seller.

(d) Upon the Title Company's: (i) receipt of all items to be delivered by Seller, above; (ii) receipt of all funds and items to be delivered Buyer above; and (iii) confirmation that title to the Property is in the condition required by this Agreement, Title Company shall (A) deliver the Deed to Buyer for immediate recordation, (B) deliver all other documents held in escrow to the intended recipients, and (C) make all disbursements required under the Settlement Statement.

(e) Prior to demolishing and removing the existing structures and improvements from the Property for the purpose of redeveloping same, Buyer shall remove the existing light poles and light fixtures so that they may be re-used at another location by the Seller. After removal, Buyer shall leave the light poles and light fixtures on or near the site for pick up by Seller. Seller shall retrieve the light poles and light fixtures within ten (10) days. This provision shall survive Closing.

3.2 Conditions Precedent to Closing. Buyer's obligation to consummate Closing under and in accordance with this Agreement shall be contingent upon the following: (i) Seller shall have made all Closing deliveries required of Seller under this Agreement; (ii) Seller's Representations shall continue to be true and correct as of the Closing Date, as though made and given on such date, (iii) no environmental contamination exists on the Property, and (iv) Buyer shall have awarded a bid for construction of the parking deck on the Property. If any of the conditions in this Section are not satisfied, deemed approved or waived by Buyer, other than due to the default of Seller or Buyer under this Agreement (in which event the provisions of Section 5.1 shall apply), by the Outside Closing Date, then either party may, at any time after the Outside Closing Date, terminate this Agreement by written notice to the other, in which event the Deposit shall be immediately returned to Buyer by the Escrow Agent and this Agreement and the rights and obligations of the parties hereunder shall terminate; provided, however, no such termination shall be effective until Buyer has had the opportunity to waive any condition within two business days after receipt of such written termination notice from Seller.

3.3 Costs, Adjustments, and Indemnities. (a) Buyer shall be responsible for all costs and expenses of its due diligence, any investigation, consulting fees and attorneys' fees and expenses associated therewith, including the cost of title investigation and Title Policy premiums. Except as provided herein, Seller and Buyer shall each be responsible for their respective attorneys' fees and expenses incurred in the negotiation of this Agreement and the consummation of Closing. The costs of all documentary stamps, recordation taxes, and transfer taxes payable in connection with the conveyance of the Land, if any, shall be paid one-half by each of Seller and Buyer; provided, however, that any agricultural rollback taxes or similar recapture taxes shall be paid by Seller.

(b) All items of income and expense relating to the Property, including without limitation real estate taxes, utilities and income from or related to the Parking Agreement and Short Term Parking Permits, are to be adjusted between Buyer and Seller as of the Closing Date such that Seller shall be responsible for all days prior to the Closing Date and Buyer shall be responsible for the Closing Date and all days thereafter, provided that if Closing occurs before the applicable tax rate or assessed valuation are fixed for the period during which Closing occurs, the adjustment of real estate taxes shall be based upon the tax rate and assessed valuation for the most recent period for which both such items are known. Promptly after such items are fixed for period during which Closing occurs, the parties shall further adjust real estate taxes based upon the fixed values of such items. Any service contracts or maintenance agreements affecting the Property shall be terminated by Seller as of the Closing Date.

ARTICLE IV - CONDEMNATION

If, subsequent to the date of this Agreement and prior to the Closing, a material part of the Property is taken in the exercise of the power of eminent domain, which taking in Buyer's reasonable discretion has an adverse effect on the development of the Property for its intended use, Seller shall give prompt written notice thereof to Buyer, and Buyer may, by written notice to Seller, elect to terminate this Agreement, in which event Seller shall retain the Deposit, and, except as otherwise expressly set forth herein, Seller and Buyer shall have no further rights or obligations hereunder. If no election to terminate is made by Buyer, this Agreement will remain in full force and effect and the purchase and sale contemplated herein, less any interest taken by eminent domain, will be effected with no further adjustment, and Seller will, at the Closing, assign, transfer, and set over

to Buyer all Seller's rights, title, and interest in and to any awards that have been or that may thereafter be made for such taking. In such event, Seller will cooperate fully with Buyer (at no out-of-pocket expense to Seller) to maximize the award payable in respect of such taking, and in no event will Seller enter into any agreement with respect to any such award without Buyer's written consent.

ARTICLE V - DEFAULT; REMEDIES

5.1 Default, Remedies. (a) If Buyer defaults in any of its obligations under this Agreement, Seller, as its sole remedy, may terminate this Agreement by written notice to Buyer and receive the Deposit as full and complete liquidated damages.

(b) If Seller breaches any representation or warranty made hereunder or otherwise defaults in any of its obligations under this Agreement, the sole remedies of Buyer with respect to such failure shall be (i) the right to terminate this Agreement by written notice to Seller and obtain recovery from Seller of Buyer's actual damages incurred up to \$5,000.00 arising from such default and supported by receipts or invoices showing the amounts of damages, (ii) the right to the return of the Deposit (whether or not it terminates this Agreement), and/or (iii) the right to seek specific performance. In the event of contract termination by Buyer, whether for default by Seller or other reason, Buyer agrees to provide Seller with any original reports, letters, abstracts, test results, studies, surveys or other documentation pertaining to the Property obtained by Buyer during the Inspection Period.

5.2 Cure of Default. Notwithstanding any provision of this Agreement to the contrary, no breach or failure by Seller or Buyer hereunder shall give rise to the exercise by the other of any remedies hereunder, including without limitation the termination of this Agreement, unless the non-breaching party has notified the breaching party of such breach in writing, and the breaching party shall have failed to cure such breach or failure within TEN (10) business days after receipt of such written notice thereof, except that no such notice or right to cure shall be required in relation to the failure of either Buyer or Seller to consummate Closing as and when required hereunder.

ARTICLE VI - GENERAL

6.1 Notices. Notices and other communications required or permitted to be given hereunder shall be deemed to have been duly given if in writing and delivered by recognized overnight delivery service, or by electronic mail (with a hard copy sent within ONE (1) business day thereafter by overnight delivery), as follows: (i) if to Seller, to Hager5, LLC, c/o Greg Snook, 222 E. Oak Ridge Drive, Suite 100, Hagerstown, MD 21740 (email: gsnook56@gmail.com), with a copy to Jason Divelbiss, Esq., 11125 Bemisderfer Road, Greencastle, PA 17225 (email: jdivelbiss@divelbisslaw.com); and (ii) if to Buyer, to Scott A. Nicewarner, City Hall, 1 East Franklin Street, Hagerstown, Maryland 21740 (email: snicewarner@hagerstownmd.org), with a copy to Jason Morton, 82 West Washington Street, Suite 100, Hagerstown, Maryland 21740 (email: jmorton@salvatoremorton.com) with a copy by email only to Rodney A. Tissue, City Engineer (rtissue@hagerstownmd.org). Any party may change the address to which such notices, requests, demands, and other communications are to be directed by giving written notice of such new address to all other parties in the manner provided above. Any notice, request, demand, or other communication shall be deemed received upon the earlier of (i) the date of the e-mail if received by 5 p.m. local time of a business day, (ii) actual delivery thereof, (iii) any refusal of such delivery, or (iv) if such delivery is impossible because of the intended recipient's failure to provide the other party with notice of an address change, upon any attempt of such delivery to the address(es) set forth above.

6.2 Broker. Each of Seller and Buyer represents and warrants to the other that it has not engaged or otherwise dealt with any brokers, finders or other intermediaries in connection with the transaction contemplated hereby. Each of Seller and Buyer agrees to indemnify, defend, and hold the other harmless from and against any and all claims arising out of the breach of the foregoing representation and warranty. The obligations of the parties under this paragraph shall survive Closing and delivery of the Deed.

6.3 Like-Kind Exchange. Buyer and Seller acknowledge that Seller may desire to transfer the Property subject to a like kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended,

and Buyer agrees to reasonably cooperate and participate, at Seller's request, so long as (a) such exchange transaction is at no additional cost to Buyer, (b) Buyer does not have to take title to or convey any other property in connection with such exchange, (c) Seller shall defend, indemnify and hold Buyer harmless, its managers, members, agents, assigns and successors in interest, from all loss, cost, expense, obligation, liability, and/or damages that Buyer might suffer (including attorneys' fees) in connection with Buyer's participation in Seller's exchange, and (d) Closing is not delayed on account of Seller's exchange. It is the intent of the parties that Buyer incur no income tax liability as a result of cooperating with Seller in consummating a like kind exchange, and that Buyer shall have no responsibility or liability for the tax consequences to Seller or any other person of such efforts to effect a like kind exchange. Buyer and Seller acknowledge and agree that the conveyance of the Property at Closing is in no way conditioned upon Seller's ability to effect a like-kind exchange.

6.4 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns. Seller acknowledges that Buyer shall have the right to assign Buyer's interest under this Agreement without Seller's consent, provided that such assignment shall not release Buyer from its obligations hereunder.

6.5 Miscellaneous. (a) No failure or delay by any party in exercising any right or discretion hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or discretion preclude any other exercise thereof or the exercise of any other right or discretion. (b) No waiver shall be effective unless in writing and executed on behalf of the party granting such waiver. (c) This Agreement may be executed in two (2) or more counterparts which, when assembled, shall constitute a single original. (d) Delivery by e-mail of a PDF copy shall constitute good and valid delivery. This Agreement shall be governed by the laws of the State of Maryland, without regard to any conflict of laws principles, and any action for the breach or enforcement hereof shall be brought in a court of competent jurisdiction within Washington County, State of Maryland. (e) The "**Effective Date**" of this Agreement will be the date that the Agreement is fully executed and delivered by the parties.

[SIGNATURE PAGE FOLLOWS]

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

SELLER:

HAGERS5, LLC

By: _____

Name:

Title:

Date signed: _____

BUYER:

THE CITY OF HAGERSTOWN

By: _____

Name:

Title:

Date signed: _____

ESCROW AGENT:

Lincoln Title & Settlement Services

By: _____

Name:

Title:

Exhibit A
(Survey)

CERTIFICATE OF ACCURACY
I hereby certify that the plan shown and described
hereon is a true and correct survey to the
accuracy required by the Hagerstown Planning
Commission and that the monuments have been
placed as shown here on to the specifications of
the Hagerstown Subdivision and Land
Development Ordinance.

Jeff M. Swan 2/10/12
Jeff M. Swan, Maryland Professional
Licensed Surveyor # 21552 Exp. 12-22-2021

Washington County Tax Map No. 308 Parcels 2250 & 2064, 43-45 West Washington St and 50 W Antietam St Hagerstown, WASHINGTON County, Maryland Owner Bty. No. 120-0200 Scale 1" = 50' Survey Bty. Date 11-03-2020 City Unique ID: 03209037 REV 2 Date 11-03-2020 City Unique ID: 03209037 REV 2 Date 11-03-2020 City Unique ID: 03209037		CITY TAX MAP 32 11-15-21
SHEET No. 1 of 2	CITY DRAWING NUMBER 74-716-01	

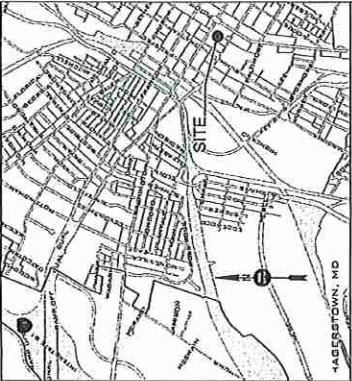
Wash Co Plat # 11255

MAY 21 2021

Curve Table				
Curve #	Length	Radius	Chord Length	Chord Bearing
C1	34.17	37.54	33.00	S58°20'30"W
C2	4.02	4.42	3.88	S58°19'30"W
C4	60.93	30.00	54.92	S77°18'40"W
C5	37.77	30.00	36.31	S04°48'20"W

Line Table			Line Table		
Line #	Length	Direction	Line #	Length	Direction
L1	51.45	S57°31'54"E	L16	5.59	S57°44'49"E
L2	231.89	S32°00'07"W	L17	939.34	N85°45'49"E
L3	38.02	S57°38'08"E	L18	233.23	S32°12'19"W
L4	233.38	S27°10'44"W	L19	42.45	S17°41'32"E
L5	21.41	S59°38'09"E	L20	125.15	S17°54'40"W
L6	20.35	S32°16'10"W	L21	5.13	S59°38'51"E
L7	5.88	S32°14'14"W	L22	1.60	N31°22'05"E
L8	19.12	S17°52'39"E	L23	5.00	S58°37'54"E
L9	28.00	S32°01'55"W	L24	1.60	S32°22'08"W
L10	2.41	N57°58'10"W	L25	333.09	N32°11'19"E
L11	17.50	S32°01'55"W	L26	63.80	N58°38'59"W
L12	8.08	S57°59'10"E	L27	64.16	N57°55'43"W
L13	6.00	S32°07'05"W	L28	161.08	S32°52'59"W
L14	4.72	S57°58'10"E	L29	103.92	S57°49'10"E
L15	5.50	N68°46'58"W	L30	10.00	S57°38'58"E
			L31	10.00	S57°49'16"W

VICINITY MAP - NTS



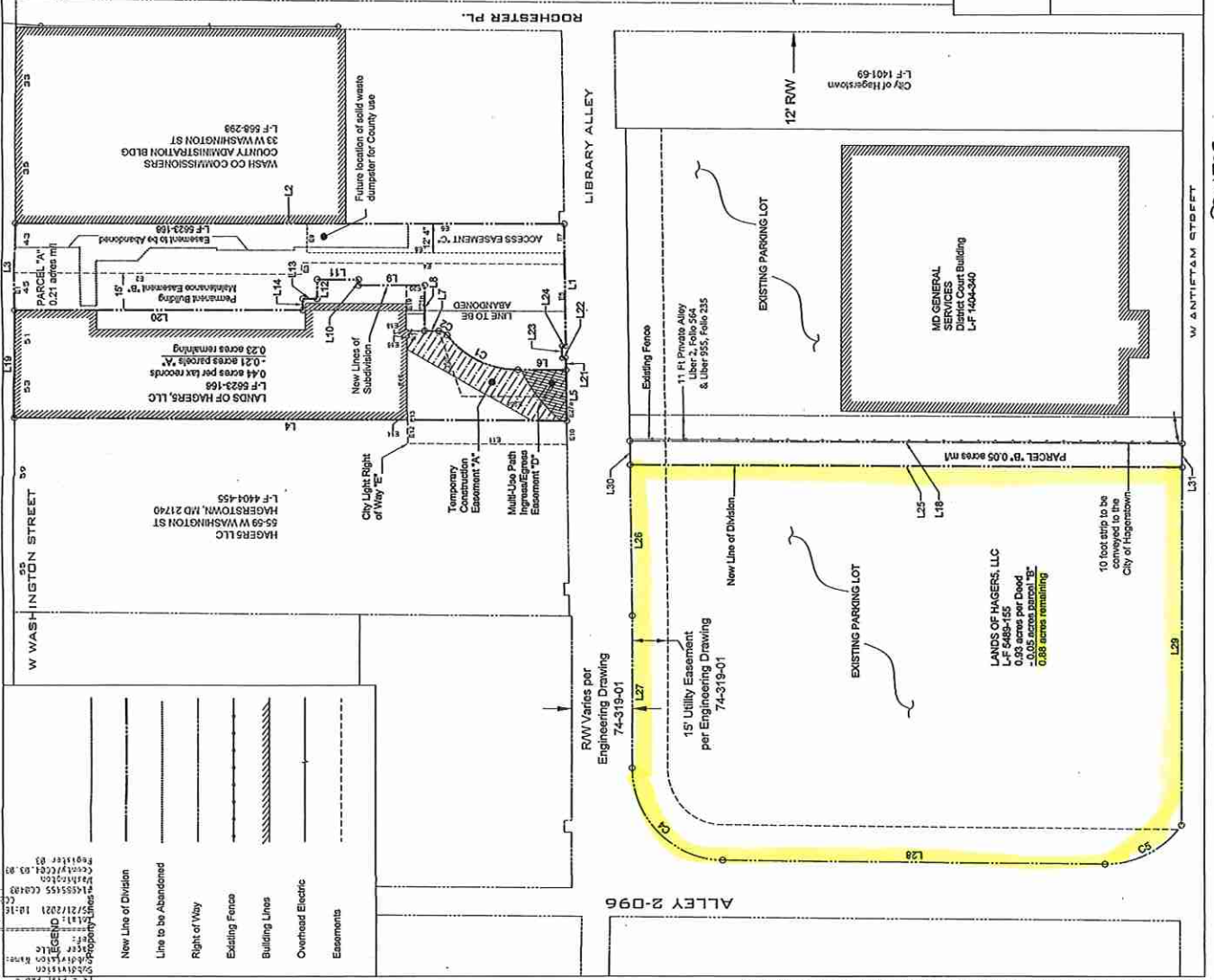
NOTES:

1. The purpose of this bill is to authorize board, LCA property #5153 W. Washington Ave creates a 0.21 acre lot ("Parcel A") to be conveyed to the City and the subdivision plat shall be recorded in the County Recorder's Office. ("Parcel B") to be conveyed to the City. ("Parcel C") to be conveyed to the City.
2. Parcel A is 0.81 acre Parcel C-0.01 and B within the Downtown Historic District.
3. These parcels are not on the 100-year floodplain and there are no other floodplain easements.
4. No new streets or street lights were created by this subdivision.
5. There are no setbacks for these parcels.
6. There are no proposed parking spaces associated with this plat.
7. Ref Planning & Zoning Ref ID: 2017-03 - Maryland Theatre Association - 2017-03 - Union Education Complex
8. Horizontal Datum is MAD 83 State Plane North Coordinate system.
9. Ref: make slight change to the Chiropric Easement

NOTES

To be Abandoned:
"PERMANENT BUILDING MAINTENANCE EASEMENT to be Abandoned" L-P 5623-106 is hereby abandoned with this plat.

EASEMENT TABLE



	New Line of Division	
	Line to be Abandoned	
	Right of Way	
	Existing Fence	
	Building Lines	
	Overhead Electric	
	Easements	

Exhibit B
(Parking Agreement)

"3 of 3"

PARKING SPACE RENTAL AGREEMENT

THIS PARKING SPACE RENTAL AGREEMENT (this "Agreement") made effective as of the 10th day of March 2022 (the "Effective Date") by and between **HAGER5, LLC**, a Maryland limited liability company, 222 E. Oak Ridge Drive, Suite 100, Hagerstown, MD 21740 ("Lessor"), and **BCP HAGERSTOWN LP**, a Delaware limited partnership, 9909 Deerfield Pond Drive, Great Falls, VA 22066 ("Lessee").

RECITALS:

A. Lessor is the owner of that certain parcel of real property improved with a paved surface parking lot and located at 50-58 W. Antietam Street, Hagerstown, Maryland 21740 (Tax Map 306, Parcel 2064, Tax ID No. 03-022595) (the "Parking Lot").

B. Lessee is or shall be as of the Effective Date of this Agreement the fee simple owner of a portion of that certain parcel of real property and improvements known as Tax Map 306, Parcel 2250 (Tax ID No. 03-018180), such portion of said parcel being located and commonly known as 51-53 West Washington Street, Hagerstown, Maryland 21740 ("Lessee's Property").

C. Lessor and Lessee have agreed to the terms of this Agreement in order to allow Lessee and the tenants, licensees and occupants of Lessee's Property to use the Parking Lot on a month to month, as needed basis for vehicular parking in accordance with the terms indicated herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound, Lessor and Lessee agree as follows:

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

2. Use of Parking Lot. Commencing on the Effective Date and pursuant to this Agreement, Lessee shall have a non-exclusive right in common with Lessor and other tenants and daily users of the Parking Lot to use on a 24 hours per day, 7 days per week basis up to, but no more than thirty three (33) parking spaces on a month to month term for the parking of passenger vehicles by Lessee and Lessee's tenants, licensees, employees, agents, representatives or contractors, as well as the employees, agents, representatives, contractors or invitees of licensees, tenants or subtenants occupying Lessee's Property (collectively, the "Lessee Users" and each, individually, a "Lessee User"). Neither Lessee nor the Lessee Users shall have any permanent rights in or to the Parking Lot or the parking spaces located therein by virtue of this Agreement, and Lessee acknowledges and agrees that Lessee shall not, at any time, claim any greater rights in the Parking Lot or the parking spaces located therein than those rights granted under this Agreement. The Parking Lot shall be used solely for the parking of passenger vehicles which shall be required to display either a dashboard/review mirror placard or vehicle sticker as determined and required by Lessor. Lessee shall be solely responsible for complying with all rules and regulations set forth by Lessor, as may be supplemented or modified from time to time in Lessor's sole and absolute discretion, and shall also comply with any and all state, county and local requirements with respect to the use of the Parking Lot for the intended purpose including but not limited to using the Parking Lot only for vehicles that are up-to-date with all State and local registration having current insurance that is legal under the State where the vehicle is registered. No repairs of any type shall be

allowed in the Parking Lot and, if needed, the vehicle must be towed to a location that allows such activities. Lessee acknowledges that Lessor has the right, in its sole and absolute discretion, from time to time to change the area, location and arrangement of the Parking Lot; to remove areas from common use; to erect or remove buildings or other structures; and/or to make any changes or improvements to the Parking Lot (collectively, "**Lessor Modifications**"), including, without limitation, constructing a parking deck to replace the existing surface lot, expanding and/or subdividing the Parking Lot, granting permits, leasehold interests, licenses and easements to others, and remodeling or changing the surfaces of the Parking Lot.

3. Term. The initial term of this Agreement shall commence on the date of substantial completion of the renovation of the Lessee's Property which shall be confirmed by the date of the Use and Occupancy Permit confirming completion of Lessee's renovation work (but in no event later than one (1) year after the Effective Date) and shall expire ten (10) years thereafter (the "**Initial Term**"). Upon providing Lessor no less than NINETY (90) days advance written notice prior to the expiration of the Initial Term or then current Renewal Term, as the case may be, Lessee shall have the right and option to extend and renew the term of this Agreement for two (2) additional periods of five (5) years each (each a "**Renewal Term**"). Notwithstanding the foregoing, the rental period for each parking space shall be on a month to month basis. The "**Term**" of this Agreement shall include the Initial Term and also any Renewal Term(s) elected by Lessee.

4. Relocation. In the event that the Parking Lot requires renovation, repair or maintenance or, as provided herein above, Lessor elects to undertake any Lessor Modifications that makes access to the Parking Lot or the parking spaces located therein temporarily impossible or impractical, subject to providing Lessee and Lessee Users with no less than ninety (90) days advance written notice, the Lessor shall have the right to provide commercially reasonable alternative parking spaces at the same rental rate required herein in another parking facility (that is owned and operated by the Lessor or the City of Hagerstown) located within the two (2) block radius surrounding Lessee's Property which is bounded by Church Street, Walnut Street, Baltimore Street, and Locust Street as shown and illustrated on the street map attached hereto and incorporated herein as **Exhibit A**, for the benefit of the Lessee and the Lessee Users under provisions consistent with this Agreement until the renovation, repair, maintenance or Lessor Modification is completed. Upon completion of the renovation, repair, maintenance or Lessor Modification of the Parking Lot, the Parking Lot, as may have been renovated, repaired or modified, shall again be made available to Lessee and Lessee Users in accordance with this Agreement.

5. Rental Fee. Subject to providing Lessor with no less than thirty (30) days advance written notice of the initial number of parking spaces needed and any change in that number thereafter, for each parking space used by Lessee or Lessee Users, Lessee shall pay Lessor, in advance on the first (1st) day of each month during the Initial Term of this Agreement, a rental fee in the amount of TWENTY-FIVE AND 00/100 DOLLARS (\$25.00) per space per month. The rental fee during each Renewal Term, if any, shall be equal to the rate per space per month that equals (a) the then fair market rent (per space per month) for equivalent or comparable parking spaces in Hagerstown, Maryland as determined by (i) mutual agreement of the parties; (ii) mutually agreed upon appraiser; or (iii) the average of each party's independently obtained M.A.I. appraisal report.

6. Maintenance. Lessor shall be responsible for snow and ice removal from the Parking Lot, as necessary, and shall perform at its sole cost and expense such maintenance and repairs to the Parking Lot as are necessary due to normal wear and tear. However, Lessee shall be responsible for

and shall perform at its sole cost and expense such maintenance and repairs to the Parking Lot as are necessary due to damage caused by the negligence or willful misconduct of Lessee or any Lessee User.

7. Release of Lessor. Lessor shall not be liable for any damage done to any vehicle or personal property taken from any vehicle while located on or utilizing the Parking Lot in anyway. All liability to the vehicle and personal property therein shall be the sole responsibility of the Lessee or Lessee User. Lessor shall also not be liable for any damage either to the person or the property of the Lessee or Lessee Users, or for the loss of or damage to any property of the same by theft or from any other cause whatsoever. Lessee, on its behalf and on behalf of the Lessee Users, hereby indemnifies and agrees to hold harmless the Lessor and its affiliates from any and all claims, losses, damages and causes of action arising from or related to (i) the death, bodily injury or damage to any person or property on or about the Parking Lot; or (ii) Lessee's use or use by the Lessee Users of the Parking Lot, and for all damages and monies paid out by Lessor in settlement of any claim or judgment, as well as for all expenses and reasonable attorney's fees incurred in connection therewith.

8. Assignment and Subletting. Except for the Lessee Users, Lessee shall not assign this Agreement or any part thereof, or permit any other person to use the Parking Lot or any part thereof, without the prior written consent of Lessor, which consent may be granted or withheld in Lessor's sole discretion. This Agreement shall benefit and bind Lessor and Lessee and the permitted personal representatives, heirs, successors or assigns thereof, including without limitation any successor in interest to Lessor as the owner of the Parking Lot and any successor in interest to Lessee as the owner of the Lessee's Property.

9. Environmental Compliance. Lessee shall not cause or permit any hazardous substance, material or waste (as defined by applicable environmental law, rule or regulation) to be brought upon or used in or about, or disposed upon, the Parking Lot. Lessee shall cause the Parking Lot to be used in compliance with all applicable environmental laws, rules and regulations. Any failure of Lessee or Lessee Users to comply with the covenants contained in this Paragraph shall be covered by the indemnification provisions below and shall be subject to all other rights and remedies available to Lessor.

10. ENTIRE AGREEMENT. Except as otherwise provided herein, this Agreement and any exhibit, rider or addendum that may be attached hereto by mutual consent of the parties sets forth all the promises, agreements, conditions and understandings between Lessor and Lessee relative to the Parking Lot, and there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth.

11. MISCELLANEOUS

(A) No modification or waiver of any of the terms of this Agreement shall be valid unless made in writing, and signed by the parties. Except as otherwise expressly provided herein, all provisions of this Agreement shall supersede any prior agreement between the parties regarding the subject matter herein, whether or not in writing.

(B) Any written notice required in this Agreement shall be provided to the other party(s) at the addresses indicated above or as may be updated by the parties from time to time in accordance with this provision.

(C) This Agreement shall be construed and enforced in accordance with the laws of the State of Maryland without regard to its conflict of laws provisions.

(D) No provision of this Agreement shall be interpreted for or against any party hereto by reason that said party or his or her legal representative drafted all or any part hereof.

(E) Should any provision of this Agreement be found, held, or deemed to be unenforceable, voidable or void, as contrary to law or public policy under the laws of the State of Maryland, the parties intend that the remaining provisions of this Agreement shall nevertheless continue in full force and be binding upon the parties, their heirs, personal representatives, executors, and assigns.

(F) This Agreement may be executed in duplicate or one or more counterparts, each of which shall be deemed an original, and off of which, when taken together, shall constitute one and the same agreement. Facsimile and PDF copies of original signatures and electronic signatures shall have the same force and effect as original signatures.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound to the terms of this Agreement, have caused this Agreement to be executed the day and year first above written.

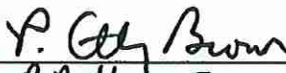
LESSOR:

HAGER5, LLC

By: 
Name: Gregory V. Snook
Title: Authorized Member

LESSEE:

BCP HAGERSTOWN LP

By: 
Name: P. Anthony Brown
Title: Authorized Person

After recording, return to:
JD Law Company, Inc.
11125 Bemisderfer Road
Greencastle, PA 17225

EXHIBIT "A"

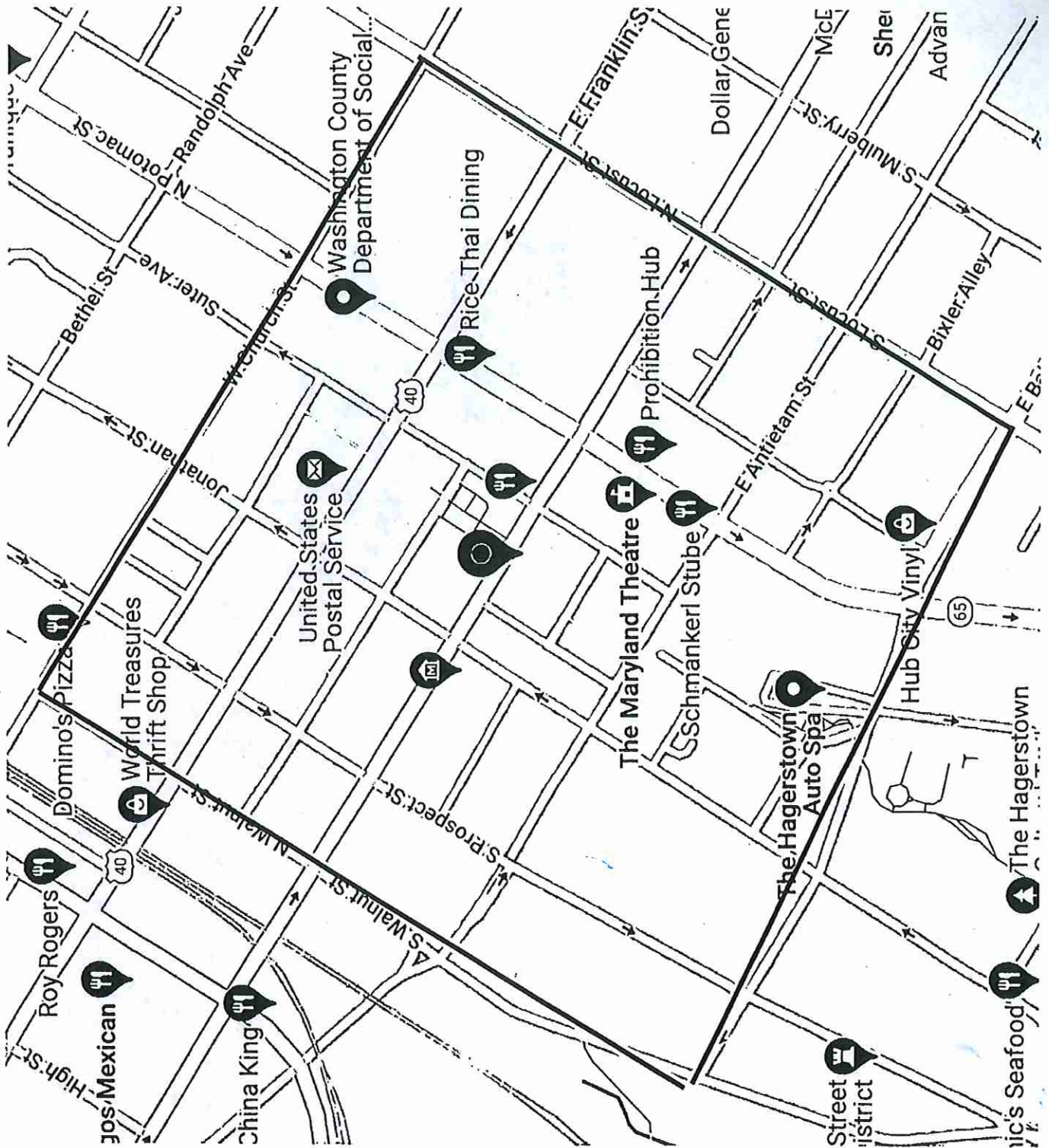


Exhibit C
(Short Term Parking Permits)

EXHIBIT C

Parking Leases to be Assigned by Seller and Assumed by Purchaser:

The parking provision, or its equivalent, contained in the State of Maryland Standard Lease prepared on February 26, 2013 between Columbia Bank and the State of Maryland for the benefit of the Public Defender's Office and commencing January 1, 2014, which was assigned to Hager5, LLC by Columbia Bank.

February 22, 2021 Parking Lot Lease between Hager5, LLC and The Maryland Theatre.

Parking Permits Purchaser Shall Honor as Long as Parking Lot Usable:

Cannon Coffee – 4 permits for full time access at the rate of \$30 per month per permit

Washington County Human Resources Department – 3 permits for full time access at the rate of \$45 per month per permit

Leiter's Catering – 8 permits for full time access at the rate of \$35 per month per permit

Western Maryland Consortium Employees:

Pam Kunkle – full time access at the rate of \$40 per month

Jeanette Warner – full time access at the rate of \$40 per month

Wilma Moore – full time access at the rate of \$40 per month

Nettie Schuble – full time access at the rate of \$40 per month

Angie Detrick – full time access at the rate of \$40 per month

Misty Cabbage – full time access at the rate of \$40 per month

Kimberly McMurtrie – full time access at the rate of \$40 per month

Public Defender's Office Employees:

Lauren Villa – full time access at the rate of \$45 per month

Cheryl Cogar – part time access at the rate of \$20 per month

Angela Oetting – part time access at the rate of \$20 per month

Kimberly Vocke – part time access at the rate of \$20 per month

Rasheeda Lawrence – part time access at the rate of \$20 per month

Mary Hotovy – part time access at the rate of \$20 per month

Jim Zuna – part time access at the rate of \$20 per month

District County Employees:

Jessica Crawford – full time access at the rate of \$40 per month

Jacey Rohrer – full time access at the rate of \$40 per month

Erin Alvarez – full time access at the rate of \$40 per month

Kristina Wolfensberger – full time access at the rate of \$40 per month

Exhibit D
(Assignment and Assumption Agreement)

EXHIBIT D

ASSIGNMENT AND ASSUMPTION OF LEASES

For good and valuable consideration, the receipt of which is hereby acknowledged, **HAGER5, LLC, a Maryland limited liability company** (“Assignor”), hereby assigns, conveys and delivers to **THE CITY OF HAGERSTOWN, a Maryland municipal corporation** (“Assignee”) (the “Assignment”), and Assignee’s successors and assigns, all of Assignor’s right, title and interest in and to the following with regard to the real property, paved surface parking lot and other improvements located at 50-58 West Antietam Street in Washington County, Maryland consisting of +/- 38,225.1 square feet: (i) the Parking Space Rental Agreement with BCP Hagerstown LP, a Delaware limited partnership, dated March 10, 2022 and recorded among the Land Records of Washington County at Book 6950, Page 386 and (ii) the short term leases for monthly parking permits and privileges listed and identified on **Exhibit A** attached hereto and incorporated herein (hereinafter collectively referred to as the “**Existing Leases**”). Assignee hereby accepts the Assignment and agrees to assume, fulfill, perform and discharge all the various commitments, obligations and liabilities of Assignor under and by virtue of the Existing Leases, accruing or obligated to be performed from and after the date hereof.

Assignee hereby indemnifies and agrees to hold harmless Assignor from and against any and all claims, liabilities, losses, damages, causes of action and expenses (including without limitation, court costs through all appeals and reasonable attorneys’ fees and disbursements) incurred in connection with or arising under the obligations of the landlord under the Existing Leases from and after the date.

Assignor hereby indemnifies and agrees to hold harmless Assignee from and against any and all claims, liabilities, losses, damages, causes of action and expenses (including, without limitation, court costs through all appeals and reasonable attorneys’ fees and disbursements) incurred in connection with or arising under the obligations of the landlord under the Existing Leases which accrued prior to the date hereof, whether or not Assignor was provided notice of such claims prior to the date hereof.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Agreement shall be governed by, and construed under, the laws of the State of Maryland.

This Assignment and Assumption of Leases may be executed in counterparts, all of which when taken together shall constitute one original fully executed Assignment and Assumption of Leases.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned have executed the within instrument as of the _____ day of _____ 2022.

“ASSIGNOR”

HAGER5, LLC,
a Maryland imited liability company

By: _____
Name:
Title:

“ASSIGNEE”

THE CITY OF HAGERSTOWN
a Maryland Municipal Corporation

By: _____
Name:
Title:

Exhibit A

State of Maryland Standard Lease prepared on February 26, 2013 between Columbia Bank and the State of Maryland for the benefit of the Public Defender's Office and commencing January 1, 2014, which was assigned to Hager5, LLC by Columbia Bank, or its equivalent.

February 22, 2021 Parking Lot Lease between Hager5, LLC and The Maryland Theatre.

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

Topic:

Introduction of Ordinance: Amending the City Code - Add Chapter 230, Transient Housing

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Chapter_230_Packet_Intro_Ordinance_11_22_2022.pdf

Description

Intro Ordinance - Chapter
230, Transient Housing

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: **Introduction of an Ordinance:** Add Chapter 230, Transient Housing, to the City Code

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

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to add Chapter 230, Transient Housing, to the Code of the City of Hagerstown. This added chapter will:

1. Establish a licensing program for transient housing facilities which includes hotels, motels, inns, bed & breakfast structures and short-term rentals;
2. Enact license fees for transient housing facilities based on tier level for hotels and license fees for bed & breakfasts and short-term rentals;
3. Create a tier structure related to calls for service ratio for hotels;
4. Establish inspection requirements for transient housing facilities;
5. Require training for transient housing owners, managers, and staff on human trafficking activities, human trafficking victims and overdose response program;
6. Create transient housing facility guest register requirements pertaining to transient visitors letting any transient housing unit;
7. Enact premises requirements prohibiting hourly rates and letting transient housing units for illegal purposes;
8. Provide processes to deny, suspend or revoke transient housing facility applications and licenses.

DATE OF INTRODUCTION:	11/22/2022
DATE OF PASSAGE:	12/20/2022
EFFECTIVE DATE:	1/20/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN, BY
ADDING CHAPTER 230 THEREOF, ENTITLED
*TRANSIENT HOUSING***

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown has the authority to regulate and require inspections of buildings within the City; and

WHEREAS, the Mayor and Council have a responsibility to maintain a safe, clean environment within the City; and

WHEREAS, the Mayor and Council recognize that clean, well-built, crime-free transient housing facilities, such as hotels, motels, bed and breakfasts, and short-term rentals play a significant role and are part of the foundation upon which healthy communities are built; and

WHEREAS, the Mayor and Council desire to protect and promote the public health, safety and welfare of the citizens and transient visitors of Hagerstown, to establish rights and obligations of the owner/manager and the transient visitors in the use of transient housing facilities, and to encourage all parties to maintain and improve the quality of transient housing facilities within the community; and

WHEREAS, the Mayor and Council desire to assure compliance with all laws, ordinances and regulations applicable to transient housing licenses and facilities in the City of Hagerstown and to promote and assure safety, health and habitability in the conditions of said transient housing facilities in the City, to prevent deterioration of transient housing facilities in the City, to support property values, and to encourage responsible management and use of transient housing facilities through licensing and inspection; and

WHEREAS, the Mayor and Council desire to protect, preserve, and promote the health, safety and welfare of the citizens and transient visitors of Hagerstown by the reduction, control and prevention of criminal and nuisance activities in transient housing facilities, through education and the implementation and enforcement of reasonable licensing provisions; and

WHEREAS, the Mayor and Council further recognize that periodic inspections of transient housing facilities are essential to the accomplishment of these purposes.

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

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by enacting Chapter 230, to read as follows:

(See Attached)

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Emily N. Keller
Mayor

Date of Introduction: 11/22/2022
Date of Passage: 12/20/2022
Effective Date: 1/20/2023

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

Chapter 230

TRANSIENT HOUSING

§ 230-1. Purpose.

- A. The Mayor and Council recognize that clean, well-built, crime-free transient housing facilities, such as hotels, motels, bed and breakfasts, and short-term rentals play a significant role and are part of the foundation upon which healthy communities are built. This chapter promotes and advances the City's vision and commitment to transient housing throughout the City. The purpose of this chapter is to protect and promote the public health, safety and welfare of the citizens and transient visitors of Hagerstown, to establish rights and obligations of the owner/manager and the transient visitors in the use of transient housing facilities, and to encourage all parties to maintain and improve the quality of transient housing facilities within the community.
- B. An additional purpose of this chapter is to assure compliance with all laws, ordinances and regulations applicable to transient housing licenses and facilities in the City of Hagerstown and to promote and assure safety, health and habitability in the conditions of said transient housing facilities in the City, to prevent deterioration of transient housing facilities in the City, to support property values, and to encourage responsible management and use of transient housing facilities through licensing and inspection.
- C. It is also the purpose of this chapter to protect, preserve, and promote the health, safety and welfare of the citizens of Hagerstown by the reduction, control and prevention of criminal and nuisance activities in transient housing facilities, through education and the implementation and enforcement of reasonable licensing provisions.
- D. The Mayor and Council further recognize that periodic inspections of transient housing facilities are essential to the accomplishment of these purposes.

§ 230-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BED AND BREAKFAST

Shall have the definition as set forth in the Land Management Ordinance, Chapter 140 of the Code.

CALLS FOR SERVICE (CFS)

Includes but is not limited to any and all calls to emergency services, (police, fire, CRS, and code administration) that result in an emergency services employee being dispatched or directed to the transient housing facility. This shall include any calls for service within the surrounding neighborhood that, through information or

investigation, can be attributed or traced to the transient housing facility. Calls for service include any self-initiated activity or investigation based on the observation(s) of an emergency services employee that result in a written report. Multiple calls regarding the same event shall be treated as a single call for service for purposes of calculating the CFS room ratio.

CALLS FOR SERVICE ROOM RATIO

The number of calls for service divided by the total number of transient housing units in a transient housing facility during the time period of November 16 of the previous calendar year to November 15 of the current calendar year.

CITY

The City of Hagerstown, Maryland.

CODE

The Code of the City of Hagerstown, as from time to time amended.

CODE ADMINISTRATION

The Code Administration Division of the Planning and Code Administration Department.

CODE OFFICIAL

Any official who is charged with the administration and enforcement of the Code, or any duly authorized representative.

COMMUNITY RESCUE

The Community Rescue Services or CRS

DEPARTMENT

The Planning and Code Administration Department of the City of Hagerstown.

DRUG RELATED CRIMES

Includes but not limited to the manufacture, cultivation, importation into the state, transportation, possession, possession for sale, furnishing, administering, giving away, providing a place to use, or fortification of a place involving any illegal or controlled dangerous substance, narcotic, or drug paraphernalia.

EMERGENCY SERVICES EMPLOYEE

Any dispatched official, employee or volunteer from HPD, HFD, CRS, or the Code Department.

EXCESSIVE USE OF CITY SERVICES ORDINANCE

The Excessive Use of City Services Ordinance, as set forth in Chapter 95 of the Code.

HFD

The Hagerstown Fire Department.

HOTEL

Any hotel, motel, or inn in the City having one or more room where transient guests visitors are lodged for pay. This includes any transient housing facility collecting Washington County hotel rental tax in the City.

HPD

The Hagerstown Police Department.

MANAGER

Any person who manages the business operations of any transient housing facility on behalf of or under the direction of an owner and has a supervisory role or duties at the transient housing facility.

OWNER

Any person, partnership, association, company, corporation, trust or other entity having a legal or equitable interest in or control of a transient housing facility.

"Owner" shall also mean any person who, alone, jointly or severally, shall have the charge, care or control of any premises as executor, administrator, trustee or guardian of the estate of the owner. "Owner" shall also mean any person having any interest in a partnership, association, company, corporation, trust or other entity which owns or has any ownership interest or control of a premises. Any person, firm, partnership, association, company, corporation, trust or other entity whose name appears on the deed or property tax bill for the premises shall be deemed to be the owner of the premises.

PERSON

An individual, corporation, business trust, estate trust, partnership, or any other group acting as a unit.

PROSTITUTION RELATED CRIMES

Includes but is not limited to prostitution and those crimes that involve prostitution or are related to prostitution, such as pimping, pandering, solicitation, assignation, or sex trafficking of adults or minors, in violation of city, state or federal laws.

PROPERTY MAINTENANCE CODE

The Property Maintenance Code, as set forth in Attachment 3 of Chapter 64 of the Code, as from time to time amended.

PREMISES

Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a transient housing unit is located.

SHORT-TERM RENTAL

A residential rental unit or room of a dwelling unit for a fee for less than 30 consecutive days through online sites such as Airbnb, Flipkey, Home Away and Vacation Rental By Owner (VRBO).

TRANSIENT HOUSING FACILITY

- A. A structure containing one or more transient housing units.
- B. As used in this Chapter, transient housing facility shall not include any rental facility, as that term is defined in Chapter 197 of the Code.
- C. Transient Housing Facilities shall include hotels, motels, inns, bed and breakfasts, and short-term rentals.

TRANSIENT HOUSING UNIT

Any single room or suite located in the City and which is intended for temporary living and sleeping purposes (typically less than 30 days, but in no case more than 182 days) where transient visitors are lodged for pay.

TRANSIENT LODGING

Lodging for a period typically less than 30 days, but in no case more than 182 days.

TRANSIENT VISITOR

A person who purchases lodging, with or without meals, for a period typically less than 30 days, but in no case more than 182 days.

§ 230-3. Transient housing license required.

It shall be unlawful for the owner(s) of any transient housing facility to permit occupancy of any transient housing unit by a transient visitor unless said unit is currently licensed by the City and said license has not been denied, revoked or suspended.

§ 230-4. Application; license fee.

In addition to the inspection requirements of § 230-6 of this chapter, an applicant for a transient housing license shall provide the following information for each transient housing facility on the appropriate application form provided by the Department:

- A. The address of the transient housing facility.
- B. The number of transient housing units contained in the transient housing facility.
- C. The name, street address and telephone number and e-mail of all owners of the transient housing facility.
- D. If the owner of the transient housing facility is not an individual, the applicant shall provide the owner's name, street address and telephone number and the resident agent's name and address.
- E. The name, street address and telephone number of a designated contact person for the owner(s).

- F. Except for Tier 1 transient housing facilities, a payment of a nonrefundable annual license fee of:
- (1) Five hundred dollars for a transient housing facility;
 - (2) One hundred dollars for each bed and breakfast, plus ten dollars for each transient housing unit in said bed and breakfast; or
 - (3) Seventy-five dollars per short-term rental.
- G. Transfer of license
- (1) If an applicant for or the holder of a license transfers ownership or is no longer an agent for the licensed transient housing facility, the applicant or licensee must notify the Department within sixty (60) days of the change. The Department may reject an application or suspend or revoke a license if the applicant or licensee does not notify the Department as required by this subsection.
 - (2) Any person or entity who takes over the operation of a licensed transient housing facility may transfer the license for the unexpired portion of the term for which it was issued by applying to the Department. Applications made within thirty (30) days after taking over operation are not subject to a transfer fee. Applications made thirty (30) to sixty (60) days after transfer shall require a transfer fee of \$50.00 per license. Transfer notifications associated with the annual application renewal between January 1 and February 28 are not subject to a transfer fee. Nothing in this section affects the validity of any sale, transfer, or disposition in any interest in real estate.
 - (3) Failure to notify the Department of a transfer within sixty (60) days requires a new transient license application and license fee.
- H. Payment for said license shall be due in full from the owner within ninety (90) days from the application mailing by the Department. Failure to remit payment in full may result in collection pursuant to Article III, Tax Liens, § 223-11 of the City Code, or by other civil proceeding.
- I. The applicant shall certify in writing that all of the requirements of this Chapter are being met.

§ 230-5. Classification of transient housing facilities by CFS ratio:

- A. A hotel transient housing facility shall be classified in accordance to the following tier system:

- a. **Tier 1.** Less than or equal to 0.95 CFS/room/year and currently no HFD life safety violations at the time of application; or
 - b. **Tier 2.** Greater than 0.95 CFS/room/year and/or not fully-sprinklered with fire alarm protection and/or current HFD life safety violations at the time of application.
- B. Prior to a transient housing facility license application, the Department shall notify each owner, in writing by personal service, certified mail, or another method reasonably calculated to provide actual notice, of the CFS room ratio and the tier classification of the transient housing facility for the ensuing license year. The Department shall determine the calls for service (CFS) room ratio of the transient housing facility during the time period set forth in this chapter, or during actual operations if less than twelve months during the time period set forth in this chapter.
- C. A transient housing facility that is not fully sprinklered and/or is found to have any life safety violations by HFD shall be designated a Tier 2 transient housing facility. Any other transient housing facility that has not previously operated in the City shall be presumed to be a Tier 1 transient housing facility until the next January 1st registration period or until such time as the Department re-classifies it.
- D. The City may monitor the CFS room ratio for each transient housing facility on an ongoing basis. The City may change the status of any transient housing facility during a license year upon notice in writing to the operator, by personal service, certified mail, or another method that provides confirmation of delivery, that the CFS room ratio of such transient housing facility has changed proportionately such that the CFS room ratio, if annualized, would fall within a different tier level. This notice shall include:
 - a. The tier designation assigned to the transient housing facility;
 - b. As allowed by law, data specifying the types of CFS identified as having occurred on the property during the period reviewed, including the incident numbers assigned to such CFS, and the date and time of each call to allow the owner to understand the basis of the designation;
 - c. The requirement of a mandatory inspection to be conducted by Code Administration if the change is to a Tier 2 transient housing facility; and
 - d. The opportunity and procedures by which the owner or manager may challenge the data provided to the owner or manager pursuant to this subsection upon which the designation is based.

- E. Upon such notice of initial classification or reclassification, the owner or manager may file a request for reconsideration with the Department on or before the twentieth calendar day after the date of notice. The request for reconsideration must show proof to the Department that the Department's determination is erroneous. After receipt of a request for reconsideration, the Department shall consider the information provided and determine the CFS room ratio and classify the transient housing facility as a Tier 1 or Tier 2 transient housing facility within ten calendar days of receipt of the request for reconsideration. The Department shall notify the owner or manager of its determination in writing by personal service, certified mail, or another method that provides confirmation of delivery.
- F. Enforcement of the tier classification or reclassification shall be stayed during the pendency of a request for reconsideration under this section or an appeal under this section.

§ 230-6 Inspections.

- A. In connection with the application requirements contained in § 230-5 of this chapter, each transient housing facility shall be subject to an initial exterior inspection and annually thereafter by the Department and HFD. In addition:
 - 1. The interior of each hotel and bed and breakfast transient housing facility shall be inspected annually by HFD.
 - 2. The interior of all Tier 2 hotel transient housing facilities shall be inspected annually by the Department.
 - a. Tier 1 hotel transient housing facilities shall be exempted from an annual interior inspection by the Department.
 - 3. The interior of each bed and breakfast transient housing units and short-term rental spaces for let shall be inspected triennially by the Department.
- B. All inspections conducted herein shall be conducted by the Department and/or HFD in accordance with Chapters § 64 Building Construction and/or § 98 Fire Prevention of the Code, and shall be performed pursuant to the standards of Chapter 64 and/or Chapter 98, as applicable. The applicant shall make each transient housing unit available for inspection by the Department and/or HFD on the scheduled inspection date. The Department and/or HFD shall provide reasonable advance notice of inspection to the owner or manager, and the owner or manager shall have the right to be present at the inspection.
- C. The owner or manager of the transient housing facility shall have the right to refuse consent to an inspection of the transient housing facility and to deny permission to enter the transient housing facility for said purpose. All

applications and inspection notices shall advise the owner or manager, as the case may be, of his, her or its right to refuse consent and deny entry. In the event of such refusal of consent or denial of entry, the Department shall have the right to seek the issuance of an administrative search warrant under § 104.4 of the Property Maintenance Code in order to conduct the inspection.

- D. In addition to § 104.4.3.a-c of the Property Maintenance Code, probable cause for the issuance of an administrative search warrant under this § 230-6 shall exist if the Code Official demonstrates by specific evidence the violation of any provision of this Chapter 230 of the Code, including but not limited to the refusal of consent to an inspection required by this Chapter and one or more of the following: the passage of time since the last inspection, the nature of the Premises, or the condition of the neighborhood in which the Premises is located.

§ 230-7. Training.

- A. All transient housing facility owners or their managers and all employees of a transient housing facility shall complete training on how to identify human trafficking activities and human trafficking victims. The training shall be approved by the Governor's Office of Crime Prevention, Youth, and Victim Services and the Maryland Department of Labor. Written proof of completion of said training shall be provided with the application for transient housing license.
- B. All transient housing facility owners or their managers, and all employees of a transient housing facility shall complete overdose response program training. The training shall be provided by Washington County Health Department. Written proof of completion of said training shall be provided with the application for transient housing license.

§ 230-8. Guest Register requirements.

- A. Any person who owns or operates a transient housing facility shall maintain on the premises a permanent register for each person to whom any transient housing unit is let at a transient housing facility. The register shall contain the following information as to each transient visitor:
 - a. Legal name and permanent address, designating street and number, city, state and country; the manager or agent of a transient housing facility may require any guest to whom a transient housing unit is let to provide evidence of his or her identity and address of residence by producing a valid driver's license; a valid military identification card; a valid passport; or any valid government issued identification card;

- b. Dates of occupancy, indicating check-in time, check-out time, and room number;
 - c. Current license plate or registration number, state of registration, and make and model of any vehicle under control by transient visitor;
 - d. Number of individuals staying in the room; and
 - e. Amount of the bill and method of payment.
- B. Guest register records shall be maintained for a period of two years for each person who lets any transient housing unit.
- C. It shall be unlawful for any person to intentionally or knowingly falsify the information in a transient housing facility guest register. It shall be unlawful for any person to provide false identifying information to a transient housing facility.
- D. A manager, their agent or owner providing false information to City authorities, regarding the identity of and hours of occupancy by any transient visitor, shall be prima facie evidence that the premises was being used for illegal purposes.

§ 230-9. Premises requirements.

- A. No owner, manager or their agent shall allow or permit any hourly charge for any transient housing unit.
- B. No owner, manager or their agent shall allow or permit any transient housing unit to be let more than twice in any twenty-four-hour period commencing at 12:01 a.m.
- C. No owner, manager or their agent shall knowingly let any transient housing unit be used for any illegal purpose such as but not limited to drug related crimes and prostitution related crimes.
- D. For guest complaints, the telephone number and address for the Department shall be posted in a prominent location in all transient housing units and the public reception area, if any.
- E. All transient housing facilities designated Tier 2 are encouraged to have 24-hour, on-site security provided by licensed security officers.

§ 230-10. Issuance of transient housing facility license; renewal.

Upon receipt of a completed application form, documentation of completed training as required per this Chapter, and full payment of the appropriate fee, the Department shall issue a transient housing facility license for the subject transient housing facility within 30 days, unless such license is or has been denied or revoked pursuant to § 230-11 hereof. Said license shall expire on December 31st and shall be renewable annually, with application for said renewal being made at least 30 days prior to the expiration date of the then-current license. A license renewal application shall be on the form provided by the Department.

§ 230-11. Denial; revocation of transient housing facility license.

- A. A transient housing facility license may be denied, suspended or revoked in whole or in part at any time by the Department. Denial, suspension, or revocation of a transient housing facility license shall be in addition to, and not in substitution of, the penalties provided for in § 230-13 of this Chapter.
- B. A transient housing facility application or license may be denied, suspended or revoked by the Department if any taxes or fees identified below are unpaid at the time of application.
 - a. Real property taxes relating to the transient housing facility;
 - b. Personal property taxes relating to the transient housing facility; and
 - c. City-owned utility fees relating to the transient housing facility.

§ 230-12. Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provision or application.

§ 230-13. Violations and penalties.

Any owner violating the requirements of this chapter shall be guilty of a municipal infraction and shall be punished by a fine not exceeding \$1,000. Any such violation shall be cited as a prepayable fine in the amount of \$500. Each day a violation exists shall be considered a separate and distinct violation. In addition, the City may avail itself of all civil remedies, including a petition for injunctive relief from a court of competent jurisdiction.

- A. If the Department suspends a transient housing facility license under the provisions of § 230-11, the subject transient housing facility shall not let additional transient housing unit(s) from the date of the suspension until such time the violation(s) have been abated verified by inspection and the transient housing license has been reinstated. A reinstatement fee of \$500 shall be paid prior to the reissuance of a suspended license for a transient housing facility.

- B. If the Department revokes a transient housing facility license under the provisions of § 230-11, the subject transient housing facility shall be vacated immediately for life safety hazards or within twenty-four (24) hours for non-life safety hazards of the revocation and remain vacant until such time the violation(s) have been abated verified by inspection and the transient housing license has been reinstated. City actions to ensure vacancy may include disconnection of City utilities to the affected transient housing facility. A reinstatement fee of \$1,000 shall be paid prior to the reissuance of a revoked license for a transient housing facility.

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

Topic:

Introduction of Ordinance: Amending the City Code - Amending Chapter 65, Habitual Offender, to Enhance Support to Transient Visitors and Neighborhoods

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Chapter_65_Packet_Intro_Ordinance_11_22_2022.pdf

Description

Intro Ordinance - Amend
Chapter 65

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: **Introduction of an Ordinance:** Amending Chapter 65, Habitual Offender, to enhance support to our transient visitors and neighborhoods.

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

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to amend Chapter 65, Habitual Offender, of the Code of the City of Hagerstown. This chapter will be amended to include Chapter 230, Transient Housing. This amendment is intended to provide additional protections for our transient visitors and neighborhoods from nuisance actions and conditions.

DATE OF INTRODUCTION:	11/22/2022
DATE OF PASSAGE:	12/20/2022
EFFECTIVE DATE:	1/20/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN, BY
AMENDING CHAPTER 65 THEREOF, ENTITLED
*HABITUAL OFFENDER***

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown has the authority to regulate and require inspections of buildings within the City; and

WHEREAS, the Mayor and Council have a responsibility to maintain a safe, clean environment within the City; and

WHEREAS, contemporaneously with the enactment of this Amendment, the Mayor and Council are enacting a new Code Chapter, namely Chapter 230 *Transient Housing*;

WHEREAS, the Mayor and Council desire to assure compliance with all laws, ordinances and regulations applicable to transient facilities in the City of Hagerstown, including but not limited to Chapter 65 *Habitual Offender*; and

WHEREAS, the Mayor and Council have therefore determined that it is in the best interest of the citizens of Hagerstown to amend Chapter 65, *Habitual Offender*, to include habitual offenses of the provisions of Chapter 230, *Transient Housing*.

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

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by amending Chapter 65, to read as follows:

(See Attached)

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Emily N. Keller
Mayor

Date of Introduction: 11/22/2022
Date of Passage: 12/20/2022
Effective Date: 1/20/2023

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

Chapter 65 - Habitual Offender

§ 65-1 Title

This chapter shall be known and may be cited as the "City of Hagerstown Habitual Offender Ordinance."

§ 65-2 Declaration of policy.

It is hereby declared and ordained by the Mayor and Council of the City of Hagerstown to be the public policy of the City to preserve, protect, and improve property maintenance standards and the aesthetic nature of the community and to prevent and prohibit conditions existing which shall be detrimental to the property of others or which cause or tend to cause substantial diminution in the value of properties in the City.

§ 65-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HABITUAL OFFENDER

Any person who shall pay a fine after receipt of a citation, or who shall be convicted of or have judgment entered against him or her for violations of the following chapters of the City Code, or any combination thereof, for three or more separate and distinct violations occurring during a twenty-four-month period shall be considered a habitual offender. The chapters of the City Code which apply toward habitual offender status are Chapter 64, Property Maintenance, Chapter 140, Land Management Code, Chapter 185, Nuisance Abatement, Chapter 197, Rental Facilities, Chapter 230 Transient Housing, Chapter 232, Vacant Nonresidential Structures, and Chapter 233, Vacant Residential Structures.

PERSON

Any individual, partnership, firm, corporation, association or other legal entity of whatsoever kind and nature. The person shall include the owner(s), tenant(s), lessee(s), occupant(s) and/or person(s) in charge of or using the property.

PREMISES

A lot, plot or parcel of land, including any structures thereon and the public sidewalk or public way abutting such lot, plot or parcel.

§ 65-4 Violations and penalties.

- A. It shall be unlawful for any person considered a habitual offender under this chapter to own, use or occupy any premises regulated by Chapter 64, 140, 185, 197, 230, 232, or

233 of the Code of the City of Hagerstown in conflict with or in violation of the provisions contained therein.

- B. Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding 90 days in the County Jail, or by both fine and imprisonment, in the discretion of the court.
- C. In addition to the penalties provided herein, the court may:
 - (1) Order a period of probation;
 - (2) Order that any violation be abated by the defendant, or by the City at the cost of the defendant; and/or
 - (3) Order periodic inspections of the property by the City at the cost of the defendant.

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

Topic:

Introduction of Ordinance: Amending the City Code - Amending Chapter 95, Excessive Use of City Services, to Impose Fees for Police, Law Enforcement Services, and Code Administration Services Which are Over and Above the Costs of Providing Normal Police Protection, Law Enforcement, and Code Administration Services at Transient Housing Facilities

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Chapter_95_Packet_Intro_Ordinance_11_22_2022.pdf

Description

Intro Ordinance - Amend
Chapter 95

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: **Introduction of an Ordinance:** Amending Chapter 95, Excessive Use of City Services, to impose fees for police, law enforcement services, and code administration services which are over and above the costs of providing normal police protection, law enforcement, and code administration services at transient housing facilities.

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

MOTION: I hereby move that the Mayor and City Council introduce an ordinance to amend Chapter 95, Excessive Use of City Services, of the Code of the City of Hagerstown. These amendments will:

1. Establish definitions for transient housing facility and short-term rental;
2. Amend the definitions for commercial property, multiunit residential structure, and residential property;
3. Add Transient Housing Facility to Chronic Nuisance Property definition for HPD qualifying calls with a minimum number of 60 qualifying calls in a twelve-month period;
4. Require HPD and Code Administration to publish a list of properties deemed chronic nuisance properties annually.

DATE OF INTRODUCTION:	11/22/2022
DATE OF PASSAGE:	12/20/2022
EFFECTIVE DATE:	1/20/2023

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN, BY
AMENDING CHAPTER 95 THEREOF, ENTITLED
*EXCESSIVE USE OF CITY SERVICES***

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown has the authority to regulate and require inspections of buildings within the City; and

WHEREAS, the Mayor and Council have a responsibility to maintain a safe, clean environment within the City; and

WHEREAS, contemporaneously with the enactment of this Amendment, the Mayor and Council are enacting a new Code Chapter, namely Chapter 230 *Transient Housing*;

WHEREAS, the Mayor and Council desire to assure compliance with all laws, ordinances and regulations applicable to transient facilities in the City of Hagerstown, including but not limited to Chapter 95 *Excessive Use of City Services*; and

WHEREAS, the Mayor and Council desire to clarify that violations of appeals of Chapter 95 *Excessive Use of City Services* shall be heard by the City Board of Code Appeals; and

WHEREAS, the Mayor and Council have therefore determined that it is in the best interest of the citizens of Hagerstown to amend Chapter 95, *Excessive Use of City Services*, to include transient housing facilities as that term is defined in Chapter 230, *Transient Housing* and also to clarify the appeal mechanism of Chapter 95.

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

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by amending Chapter 95, to read as follows:

(See Attached)

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Emily N. Keller
Mayor

Date of Introduction: 11/22/2022
Date of Passage: 12/20/2022
Effective Date: 1/20/2023

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

Chapter 95 – Excessive Use of City Services

§ 95-1 Purpose

It is the intended purpose of the Mayor and Council of the City of Hagerstown by the adoption of this chapter to impose on and collect from the owner of a property the costs incurred for police and law enforcement services and code administration services which are over and above the costs of providing normal police protection, law enforcement and code administration services, if said excess costs are spent to abate a nuisance which has occurred or is maintained and permitted on the property. The collection of the costs for such excessive services shall be by assessment of a fee against the property upon which the nuisance occurs, pursuant to the authority contained Sections 401 and 402 of the City Charter and § 223-11 of the City Code authorizing the abatement of nuisances and the collection of costs by assessment against a property. Any assessment of a fee pursuant to this chapter shall be in addition to, and not in substitution of, the enforcement of any other provisions of the City Code or Maryland law.

§ 95-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATIVE HEARING OFFICER

An independent hearing officer appointed by the Mayor with approval of the City Council to review appeals of the application of this chapter.

APARTMENT COMPLEX

A single structure that consists of 25 or more separate units used for residence or domicile purposes. "Apartment complex" shall also include two or more multiunit residential structures under common ownership and located on the same premises.

CHRONIC NUISANCE PROPERTY

- A. Any property where the occurrence or commission of behavior which results in the following number of separate HPD qualifying calls occurred at said property within any twelve-month period:

<u>Type of Property</u>	<u>Minimum Number of Qualifying Calls</u>
Commercial property	8
Transient Housing Facility	60
Residential property (1 or 2 units)	3, or 2 if at least 1 of which constitutes a felony under Maryland law.
Multiunit residential structure (3-24 units)	4 total, or 3 to any individual unit within the structure, or 2 to any individual unit within

Apartment complex (25-49 units)	the structure if at least 1 of which constitutes a felony under Maryland law 6 total, or 3 to any individual unit within the complex, or 2 to any individual unit within the complex if at least 1 of which constitutes a felony under Maryland law
Apartment complex (50-99 units)	8 total, or 3 to any individual unit within the complex, or 2 to any individual unit within the complex if at least 1 of which constitutes a felony under Maryland law
Apartment complex (100-199 units)	10 total, or 3 to any individual unit within the complex, or 2 to any individual unit within the complex if at least 1 of which constitutes a felony under Maryland law
Apartment complex (200-399 units)	12 total, or 3 to any individual unit within the complex, or 2 to any individual unit within the complex if at least 1 of which constitutes a felony under Maryland law
Apartment complex (400 or more units)	14 total, or 3 to any individual unit within the complex, or 2 to any individual unit within the complex if at least 1 of which constitutes a felony under Maryland law

- B. "Chronic nuisance property" shall also mean any privately owned property, regardless of type, at which there have been at least 3 Code Administration notices of violation issued within any twelve-month period for a violation from among the following qualifying property maintenance standards:

Chapter 64-8, Section 302.1, Sanitation.

Chapter 64-8, Section 302.4, Weeds.

Chapter 64-8, Section 302.8 Motor Vehicles.

Chapter 185, Nuisance Abatement (Weeds, Trash and Debris Abatement Ordinance).

CITY

The City of Hagerstown, Maryland.

CODE

The Code of the City of Hagerstown, as from time to time amended.

CODE ADMINISTRATION

The Code Administration Division of the Planning and Code Administration Department of the City.

COMMERCIAL PROPERTY

Property that is maintained, at least in part, for business or commercial purposes excluding transient housing facilities.

DISTURBANCE

A. Conduct consisting of any of the following:

- Controlled dangerous substance or paraphernalia, possession or sale;
- Disorderly conduct;
- Disturbing the peace;
- Liquor law violation, public consumption or open container of alcohol;
- Loitering;
- Loud noise complaint;
- Prostitution;
- Public urination or indecent exposure;
- Undesirable, intoxicated or suspicious person; or
- Any conduct which constitutes a felony under Maryland law.

B. "Disturbance" shall not include calls for service for domestic violence issues.

HPD

The Hagerstown Police Department.

MULTIUNIT RESIDENTIAL STRUCTURE

A structure that is maintained, at least in part, as a residence or domicile including short-term rentals. For purposes of this chapter, a multiunit residential structure shall not include a property that has less than three separate units used for residence or domicile purposes, nor shall it include a property which qualifies as an apartment complex hereunder.

NOTICE

Personal service to any owner, or delivery by first-class mail to any owner and posting of the subject property. The effective date of such notice shall be the date upon which the notice is issued by the City.

PROPERTY

Any privately owned property within the corporate limits of the City of Hagerstown. Any public or governmental property is specifically excluded.

QUALIFYING CALL

That a sworn officer of HPD has been dispatched to, responds to, or otherwise comes upon a situation at a property as a result of certain conduct of the owner, tenant, occupant, patron, guest, or other person present with the implied or express permission of

the owner, at or about said property and HPD verifies that said conduct qualifies as a disturbance as defined herein.

RESIDENTIAL PROPERTY

A property that is maintained, at least in part, as a residence or domicile including short-term rentals. For purposes of this chapter, a "residential property" shall not include a property that has three or more separate units used for residence or domicile purposes.

SHORT-TERM RENTAL

As defined in the Transient Housing Ordinance, Chapter 230 of the Code.

TRANSIENT HOUSING FACILITY

As defined in the Transient Housing Ordinance, Chapter 230 of the Code excluding Short-term rental.

§ 95-3 Notice of nuisance.

Whenever a qualifying call occurs and/or when a property qualifies as a chronic nuisance property pursuant to this chapter, the City shall issue a written notice to any owner of said property advising the notice recipient of the following:

- A. A description of the property sufficient to reasonably identify the premises.
- B. An itemization of the dates of all HPD qualifying calls and/or Code Administration notices of violation and a brief description of the related circumstances giving rise to the qualifying calls and/or notices of violation.
- C. That a qualifying call has occurred and/or the property has been deemed a chronic nuisance property for the assessment of fees pursuant to this chapter for excessive use of City services.
- D. Properties deemed a chronic nuisance property shall have that designation for one year from the date of such notice.
- E. That a fee in the amount of \$100 for the first offense, \$250 for a second offense, and \$500 for a third or subsequent offense shall be imposed against the property for each HPD qualifying call occurring or Code Administration notice of violation issued for a qualifying property maintenance standard on, at or in the property while the property is deemed a chronic nuisance property; and that any such fee assessment shall be payable by the owner(s) of said property and shall constitute a lien on the property to be collected as municipal taxes are collected.
- F. That any affected owner shall have the right to appeal to the administrative hearing officer in writing to contest the notice and to show cause why the property should not be deemed a chronic nuisance property.

§ 95-4 Chronic nuisance property list.

The City shall maintain and annually publish a list of those properties currently deemed chronic nuisance properties as a result of HPD qualifying calls or Code Administration qualifying property maintenance standards by street address and property owner.

§ 95-5 Violation/Fee assessment.

- A. The City shall issue against a property written notice of a fee assessment of \$100 for a first offense, \$250 for a second offense, and \$500 for a third or subsequent offense, for each HPD qualifying call or Code Administration notice of violation arising out of conduct or a condition on, at or in the property which occurs while the property is deemed a chronic nuisance property. Written notice of any such fee assessment shall be made to any owner of said property. Each HPD qualifying call or Code Administration notice of violation shall constitute a separate and distinct offense and shall give rise to a separate fee assessment. The fee assessment may be collected in the same manner as municipal taxes are collected pursuant to § 223-11 hereof.
- B. In addition to the fee assessments contained herein, the crime-free housing operator's certification issued to the owner, landlord or designated agent pursuant to Chapter 197 is subject to denial, suspension or revocation for a violation of this chapter, pursuant to § 197-10.

§ 95-6 Appeals.

Any owner of property directly affected by an action of the City for a violation of this chapter shall have 30 days from the date upon which notice is issued to file an appeal, in writing, to the administrative hearing officer, stating why the action is invalid or incorrect in whole or in part. The appeal shall be filed on the form provided by the City and must be accompanied by an appeal fee of \$50. Failure to file such an appeal within the time frame required shall render the determination of the City final. Upon a proper and timely appeal, the administrative hearing officer shall schedule the matter for a hearing within 45 days of the filing of said appeal. The appellant shall be entitled to present evidence to the administrative hearing officer at such hearing and shall have the burden of proving that the action taken is invalid or incorrect, in whole or in part. At the conclusion of the hearing, the administrative hearing officer shall issue a final written decision on the validity of the action taken, including such order which may allow for a reduction in the fee assessment for good cause shown. Any aggrieved party may appeal the decision of the administrative hearing officer to the Circuit Court for Washington County within 30 days after the date upon which a final written decision is issued.

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

Topic:

Approval of a Resolution: Authorizing Financial Incentive Agreement between the City of Hagerstown and MCB Hagerstown, LLC

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

112222__RS_MCC_Resolution_Currwood_FIA.pdf

Description

Approval of Resolution:
Financial Incentive
Agreement between City of
Hagerstown and MCB
Hagerstown, LLC

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: **Approval of Resolution:** Authorizing a Financial Incentive Agreement between the City of Hagerstown, Maryland and MCB Hagerstown, LLC.

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

MOTION: I hereby move for Mayor & Council approval of a resolution authorizing the City to enter into a financial incentive agreement with MCB Hagerstown, LLC in connection with its development of property and capital investment. The City's financial incentive provides grant back after permit fees paid. The approval provides that the City Administrator and/or the City Attorney may make administrative edits to the attached Agreement if necessary prior to execution.

DATE OF INTRODUCTION: 11/22/2022

DATE OF PASSAGE: 11/22/2022

EFFECTIVE DATE: 11/22/2022

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF
FINANCIAL INCENTIVE AGREEMENT FOR THE IMPROVEMENT OF THE
PROPERTY KNOWN AS 1527 HOWELL ROAD, HAGERSTOWN, MARYLAND
BETWEEN THE CITY OF HAGERSTOWN (“THE CITY”) AND
MCB HAGERSTOWN, LLC (“MCB”)**

RECITALS

WHEREAS, MCB intends to construct 1.9 million square feet of speculative industrial development, consisting of an approximately 1,200,000 to 1,600,000 square foot building (known as “Building 1”) to be constructed in Phase I and an approximately 300,000 square foot building (known as “Building 2”) to be constructed in Phase II (both Phases collectively referred to as the “Project”); both to be constructed on its real property at 1527 Howell Road, which is located within the corporate limits of the City of Hagerstown, Maryland, in accordance with site plans approved by the Hagerstown Planning Commission on or about April 27, 2022 (Case nos. ZS-2022-02 and ZS-2022-03);

WHEREAS, MCB’s total construction budget anticipates \$140 million of investment;

WHEREAS, the Project has the potential to create more than 2,000 jobs;

WHEREAS, the site is not currently located in an Enterprise Zone, but is under consideration for future inclusion in an Enterprise Zone;

WHEREAS, the Project is expected to create new jobs and spur economic development on the City’s eastern boundary; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the City and citizenry to enter into this Financial Incentive Agreement.

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

1. That the foregoing recitals are incorporated herein as if fully set forth.
2. That the award of a monetary incentive in exchange for the development of the property known as 1527 Howell Road, Hagerstown, Maryland is approved.
3. That the City of Hagerstown be and is hereby authorized to execute the Financial Incentive Agreement, for the development of the property known as 1527 Howell Road, Hagerstown, Maryland, a copy of which Agreement is attached hereto, and to execute such other and further documents as are necessary to effectuate the same.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Emily N. Keller, Mayor

Date of Introduction: November 22, 2022
Date of Passage: November 22, 2022
Effective Date: November 22, 2022

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

FINANCIAL INCENTIVE AGREEMENT

by and between the City of Hagerstown, Maryland, and MCB Hagerstown LLC

THIS FINANCIAL INCENTIVE AGREEMENT ("Agreement") is made and entered this _____ day of _____, 2022 by and between the **City of Hagerstown, Maryland ("the City")**, and **MCB Hagerstown LLC, ("MCB")**.

RECITALS

WHEREAS, MCB intends to construct up to 1.9 million square feet of speculative industrial development, consisting of an approximately 1,200,000 to 1,600,000 square foot building (known as "Building 1") to be constructed in Phase I and an approximately 300,000 square foot building (known as "Building 2") to be constructed in Phase II (both Phases collectively referred to as the "Project"); both to be constructed on its real property at 1527 Howell Road, which is located within the corporate limits of the City of Hagerstown, Maryland, in accordance with site plans approved by the Hagerstown Planning Commission on or about April 27, 2022 (Case nos. ZS-2022-02 and ZS-2022-03);

WHEREAS, MCB's total construction budget anticipates \$140 million of investment;

WHEREAS, the Project has the potential to create more than 2,000 jobs;

WHEREAS, the site is not currently located in an Enterprise Zone, but is under consideration for future inclusion in an Enterprise Zone;

WHEREAS, the Project is expected to create new jobs and spur economic development on the City's eastern boundary; and

WHEREAS, the City has agreed to provide a monetary incentive to MCB to assist with the Project.

Therefore, for and in consideration of the incentives hereinafter provided and the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the City and MCB do contract and agree as follows:

1. **Incentive Package.** The City and MCB agree that the incentive contemplated herein shall be governed by the following provisions:

- A. Subject to the requirements of this Agreement, the City shall grant back to MCB \$425,000.00 of permit fees paid within sixty (60) days of the Certificate of Occupancy for Building 1 or January 1, 2023, whichever comes later.

- B. Subject to the requirements of this Agreement, the City shall grant back to MCB \$200,000.00 of permit fees paid within sixty (60) days of the Certificate of Occupancy for Building 2 or January 1, 2023, whichever comes later.
- C. In no event shall the total incentive for this Project exceed \$625,000.00 in grants back to MCB by the City for actual permit fees paid.
- D. MCB shall invest or cause to be invested at least \$10,000,000 in capital investment for each building.
- E. MCB shall create at least one hundred (100) New Permanent Full-Time Positions for each building. MCB must provide a jobs certification report by December 31, 2025. If there are fewer than 100 New Permanent Full-Time Positions in one or both buildings, the incentive related to that building shall be prorated by percentage for the actual number of New Permanent Full-Time Positions created in that building (for example, if there are 50 New Permanent Full-Time Positions in Building 2, MCB shall be entitled to an incentive of \$100,000.00) and reimbursement for any overpayment must be made by MCB to the City within ninety (90) days of the submission of the jobs certification report.
- F. Phase I must be completed with a use and occupancy permit no later than December 31, 2024.
- G. Phase II must be completed with a use and occupancy permit no later than December 31, 2024.
- H. Phase I must be tenant occupied by June 30, 2025.
- I. Phase II must be tenant occupied by June 30, 2025.
- J. If this site becomes included in the Enterprise Zone, MCB shall refund any and all incentive monies received from the City to the City within ninety (90) days of Enterprise Zone certification and MCB shall not be entitled to any incentives under this Agreement.
- K. If MCB is granted an appeal of the property assessment prior to its submission of the jobs certification report pursuant to subsection E, MCB shall refund any and all incentive monies received from the City to the City within ninety (90) days of said appeal and MCB shall not be entitled to any incentives under this Agreement.
- L. MCB may apply for benefits or assistance under the Washington County Job Creation program separately and receipt of any such benefit or assistance shall not reduce any incentive hereunder.
- M. MCB shall maintain good standing on all developer debts, taxes, and any other obligations to the City. The City shall notify MCB in writing if it violates this

provision and MCB shall have thirty (30) days from receipt of that written notice to cure.

- N. If MCB files for bankruptcy or receivership, whether voluntary or involuntary, before complying with all provisions of this Agreement, MCB shall be deemed in default of this Agreement and shall immediately reimburse the City for any and all monies received hereunder.

3. **Default.** In the event of a default by MCB of any term, provision or condition of this Agreement, the City shall not be required to make any additional payments under this Agreement. Further, the City shall be permitted to charge interest at the rate of Three per cent (3%) fixed per annum on all incentive monies made to MCB until all such monies and interest are repaid in full in addition to pursuing any and all rights at law or in equity, including but not limited to the right to recover consequential damages resulting from MCB's default.

In any action brought by or against the City in the interpretation or enforcement of this Agreement, MCB, in addition to all other damages, shall pay the reasonable value of attorney's services incurred by the City in such action, together with the City's litigation expenses and court costs. This provision shall apply regardless of whether the City is represented in such proceedings by an attorney already employed by (or on retainer with) the City or by other counsel or both.

4. **Notice.** All notices and correspondence under or regarding this Agreement or any provisions hereof shall be in writing and shall be hand-delivered or sent postage prepaid by either (i) United States mail, certified, return receipt requested, or (ii) for delivery the next business day with a nationally recognized express courier:

To MCB:

MCB Hagerstown LLC
2002 Clipper Park Road, Suite 105
Baltimore, MD 21211
Attention: P. David Bramble

with a copy to Ryan Bailey, Esq.
2002 Clipper Park Road, Suite 105
Baltimore, MD 21211

To the City at:

City of Hagerstown
1 East Franklin Street
Hagerstown, Maryland 21740
Attention: Scott A. Nicewarner
City Administrator

with a copy to: Jason Morton
City Attorney
82 West Washington Street
Suite 100
Hagerstown, Maryland 21740

5. **Laws of Maryland.** This Agreement was made and entered into in the State of Maryland and is to be governed by and construed under the laws of the State of Maryland, without regard to conflicts of law principles. The parties hereby consent to the exclusive jurisdiction and venue of the Maryland State Courts located in Washington County, Maryland for the litigation of any issue arising hereunder.

6. **Recitals.** The Recitals are hereby incorporated into this Agreement as substantive provisions.

7. **Entire Agreement: Modification.** This Agreement (including Exhibits 1-4 attached hereto) constitutes the entire agreement and understanding of the parties. There are no other promises or other agreements, oral or written, express or implied between the parties other than as set forth in this Agreement. No change or modification of, or waiver under, this Agreement shall be valid unless it is in writing and signed by authorized representatives of the parties.

8. **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.

9. **Waiver.** Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Agreement.

10. **Survival.** This Agreement shall terminate on July 29, 2028; however, the covenants contained herein or liabilities accrued under this Agreement which, by their terms, require their performance after the expiration or termination of this Agreement shall be enforceable notwithstanding the expiration or other termination of this Agreement.

11. **Counterparts/Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or photocopy of a signature of a party shall constitute an original signature, fully binding the party for all purposes.

12. **Assignment.** MCB may assign this Agreement to any subsequent bona fide purchaser for value. Otherwise, this Agreement may not be assigned by either party without the express written consent of the other party.

13. **Successors Bound.** This Agreement shall be binding on and shall inure to the benefit of the successors, permitted assigns, and legal representatives of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement under their respective seals as of the day and year first above written.

WITNESS:

MCB Hagerstown LLC

BY: _____ (SEAL)
P. David Bramble, Authorized Signatory

ATTEST:

CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

BY: _____ (SEAL)
Emily Keller, Mayor



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Scott Nicewarner, City Administrator

FROM: Doug Reaser, Business Development Specialist

DATE: November 2, 2022

RE: **MCB Hagerstown (Currwood Development) Financial Incentive Agreement**

At the November 8, 2022 Work Session, staff will review the financial incentive document for MCB Hagerstown. Staff seek guidance on proceeding with the financial incentive agreement.

Background:

- MCB Hagerstown intends to construct 1.9 million square feet of speculative industrial development.
- Capital investment is expected in the \$140 million range.
- The development is expected to create between 1,500-2000 jobs.
- The site is currently not in the Enterprise Zone but is under consideration for future inclusion.
- The financial incentive agreement follows terms not dissimilar from the County's Job Creation and Capital Investment Real Property Tax Credit program. The County would be providing roughly \$12 million in tax incentives through utilization of this program.

Business Points of Incentive Offer:

- The total collective incentive shall not exceed \$625,000 in grant back equal to City permit fees paid.
 - Building 1 would have \$425,000 of grant back equal to City permit fees paid.
 - Building 2 would have \$200,000 of grant back equal to City permit fees paid.
- The grant funds will be paid within 60 days of the Certificate of Occupancy for the shell building but not be paid before January 1, 2023 for either building/phase.
- The offer cannot be combined with the Enterprise Zone should the designation become available. The developer will have the option to proceed with this Financial Incentive or Enterprise Zone at the Developer's option.
- Any monetary distribution and/or budget consideration of incentive funds will be refundable to the City within 90 days of enterprise zone certification.
- The development must cause a minimum capital investment and job creation that follows the Washington County Job Creation and Capital Investment Real Property Tax Credit Program as defined in Section 4 (c).
 - Minimum of \$10,000,000 capital investment for each building.
 - Creation of 100 New Permanent Full-Time Positions for each building.
- This incentive will be negated if MCB Hagerstown LLC seeks and achieves an appeal of property assessment before submission of the jobs certification report.
- Phase I construction must be completed with a use and occupancy permit by 12/31/24.

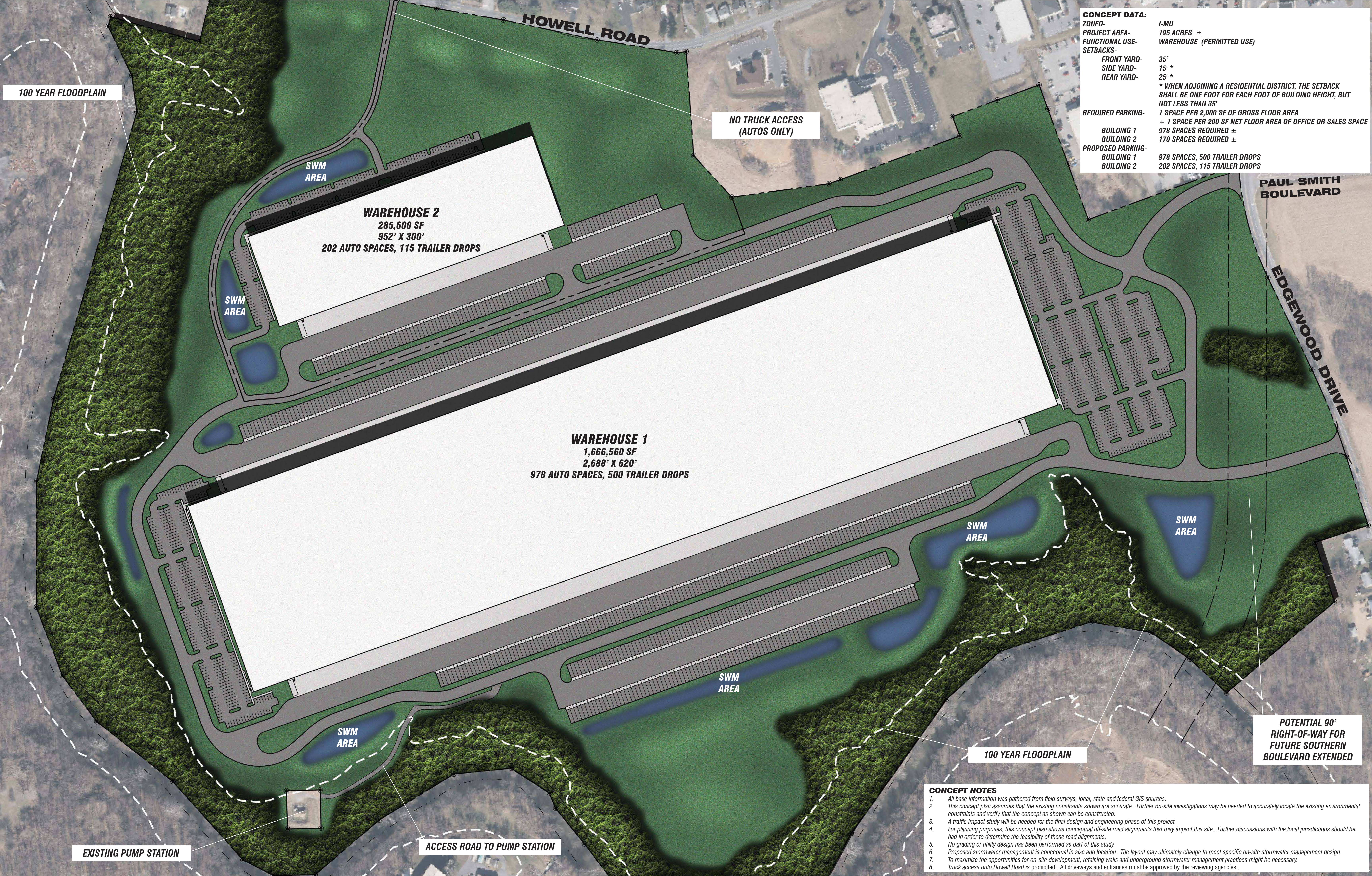
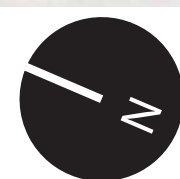
- Phase II of construction must be completed with a use and occupancy permit by 12/31/24.
- Phase I must be tenant occupied by 6/30/25.
- Phase II must be tenant occupied by 6/30/25.
- MCB Hagerstown LLC must provide a jobs certification report by 12/31/25. If either building is unable to obtain 100 New Permanent Full-Time Positions, the incentive will be prorated to positions filled out of 100 and reimbursement for the incentive will be required within 90 days (Example: Tenant occupies Building 2 with 50 jobs - \$100,000 would be reimbursed).
- If these conditions are not met, any granted funds must be repaid to the City of Hagerstown.

Staff will be present at the Work Session to discuss this project in detail.

Attached: Financial Incentive Agreement, Concept Plan

c:

Jill Thompson
Kathy Maher
Michelle Hepburn
Nancy Hausrath
Rodney Tissue
Ann Rotz
Jason Morton



CONCEPT DATA:	
ZONED-	I-MU
PROJECT AREA-	195 ACRES ±
FUNCTIONAL USE-	WAREHOUSE (PERMITTED USE)
SETBACKS-	
FRONT YARD-	35'
SIDE YARD-	15' *
REAR YARD-	25' *
* WHEN ADJOINING A RESIDENTIAL DISTRICT, THE SETBACK SHALL BE ONE FOOT FOR EACH FOOT OF BUILDING HEIGHT, BUT NOT LESS THAN 35'	
REQUIRED PARKING-	1 SPACE PER 2,000 SF OF GROSS FLOOR AREA + 1 SPACE PER 200 SF NET FLOOR AREA OF OFFICE OR SALES SPACE
BUILDING 1	978 SPACES REQUIRED ±
BUILDING 2	170 SPACES REQUIRED ±
PROPOSED PARKING-	
BUILDING 1	978 SPACES, 500 TRAILER DROPS
BUILDING 2	202 SPACES, 115 TRAILER DROPS

- CONCEPT NOTES**
1. All base information was gathered from field surveys, local, state and federal GIS sources.
 2. This concept plan assumes that the existing constraints shown are accurate. Further on-site investigations may be needed to accurately locate the existing environmental constraints and verify that the concept as shown can be constructed.
 3. A traffic impact study will be needed for the final design and engineering phase of this project.
 4. For planning purposes, this concept plan shows conceptual off-site road alignments that may impact this site. Further discussions with the local jurisdictions should be had in order to determine the feasibility of these road alignments.
 5. No grading or utility design has been performed as part of this study.
 6. Proposed stormwater management is conceptual in size and location. The layout may ultimately change to meet specific on-site stormwater management design.
 7. To maximize the opportunities for on-site development, retaining walls and underground stormwater management practices might be necessary.
 8. Truck access onto Howell Road is prohibited. All driveways and entrances must be approved by the reviewing agencies.

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

Topic:

Approval of a Resolution: Lease Amendment with Maryland Watch Works

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

112222_RS_Resolution_MWW.pdf

Description

Resolution: Lease
Amendment MD Watch
Works

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval of a Resolution: Lease Amendment with Maryland Watch Works, LLC for the City of Hagerstown property located at 14 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 Amendment with Maryland Watch Works, LLC at the City of Hagerstown property located at 14 North Potomac Street, Suite B-3 in Hagerstown, MD. The approval provides that the City Administrator and/or the City Attorney may make administrative and non-substantive edits to the attached Addendum if necessary prior to execution.

DATE OF INTRODUCTION:	N/A
DATE OF PASSAGE:	11/22/2022
EFFECTIVE DATE:	11/22/2022

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO AN AMENDMENT TO COMMERCIAL LEASE WITH MARYLAND
WATCH WORKS, LLC
FOR A PORTION OF THE PROPERTY KNOWN AS
14 NORTH POTOMAC STREET**

RECITALS

WHEREAS, the City of Hagerstown owns property known as 14 North Potomac Street in Hagerstown, Maryland; and

WHEREAS, a portion of the said property is currently being leased by Maryland Watch Works, LLC (“the Premises”), pursuant to a commercial lease dated March 9, 2020; and

WHEREAS, the parties desire to Amend said Lease; and

WHEREAS, Maryland Watch Works, LLC, is a limited liability company organized and existing under the laws of the State of Maryland, and which does business as a watch manufacturing and repairing business; and

WHEREAS, the Mayor and Council find it to be in the best interests of the citizens to amend said Lease;

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 an Amendment to Commercial Lease with Maryland Watch Works, LLC for the Premises, pursuant to the terms of the Amendment attached hereto and incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Amendment 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 N. Keller, Mayor

Date of Introduction: November 22, 2022
Date of Passage: November 22, 2022
Effective Date: November 22, 2022

Prepared by:
SALVATORE & MORTON, LLC
City Attorneys

Amendment to Commercial Lease

THIS AMENDMENT TO COMMERCIAL LEASE made on the _____ day of November, 2022, between City of Hagerstown, Landlord, and Maryland Watch Works, LLC, Tenant.

WITNESSETH, that pursuant to Commercial Lease dated March 9, 2020, the Landlord hereby leased to the Tenant and the Tenants hereby leased from the Landlord, premises known as 14 North Potomac Street, Suite B-3, Hagerstown, Maryland 21740.

WITNESSETH, that the parties desire to amend the Commercial Lease *in only the following regard*:

A. 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 2,000 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 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.

B. IN ALL OTHER RESPECTS, the Commercial Lease dated March 9, 2020, shall remain in full force and effect.

This Amendment to Commercial Lease contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this Amendment to Commercial Lease other than as expressly set forth herein.

LANDLORD: The City of Hagerstown

TENANT: Maryland Watch Works,
LLC

BY: _____

BY: _____

Print: Emily N. Keller
Title: Mayor of the City of Hagerstown

Pierre Brown
Managing Member

As to Guarantee of Lease and this Amendment to Commercial Lease:

GUARANTOR: Pierre Brown

Print: Pierre Brown



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Scott Nicewarner, City Administrator
FROM: Doug Reaser, Business Development Specialist
DATE: November 2, 2022
RE: **Review of Lease – Maryland Watch Works**

Staff will attend the November 8, 2022 Mayor & Council Work Session to review a request of Maryland Watch Works to end their lease early.

Background

Maryland Watch Works currently leases approximately 2,000 square feet, Suite B-3, at 14 N Potomac St (Elizabeth Hager Center).

- Lease began April 1, 2020.
- Current rent is \$2,000 per month.
- City previously included a termination clause for expansion of the businesses allowing 90 days' notice without penalty. The clause required the tenant to expand to a minimum of 5,500 square feet or more.
- Initial term of the lease expires March 31, 2023.

Request

Maryland Watch Works has requested that the expansion requirement of 5,500 be lowered. The business has indicated they've found a more suitable space for their business and would like the City to waive the requirement. Maryland Watch Works has indicated that they would provide 90 days' notice and be moving to another location within the downtown to a slightly larger space than they are currently occupying.

Staff seek direction from Mayor and Council on Maryland Watch Works' request.

Attachments: 4/1/2020 Lease

c. Jill Thompson
Michelle Hepburn
Eric Deike

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO A NEW LEASE AGREEMENT WITH MARYLAND WATCH WORKS, LLC
FOR A PORTION OF THE PROPERTY KNOWN AS
14 NORTH POTOMAC STREET**

RECITALS

WHEREAS, the City of Hagerstown owns property known as 14 North Potomac Street in Hagerstown, Maryland; and

WHEREAS, a portion of the said property is available for lease ("the Premises"); and

WHEREAS, the City of Hagerstown desires to lease said Premises to Maryland Watch Works, LLC; and

WHEREAS, Maryland Watch Works, LLC, is a limited liability company organized and existing under the laws of the State of Maryland, and which does business as a watch manufacturing and repairing business, desires to lease the Premises from the City and operate its business at said location, provided that the City make certain improvements to the Premises; and

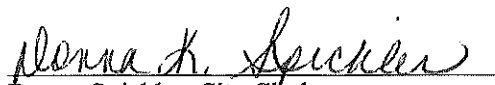
WHEREAS, the Mayor and Council find it to be in the best interests of the citizens to do so;

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

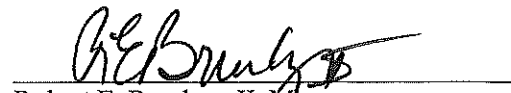
1. That it adopts herein the foregoing Recitals and authorizes the City of Hagerstown to enter into a Lease Agreement with Maryland Watch Works, LLC for the Premises, pursuant to the terms of the Lease Agreement attached hereto and incorporated herein by reference.
2. That upon Maryland Watch Works providing 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


Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND


Robert E. Bruchey, II, Mayor

Date of Introduction: February 25, 2020
Date of Passage: February 25, 2020
Effective Date: February 25, 2020

Prepared by:
SALVATORE & MORTON, LLC
City Attorneys

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement") entered into on 9th March day of 2020, 2020, 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 Maryland Watch Works, 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 14 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 14 North Potomac Street, Suite B-3 Hagerstown, Maryland, consisting of approximately 2,000 total square feet, more particularly identified on the attached **Exhibit 1** ("the Premises").

SECTION 2 TERM

The Premises described herein are leased by Landlord to Tenant for an initial term of three (3) years (36 months) beginning on the 1st day of April, 2020 and terminating on the 31st day of March, 2023 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. In no event shall the tenancy be extended or renewed absent an express written agreement between the Parties.

Thereafter, the Tenant is given and shall have the option to renew this Lease for two (2) additional one-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 (or renewal term as the case may be) 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.

SECTION 3

RENT

A. For the period of April 1, 2020 to March 31, 2021, the annual rental shall be Fifteen Thousand Four Hundred and 00/100 Dollars (\$15,400.00). Tenant shall pay in equal monthly installments of One Thousand Four Hundred and 00/100 Dollars (\$1,400.00) per month in advance on the first day of each month; however, there shall be no rent due for the two months of occupancy (i.e. April and May, 2020).

B. For the period of April 1, 2021 to March 31, 2022, the annual rental shall be Twenty Thousand Four Hundred and 00/100 Dollars (\$20,400.00). Tenant shall pay in equal monthly installments of One Thousand Seven Hundred and 00/100 Dollars (\$1,700.00) per month in advance on the first day of each month.

C. For the period of April 1, 2022 to March 31, 2023, the annual rental shall be Twenty-Four Thousand and 00/100 Dollars (\$24,000.00). Tenant shall pay in equal monthly installments of One Thousand Three Hundred and 00/100 Dollars (\$2,000.00) per month in advance on the first day of each month.

D. For each year thereafter, if any, Tenant's rent shall increase at the rate of 3% per year over the previous year's rent. Tenant shall pay said rent in equal monthly installments in advance on the first day of each month.

SECTION 4

USE FEES; UTILITIES

Tenant shall be responsible for paying for water, sewer, 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 OR WASTE 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 5,500 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 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.

Within a reasonable period of time, the alterations set forth below shall be performed by April 1, 2020 and paid for as follows:

Landlord shall pay for wood counter, paint/patch, build a water dam, labor costs to add a humidifier, and up to \$5,000 toward the cost for new flooring.

Tenant shall pay for dust collectors, L-counter/shelves, materials cost of humidifier, and any amount in excess of \$5,000 for flooring.

SECTION 9

USE

The demised Premises shall be used by the Tenant solely for the purpose of conducting a watch manufacturing and repair 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 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 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. 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 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 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.

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:	Pierre Brown 13804 Renwick Terrace Hagerstown, MD 21740

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

The Tenant hereby acknowledges that the Landlord has agreed to enter into the Lease based in part on the assurances of and receipt of a personal guarantee from Pierre Brown. The Personal Guarantee is the form attached hereto as **Exhibit 2** and is incorporated herein by reference as an integral and material requirement of this Lease Agreement.

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 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.

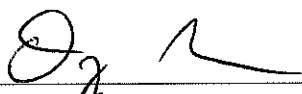
**WITNESS AND ATTEST
AS TO CORPORATE SEAL**


Donna Spickler, City Clerk

CITY OF HAGERSTOWN

By: 
Robert E. Bruchey, II, Mayor

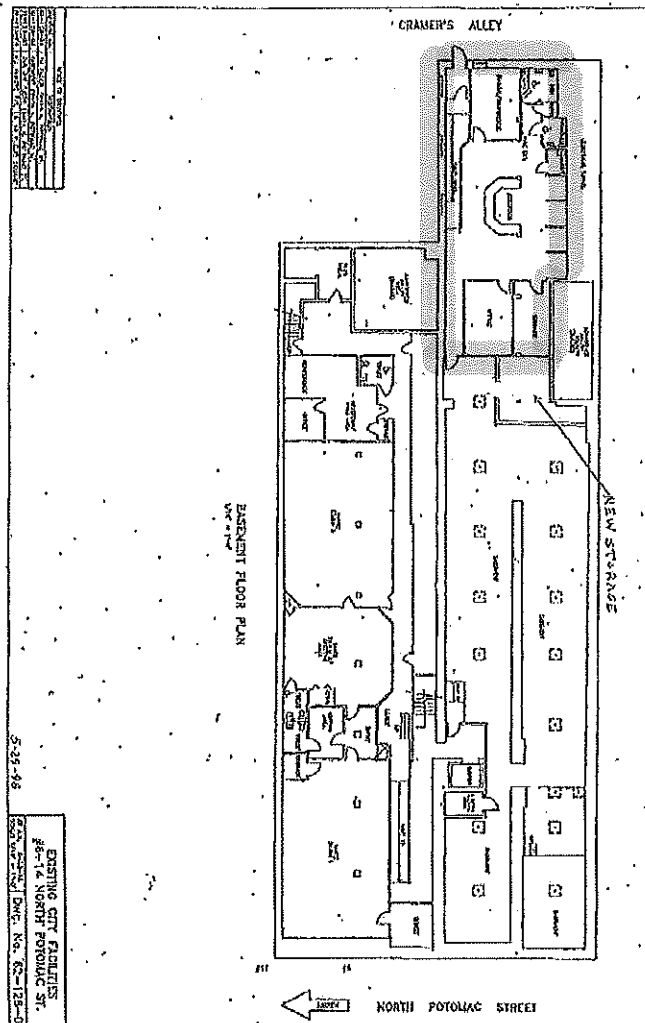
ATTEST


Day Reason, Business Development Specialist

**TENANT
MARYLAND WATCH WORKS, LLC**

By: 
Pierre Brown, Managing Member

EXHIBIT 1



Leased area (~2,000 sq ft) is represented by yellow highlight. Other areas are prohibited from use.

GUARANTEE OF LEASE

As a material inducement of Landlord to execute the foregoing Lease Agreement (the "Lease") by and between The City of Hagerstown, a Maryland Municipal Corporation ("Landlord"), and Maryland Watch Works, LLC, a Maryland Limited Liability Company ("Tenant"), for a portion of the real property located at 14 North Potomac Street, Hagerstown, Maryland, the undersigned Pierre Brown ("Guarantor") hereby unconditionally and absolutely guarantees unto Landlord, its successors and assigns, the full, prompt and complete payment by Tenant of all Rent, additional rent, utility charges, fees, and any other sums due provided for in the Lease, and the prompt, faithful and complete performance and observance by Tenant of all of the terms, covenants and conditions of the Lease to be performed or observed by Tenant (the "Guarantee").

Guarantor hereby waives (i) notice of any and all defaults by Tenant, (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 Landlord in enforcing any of its rights or remedies, nor any extension of time, nor any modification to the Lease, 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. The assignment of the Lease or subletting of all or any portion of the Premises shall not affect the Guarantor's liability hereunder, unless specifically released herefrom by Landlord.

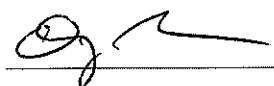
This Guarantee is independent of and in addition to any security or other remedies which Landlord may have for the performance or satisfaction of any of the Tenant's obligations under the Lease. Landlord shall not be required to resort to any other security or other remedies before proceeding upon this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

Guarantor agrees to pay Landlord, on Landlord's request, any costs (including, but not limited to, reasonable attorney's fees of twenty percent (20%)) incurred by Landlord to enforce this Guarantee. In addition, Guarantor agrees to promptly acknowledge and confirm, in such form as Landlord may request from time to time, Guarantor's obligations under this Guarantee.

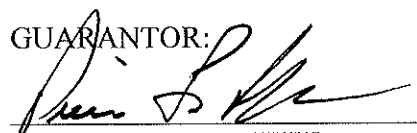
This Guarantee shall be binding upon the undersigned, his heirs and personal representatives, and shall inure to the benefit of Landlord, its successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this Guarantee on the 9th day of March, 2020, intending it to be both legally binding and an instrument under seal.

WITNESS:



GUARANTOR:


_____(SEAL)
XXXXXXXXXXXXXXXXXX

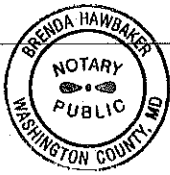
STATE OF MARYLAND, COUNTY OF WASHINGTON

I hereby certify that on PIERRE BROWN, 2020, before me, a Notary Public of the above-referenced jurisdiction, personally appeared Pierre Brown, known to me or satisfactorily proven to me to be the person whose name is 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:

Brenda Hawbaker
, Notary Public



Brenda Hawbaker
NOTARY PUBLIC
Washington County
State of Maryland
My Commission Expires
June 4, 2021

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

Topic:

Approval of Letter of Intent with Maryland State Departments of Labor and Education for the City of Hagerstown Property Located at 2-6 N. Potomac Street

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

112222_RS__DLLR-DORS_Motion.pdf

Description

Approval of Motion: DLLR-DORS

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval of a Motion: Letter of Intent with Maryland State Departments of Labor and Education for the City of Hagerstown property located at 2-6 N Potomac St, Hagerstown, Maryland.**

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

MOTION: I hereby move that the Mayor and City Council to approve the attached Letter of Intent for rental space with Maryland State Departments of Labor and Education at the City of Hagerstown property located at 2-6 North Potomac Street in Hagerstown, MD. The approval provides that the City Administrator and/or the City Attorney may make administrative and non-substantive edits to the attached Letter of Intent if necessary prior to execution.

DATE OF INTRODUCTION:	N/A
DATE OF PASSAGE:	11/22/2022
EFFECTIVE DATE:	11/22/2022



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

November 22, 2022

Maryland Department of Labor

1100 North Eutaw Street

Baltimore, MD 21201

Maryland State Department of Education

Division of Rehabilitation Services

2301 Argonne Drive

Baltimore, MD 21218

RE: Letter of Intent – 2-6 N Potomac St, Hagerstown, MD 21740 – Improvements and Lease

Dear Sir or Madam:

The Maryland Department of Labor and the Maryland State Department of Education – Division of Rehabilitation Services have expressed interest in leasing commercial space at 2-6 North Potomac Street in Hagerstown from the City of Hagerstown. However, both departments requested improvements to the space. In order to move forward with those improvements while lease negotiations continue, the City presents this Letter of Intent. If acceptable to your department, please sign below and note that in doing so **you are binding your department to reimburse certain costs to the City even if your department does not lease the space.**



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

General Terms:

1. Location and size of premises: 2-6 N Potomac St, Hagerstown, MD 21740, consisting of approximately 11,400 square feet of commercial space (not including additions below).
2. Tenants: Maryland Department of Labor and Maryland State Department of Education – Division of Rehabilitation Services
3. Landlord: City of Hagerstown.
4. Lease term: 10 years, commencing February 1, 2023 with one (1) five year option to renew.
5. Rent: \$15.50 per square foot.
6. Landlord agrees to perform architectural and engineering work based on drawings provided by Department of General Services. This amount will be reimbursed to the City over the first year in the form of additional rent.
7. Tenant will pay for buildout of requests as outlined by the drawings provided by Department of General Services (attached). This amount is not expected to exceed \$200,000. Tenant shall have no claim for reimbursement for these expenses and Tenant shall have no ownership interest in any of the improvements paid for by Tenant.
8. If a lease does not materialize by January 31, 2023, the cost of services paid by the Landlord for architectural and engineering services will be reimbursed by the Tenants within 30 days of the Landlord requesting payment.
9. Binding effect: This Letter of Intent obligates Tenant to reimburse Landlord in full for professional services paid by Landlord even if Tenant does not lease the space.
10. Acceptance: If you agree to the above-mentioned terms, please sign this Letter of Intent and return the duplicate copy within twenty (20) business days after delivery.



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

Sincerely,

Emily Keller

Mayor

City of Hagerstown

Acceptance:

Tenant Signature

Maryland Department of Labor

Date

Tenant Signature

Maryland State Department of Education –

Division of Rehabilitation Services

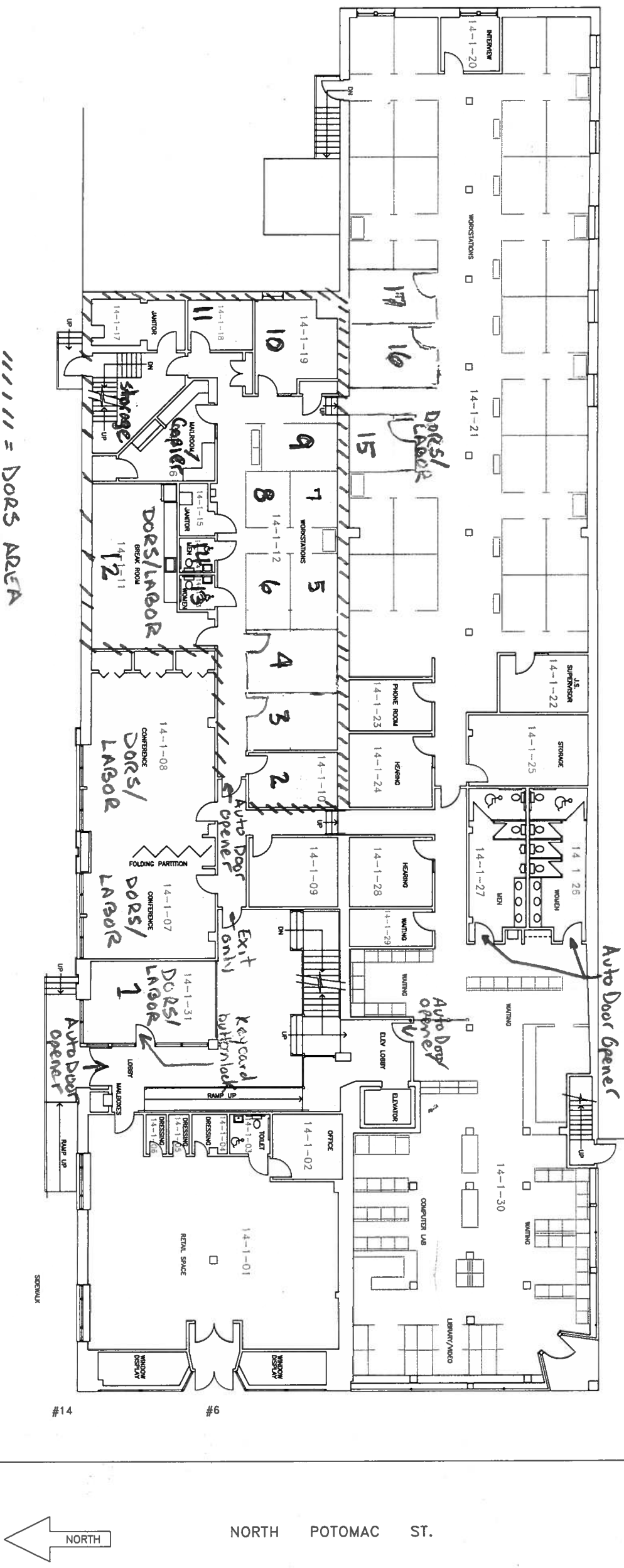
Date

Hagerstown Office Division of Rehabilitation Services (DORS)

Draft 3/18/2022

PUBLIC
SQUARE

CRAMER'S ALLEY



FIRST FLOOR PLAN
1/8" = 1'-0"

- 1 = Shared conference room (build) keyboard or button lock on door
- 2 = DORS office (existing) 10x12
- 3 = DORS office (build) 10x12
- 4 = DORS Meeting Room (build) 10x12
- 5-9 = DORS cubicles (workstations)
- 10 = DORS Meeting room (existing)
- 11 = DORS Testing Room (existing)
- 12 = Break room (New countertops/new upper cabinets) - shared DORS/LABOR
- 13 & 14 = Bathrooms (New tile floor and paint rooms)
- 15 = Lactation room (build) 8x10 - requires water
- 16 & 17 = LABOR offices (build)

- Replace all carpet tiles in DORS Area
- New offices should have carpet tiles
- Paint all walls in DORS Area / Labor offices 16 & 17 and Lactation room (15)

Hagerstown Office
14 N. Potomac St.
Hagerstown, MD 21740



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Scott Nicewarner, City Administrator

FROM: Doug Reaser, Business Development Specialist

DATE: November 2, 2022

RE: **Review of Letter of Intent – Department of Labor and Education**

Staff will attend the November 8, 2022 Mayor & Council Work Session to review a letter of intent with the state of Maryland.

Background

Maryland Department of Labor currently leases approximately 11,140 square feet located at 2-6 N Potomac (Elizabeth Hager Center) from the City.

- Current lease runs through January 31, 2023.
- Current rent is \$167,100 per year (\$15/ft)

Letter of Intent

The state is looking to consolidate both the Department of Labor and Division of Rehabilitation Services (DORS) into one location at 2-6 N Potomac. DORS has asked for additional office space and accessibility features on the first floor of Elizabeth Hager Center (see attached concept). They've requested architectural drawings without a guarantee of lease in place and staff have asked for a letter of intent to be executed in advance of proceeding with this service. The business points of the agreement include:

- Lease term shall be for 10 years
- Rent per square foot shall increase to \$15.50/ft
- City will pay for architectural/engineering services. These fees will be recouped over the first year of the lease as additional rent.
- Tenant will pay for buildout of requests from the Department of General Services concept drawing. The amount is not expected to exceed \$200,000.
- If no lease materializes by January 31, 2023, the cost of services paid by the City for architectural and engineering services will be reimbursed by the state within 30 days of a request.
- The letter of intent does include a binding effect for the cost of services that are paid.

Staff seek direction from Mayor and Council on proceeding with the letter of intent.

Attachments: Letter of Intent, Department of General Services Concept Drawing, Lease

c. Jill Thompson

STATE OF MARYLAND SUPPLEMENTAL LEASE AGREEMENT DGS Form 680-3A	Supplemental Agreement No: One (1)	Date Prepared: March 9, 2017
	To Lease Dated: January 29, 2007	
Address of Premises: 2-6 North Potomac Street First Floor Hagerstown, Maryland 21740		

THIS SUPPLEMENTAL LEASE AGREEMENT, is made and entered into this ____ day of _____ 2017 by and between the Mayor and City Council of Hagerstown hereinafter called the Lessor, and the State of Maryland, hereinafter called the Lessee, to the use of the Department of Labor, Licensing and Regulation, and Employment and Training.

WHEREAS, by a Lease Agreement dated January 29, 2007 (hereinafter "Lease"), the Demised Premises contain 11,140 net usable square feet of space, more or less, to be used for the following purpose: administrative office and public contact; and,

WHEREAS, the Lease was for a ten (10) year term commencing on August 1, 2007; and

WHEREAS, per paragraph 9.1 of the Lease, the parties hereto desire to exercise the option to renew for an additional term of five (5) years;

NOW, THEREFORE, the parties for the considerations hereinafter mentioned covenant and agree that the Lease is amended as set forth herein effective upon Board of Public Works approval:

1. Section 1.3 of the Lease is hereby amended to read as follows:

The term of the lease is five (5) years and zero (0) months ("Original Term") and shall commence on August 1, 2017 ("Commencement Date") The Original Term and any Renewal Term(s) (as hereinafter defined in Section 1.3) shall hereinafter collectively be referred to as the "Term".

2. Section 1.4.1 of the Lease is hereby amended to read as follows:

The Rent payment due by Lessee to Lessor for the Demised Premises is One Hundred Sixty-Seven Thousand One Hundred Dollars and Zero Cents (\$167,100.00) per annum, payable in equal monthly installments of Thirteen Thousand Nine Hundred Twenty-Five Dollars and Zero Cents (\$13,925.00). The Lessor's Federal Tax Identification Number is 30-001292.

3. Section 32 of the Lease is hereby amended to read as follows:

Lessor's Work. Lessor will provide the following work at Lessor's expense.

1. Replace cracked tiles.
2. Replace worn carpet throughout. Carpet to be selected by Lessee.
3. Remove wallpaper in bathrooms. Prepare walls for repaint. Paint walls in bathrooms.

4. Page 1 of the Lease under the Person to contact in Lessor's Office is amended as:

Randy Gray, Department of Community & Economic Development
Phone: 301-797-6409
E-mail: rgray@hagerstownmd.org

- Also, be advised that Section 31 of the original lease is updated to say

Lessor: Director of Department of Community & Economic Development
14 N. Potomac Street, Suite 200-A
Hagerstown, MD 21740

5. All other terms and conditions of the Lease shall remain in full force and effect.

(SIGNATURES ON NEXT PAGE FOLLOWING)

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

ATTEST

LESSOR: MAYOR AND CITY COUNCIL

William C. Spradlin

BY:

Robert E. Bruchey, II (SEAL)
Mayor 4/20/17

ATTEST

LESSEE: The State of Maryland Department of
Labor, Licensing and Regulation –
Employment and Training Division

John Spink

BY:

Kelly Schulz (SEAL)
Kelly Schulz, Secretary

CERTIFICATION BY BOARD OF PUBLIC WORKS

Execution of the above Supplemental Lease Agreement #1 is hereby authorized and approved by
the Board of Public Works at a meeting held July 5, 2017 Item 8 -L.T.

Robert S. Smith

Office of Real Estate

This Supplemental Lease Agreement #1 is hereby approved for Form and Legal Sufficiency by
William C. Spradlin, Jr. Assistant Attorney General, on Aug 15, 2017

William C. Spradlin, Jr.

Assistant Attorney General

ADDENDUM "A"

AFFIDAVIT
(State as Lessee -Intergovernmental Lease)
(Revised 8/96)

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) _____ and the duly authorized representative of (governmental entity) and that I possess the legal authority to make this Affidavit on behalf the governmental entity for which I am acting.

B. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT: to the best of my knowledge, information, and belief, neither the above entity [as defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland], nor any of its officials, officers, agencies or employees directly involved in obtaining or performing contracts with public bodies [as defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland], has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the Annotated Code of Maryland, or has pleaded nolo contendere to a charge of bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows [indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the entity]:

C. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT: to the best of my knowledge, information and belief, neither the above entity, nor any of its officials, officers, agencies or employees directly involved in obtaining or performing contracts with public bodies, has:

- (a) Been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (b) Been convicted of any criminal violation of a state or federal antitrust statute;
- (c) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §§ 1961, et seq. or the Mail Fraud Act, 18 U.S.C. §§1341, et seq. for acts arising out of the submission of bids or proposals for a public or private contract;
- (d) Been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (e) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (a), (b), (c) or (d) above;
- (f) Been found civilly liable under a state or federal anti-trust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (g) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, except as follows [indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved, and their current positions and responsibilities with the business, and the status of any debarment]:

D. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT: to the best of my knowledge, information and belief, neither the above entity nor any of its officials, officers, agencies or employees has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

E. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT THIS AFFIDAVIT is to be furnished to the State of Maryland and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of a bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, and any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DATE: June 29 2017

BY:

Robert E. Bruchey, II
Authorized Representative and Affiant)

Robert E. Bruchey, II Mayor
Printed or Typed Name

DGS OFFICE OF REAL ESTATE
Lease Management and Procurement

File #: 4018

Hagerstown, Washington COUNTY

AGENCY: DLLR - Employment & Training Division LOCATION: 2-6 North Potomac Street, Hagerstown

Agency Contact: Charles Hunt Back Up Agency Contact: Lescoe Brunson
E-Mail Address: charles.hunt@maryland.gov E-Mail Address: lescoe.brunson@maryland.gov
Telephone: 301-600-2193 Telephone: 410-767-2198
Cell Telephone: N/A Cell Telephone: 240-422-2695
Pager Number: N/A Pager Number: N/A
Fax Number: N/A Fax Number: 410-333-5175

LANDLORD CONTACT INFORMATION

Agency: Public Works Department
Owner Company Name: City of Hagerstown
Address: 51 West Memorial Boulevard
Management Company Name: City of Hagerstown
Address: 1 East Franklin Street, City Hall

Primary Contact: Eric B Deike Secondary Contact: Erik Kline
Office Phone: (301) 739-8577 x 178 Office Phone: (301) 739-8577 x 177
Home Phone: _____ Home Phone: _____
Cell Phone: (301) 964-0192 Cell Phone: (240) 675-3748
Pager: _____ Pager: _____
E-Mail: edeike@hagerstownmd.org E-Mail: ekline@hagerstownmd.org
Fax Number: _____ Fax Number: (301) 791-6761

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

Topic:

Approval to Reimburse Washington County for the Community Based Prosecutor for FY23

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Approval_of_Reimbursement_for_Community_Based_Prosecutor.pdf

Motion and Signed Documents

Police_-_MCIN_Grant.pdf

APPROVAL

Grant_Award_(2023).pdf

MCIN GRANT AWARD

Signed_Agreement_of_Understanding_and_CommitmentFY22.pdf

MCIN GRANT AGREEMENT

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: November 22, 2022

TOPIC: **Approval to reimburse Washington County for the Community Based Prosecutor for FY23.**

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

MOTION: I hereby move for Mayor and Council approval to reimburse the Washington County Narcotics Task Force a total of \$64,397.00 for FY23. This is paid for out of the Maryland Crime Intelligence Network grant.

DATE OF PASSAGE: November 22, 2022

PURCHASE / CONTRACT / CONSENT FORM

City of Hagerstown Mayor and Council

Regular Session Date: November 22, 2022 Special Session Date: _____

Originating Department: Police Department Division (if applicable): _____

Department Director or Manager: Chief Paul J. Kifer

Account/Project Name: Community Based Prosecutor

Account No: 1610000 5329 G0437 CIP Control No. _____

Budget Amount: \$64,397.00 Account Balance: \$44,397 Unbudgeted Amount: \$ —

Fiscal Year: 2023 Source of Funds: MCIN Grant 100% Grant Funded

Quantity	Description	Value
1	FY23 Reimbursement for Community Based Prosecutor (July, 2022 - June, 2023)	\$ 64,397.00
TOTAL VALUE OF PROJECT		\$64,397.00

ABOVE TO BE USED FOR: 12/10/2016 - 12/11/2016

RECOMMENDED VENDOR: Business Name: Washington County Treasurer

Business Address: 35 W. Washington Street

City/State/Zip: Hagerstown, Maryland 21740

Bid/Proposal/Quote No.: _____ Sole Source? X Yes _____ No

[illegible]

PLEASE INDICATE WHICH FOCUS AREA OF THE MAYOR & COUNCIL'S STRATEGIC PLAN THIS PURCHASE/CONTRACT APPLIES TO		
Indicate with an X	FOCUS AREA	GOAL STATEMENT
	NEIGHBORHOODS REVITALIZATION & SUSTAINABILITY	The citizens of Hagerstown will experience a high quality of life.
X	PUBLIC SAFETY	The City of Hagerstown ensures that all who live, work, and play in the City of Hagerstown will be healthy and safe.
	PUBLIC FACILITIES & INFRASTRUCTURE	The City of Hagerstown will maintain quality services and infrastructure that support residents and businesses in a cost-effective manner.
	ECONOMIC DEVELOPMENT	The City of Hagerstown will continue to grow a diverse, business-friendly economy that supports the community's needs.
	CITIZEN-BASED GOVERNMENT	The City of Hagerstown is an ethical and financial responsible government.
	FISCAL ACCOUNTABILITY	The City of Hagerstown will strive for continuous improvement of fiscal responsible decision making.
	PARKS & RECREATION FOR ACTIVE/HEALTHY LIVING	The City of Hagerstown supports a culturally vibrant community.
	INNOVATIVE/PROGRESSIVE GOVERNMENT	The City of Hagerstown is committed to employee development, excellence in services, and adapting to meet the needs of the community and organization.
	COMMUNITY PROMOTION/PRIDE	The City of Hagerstown will improve our community image.
	ECONOMIC DEVELOPMENT THROUGH SPORTS AND TOURISM	The City of Hagerstown will be creative and diversify opportunities for economic development through non-traditional means.
	MISC. PROJECTS, GOALS AND LEGISLATIVE PRIORITIES	The City of Hagerstown takes a creative approach at finding solutions.

REVIEWED AND APPROVED AS FOLLOWS:

(1) Department Director and Division Manager

COMMENTS

This is paid for out of our MCIN Grant as part of the grant requirements.
Cheryl Raw 10/13/22

Signature / Date

Signature / Date

(2) Purchasing Agent

COMMENTS

Recommend Approval need updated wq

Tyler Frea 11/8/22

Signature / Date

(3) Chief Financial Officer

COMMENTS

Approve

Michelle Hepler 11/8/22

Signature / Date

(4) City Administrator

COMMENTS

Recommend Approval

Scott Newman 11/9/22

Signature / Date



GOVERNOR'S COORDINATING OFFICES

Community Initiatives • Service & Volunteerism • Performance Improvement
Crime Prevention, Youth, & Victim Services • Small, Minority, & Women Business Affairs
Banneker-Douglass Museum • Volunteer Maryland • Deaf & Hard of Hearing

August 08, 2022

Chief Paul Kifer
Chief of Police
Hagerstown Police Department
50 North Burhans Boulevard
Hagerstown, MD 21740

RE: MCIN-2023-0009

Dear Chief Kifer:

I am pleased to inform you that your grant application submitted by **Hagerstown Police Department**, entitled "**Washington County MCIN Coalition Program**," in the amount of \$275,418.00 has received approval under the Maryland Criminal Intelligence Network program. Enclosed is the grant award packet containing information and forms necessary to initiate the project.

The grant will fund the program described below:

The Hagerstown Police Department's FY23 MCIN Coalition - Washington County program fosters collaboration amongst stakeholders and coalition partners to identify violent criminal organizations involved in firearms, drugs, human trafficking, and gang activity. The program focuses on crime prevention, law enforcement, and prosecution strategies that impact violent crimes in the city and surrounding communities. Strategies rely on cooperation of coalition partners for intelligence gathering, information sharing, targeted enforcement, and effective prosecution. Resources are leveraged to identify, track, and apprehend violent offenders in a collaborative effort to disrupt and dismantle these criminal enterprises. Program funds provide personnel and contractual services.

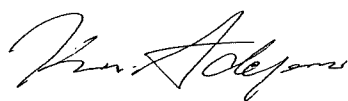
Please pay particular attention to the instructions included on the grant award. It is important that you **carefully review all Special Conditions** attached to this award. Additionally, the General Conditions for all grant awards issued by our office are also located online, at www.goccp.maryland.gov. The chief elected official, or another legally authorized official of the jurisdiction, state agency, or 501(c)(3) receiving the grant award, must sign the original Grant Award & Acceptance Form, initial each page of the Special Conditions document, and upload them in the Grants Management System within **twenty-one (21) calendar days**. Should the acceptance form not be received, requests for reimbursement will not be honored.

A copy of the grant award, Notification of Project Commencement, and individual project reports has also been sent to the project director. The project director is responsible for completing these and other required forms now and at the end of each reporting period. If the project director changes, we must be notified immediately to avoid potential reporting problems.

Projects may commence as soon as the grant award is signed and you have reviewed and accepted all of the General and Special Conditions. No funds may be encumbered or expended prior to this time without the specific written approval of the Governor's Office of Crime Control and Prevention.

If you have any questions or need any clarification regarding this grant award, please contact **Quentin Jones**, your program manager, or **Dorothy Lee**, fiscal specialist. We look forward to working with you on this project and anticipate its success in helping to address criminal justice problems in our state.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kunle Adeyemo', written in a cursive style.

Kunle Adeyemo, Esq.
Executive Director

cc: Captain Thomas S. Alexander



8/8/2022

Governor's Office of Crime Control and Prevention



Control Number:

43427

Regional Monitor:

Jones, Quentin

Fiscal Specialist:

Lee, Dorothy

Grant Award & Acceptance Form

Grant Award Number: MCIN-2023-0009

Sub-recipient: Hagerstown Police Department

Project Title: Washington County MCIN Coalition Program

Implementing Agency: Hagerstown Police Department

Award Period: 07/01/2022 - 06/30/2023

CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

This Grant Award is hereby made for financial assistance by the Governor's Office of Crime Control and Prevention in accordance with the

Maryland Criminal Intelligence Network

This Grant Award is subject to the General Conditions and any Special Conditions attached to this award, as well as all statutes and requirements of the State of Maryland.

This Grant Award incorporates all the information, conditions, representations and Certified Assurances contained in the grantee's application.

The Grant Award shall become effective as of the start date of the award, unless otherwise specified, and upon submission to the Grants Management System, within twenty-one (21) calendar days, of a fully executed original of this document signed by the duly authorized official of the sub-recipient unit of government or sub-recipient agency receiving this Grant Award. Copies and faxes are not acceptable.

FOR THE STATE OF MARYLAND:

Executive Director

Governor's Office of Crime Control and Prevention

SUB-RECIPIENT ACCEPTANCE:

Signature of Authorized Official

Typed Name And Title

Date

To submit, sign in blue ink and scan and upload the document to the grant award Documents section in the Grants Management System.

D21A05.01 STATE



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

1 Award Period of Performance

Approved by the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) of the submitted application, and the subaward that it has generated, is for the time period stated in this Subaward Package and constitutes no commitment for funding prior to the time period nor the continuation of funding beyond that time period. The subaward may be terminated by one or both parties with written notice. If the subaward is terminated before the end of the funding period, an accounting of the current quarterly and year to date expenses must be provided within 60 calendar days. Also see the General Condition related to Termination of the Subaward.

2 Statutes and Requirements of State and Federal Funds

This sub-award is subject to all State of Maryland and Federal statutes and requirements that apply to the relative funding source.

3 General and Special Conditions (POST AWARD INSTRUCTIONS)

This subaward is subject to the Special Conditions contained in your award packet and General Conditions (Post Award Instructions) referenced on the Office website, as accepted by the Authorized Official on the official Award Acceptance document. The Office retains the right to add Special Conditions, if and when needed, during the award period of performance. General Conditions (<http://www.goccp.maryland.gov/grants/general-conditions.php>) are the Post Award policies, procedures, guidelines, and business rules from the Office for grant funds, irrelevant of the funding source.

4 Sub-award Acceptance Document

The original Award Acceptance document containing the original signature of the Executive Director of the Office must be signed (electronic signature is acceptable) by the Authorized Official noted on the submitted application. This signed document must be uploaded in the Grants Management System (GMS) WITHIN 21 CALENDAR DAYS of receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. Acceptance of this subaward constitutes a commitment. The Authorized Official on the submitted application is the County Executive, Duly Authorized Official of the local unit of Government, Mayor, Commissioner, Town Administrator (if confirmed), President (if confirmed), or if agencies are permitted to apply directly, the head of the agency receiving the subaward.

5 Notification of Project Commencement Form

The Notice of Project Commencement/Delay form must be initialed in the Award Information Verification Section, AND signed at the bottom (electronic signature is acceptable) preferably by the Project Director. Alternatively, if the Project Director is unavailable, the Fiscal Contact or Authorized Official may sign. The signed document must be uploaded in the Grants Management System (GMS) within 30 calendar days of the receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. Please be advised online reporting is not accessible until the signed Award Acceptance and Project Commencement documents have been received by the Office. NOTE: If the project will not commence within 45 calendar days of the start date of the period of performance, you may submit Grant Adjustment Notice (GAN) within the GMS for review and approval. Any delay to the start date of this project does not warrant, or necessarily allow, an extension to the end date.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

6 Special Conditions

It is important that you review all conditions attached to this subaward including general and special conditions. Each Special Condition page must be initialed by the Authorized Official* on the bottom right hand corner (electronic signature is acceptable). The initialed Special Condition pages must be uploaded in the Grants Management System (GMS) within 21 calendar days of receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. *See General Conditions below related to the Authorized Official.

7 Subrecipient Organizational Capacity Questionnaire

This questionnaire (<http://goccp.maryland.gov/subrecipient-organizational-capacity-questionnaire/>) is used as an assessment tool post award for the purpose of determining the appropriate subrecipient monitoring and technical assistance level. Please note, this document assessment is not part of the criteria used in making award decisions. This completed questionnaire is required post-award and must be submitted with your Award Acceptance Document and Notification of Project Commencement. Please note, this questionnaire must be completed by the Applicant Agency. For government agencies, it may be necessary to coordinate with the State or County directly and the agency, unit or division implementing the project.

8 Civil Rights Federal Reporting Requirements

Recipients as well as subrecipients of Federal Financial Assistance through the Office of Justice Programs are subject to various Federal Civil Rights Laws such as those related to discrimination on the basis of race, color, national origin, sex, religion or disability.

The U.S. Department of Justice, Office of Justice Programs (OJP), Office for Civil Rights (OCR) developed the Equal Employment Opportunity Reporting tool to help recipients receiving funding (Safe Streets Act which authorizes VAWA, VOCA or JJDPA) comply with the Equal Employment Opportunity Plan (EEOP). The EEOP Reporting Tool is accessed online at <https://ojp.gov/about/ocr/eeop.htm>

New users will need to register for an account. Prior to registering for a new account and/or completing your report, please know the source of grant and from which year your award has been funded. Your grant number can be found on your award documents (for example: VOCA-17-XXXX would indicate VOCA 2017 funding).

Once you are registered, the EEOP Utilization Report tool will give you step-by-step guidance for preparing and submitting your EEO Utilization Report and/or certification form.

Upon submission/completion of your report, forward the confirmation email to your funding manager and include a cc: dlcivilrightscompliance_goccp@maryland.gov In your forwarded email, include in the subject line: Civil Rights/EEOP reporting and your award number so the Office can update your organization's information. If you have any questions, please email your funding manager and cc: dcivilrightscompliance_goccp@maryland.gov.

9 Sub-award Budget Notice and New Personnel

The approved Budget Notice is included in your subaward packet. This Budget Notice may have been modified from the project budget submitted in the original application and represents approved expenses for the project. Any delays in hiring must be reported to your Program Fund Manager in writing within 30 calendar days of receipt of the subaward package. If project personnel are not hired within 45 calendar days, project personnel allocations may be deobligated at the discretion of the Office. Also see General Condition related to Key Personnel.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

10 Personnel Costs

Support of Salaries, Wages, and Fringe Benefits: Charges made to awards for salaries, wages, and fringe benefits must be based on records that accurately reflect the work performed and comply with the established policies and practices of the organization. 2 CFR §200.430 (Compensation - personnel services) and 2 CFR §200.431 (Compensation - fringe benefits)

The use of percentages is not allowable to claim personnel costs. Records to support claimed costs in this category need to include timesheets or time and effort reports that record actual time charged to allowable grant program activities and signed by a supervisor. When necessary and as an alternative, payroll records may reflect certified after the fact work distribution of an employee's actual work activities. The certification statement must reflect the dates and number of hours charged to the award and the specific activities that were completed. The certification statement must be dated and signed by the supervisor, and the grant number must also be included in the statement.

11 Consultant Rates

The threshold for consultant rates is \$650 per day. Rates above this threshold will be considered on a case by case basis, with sufficient budget justification. Advanced approval is required.

12 Supplanting

Supplanting is the use of grant funds to replace state or local funds which were previously appropriated/budgeted for, or otherwise would have been spent on, the specific purpose(s) for which this subaward has been awarded. Any line item paid for with Office grant funds must be used to supplement your organization's existing budget, and may not replace any funds that were already included in your entity's existing or projected budget.

13 Budgeted Match Above Standard Requirements

The subrecipient's acceptance of this subaward constitutes a commitment that the budgeted match (if applicable), as stated on the Award Acceptance Form, may be above the standard requirements and will remain so throughout the life of the award. The subrecipient agrees that the required match (if applicable) will be allotted and relative expenditures reported, for each quarterly reporting period in which they are expended. It is further agreed that the full amount of the budgeted match (if applicable and over match if submitted) will be reported regardless of any subsequent adjustments to the grant funds budgeted and/or any financial modifications to this subaward. Any requested change to this match (if applicable) must be submitted electronically in the GMS through a GAN request and is subject to prior approval by the Office.

14 Expended Grant Funds During Award Period

All grant funds related to the subaward project, as well as any required match funds (if and where applicable) must be encumbered, obligated (requisitions, purchase orders, or contracts, which are negotiated purchases) or expended (payment of an invoice) by the end of the subaward period or any pre-authorized extension thereof. Failure to expend encumbered funds within 30 calendar days following the End Date of the award period may jeopardize reimbursement and/or result in the deobligation of funds. In that event, remaining obligations will be the sole responsibility of the subrecipient.

15 Property Inventory Report Form

The submission of the Property Inventory Report Form (PIRF) is a requirement for each financial reimbursement request that includes equipment with acquisition costs of \$5,000 or more per unit, that is approved under this subaward. The form is included in the Project Director's award package. Body Armor subawards (BARM and BPVP) are additionally referred to their Special Conditions for the required PIRF, all other conditions remain the same.



Governor's Office of Crime Control and Prevention

GOCCP Regional Monitor:

Jones, Quentin

GOCCP Fiscal Specialist:

Lee, Dorothy

Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
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16 Procurement

If the subrecipient does not have written procurement guidelines, the subrecipient must refer to the State of Maryland Procurement Policy and Procedures, which includes the consideration of Minority Business Enterprises (MBE). An overview of Maryland Procurement may be accessed here: <https://procurement.maryland.gov/> and the manual can be found here: <https://procurement.maryland.gov/maryland-procurement-manual-1-introduction-and-general-overview/>.

17 Issuance of Request for Proposals, Bids, Procurement Process

When issuing requests for proposals, bid solicitations, or other procurement requests, all subrecipients shall clearly state within said document that the cost of the potential purchase is being funded in part, or in its entirety, with government grant funds.



Grant Award - General Conditions

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18 Modifications to Subaward

You are required to submit a GAN if the budget modification changes the scope of the project, the project award period, and/or changes to Project Director or Fiscal Officer. This would include altering the period of performance, goals, activities and/or outcomes, adding budget line items, authorizing use of a subcontractor or other organization that was not identified in the original approved budget, or contracting for or transferring of grant award efforts; or if a budget modification affects more than one budget category. For example, if you wish to transfer funds between the Equipment and Personnel categories, the Office currently requires the submission of a GAN.

Requests for changes or modifications must be submitted electronically in the GMS at least 30 calendar days prior to the end of the award through a GAN and approved by the Office prior to the occurrence. To be clear, the activity may not take place until the Authorized Official and/or the Project Director receives documented approval from the Office. This approval will come via an automated email from the GMS. These changes may not be requested via telephone, fax, or email.

There are limited subaward adjustments that do not require the submission of a GAN. Subrecipients are not required to submit a GAN if the proposed changes are within both the same budget category and existing line items and if the overall changes do not exceed the total budget category (i.e. you are not requesting additional funding). Additionally, subrecipients are not required to submit a GAN to change the name(s) of approved grant funded personnel as a result of staffing changes. subrecipients should update the Program Fund Manager of staffing changes via email or by including this information on the next quarterly progress reports. See the Grant Management System Help Documents area of the Office website for more information.

The recipient should act as soon as possible to submit an GAN via the GMS. All GANs must be submitted at least 30 days prior to the end of the award period, allowing the Office sufficient time to review the GAN. Exceptions for GANs within 30 days of the end of the award period will be considered on a case by case basis. Requests for an exception must be submitted via email to the Program Fund Manager with sufficient justification for the consideration of completion of the GAN administratively by the Program Fund Manager.

There are two types of GANs as follows:

1. General GAN - must be submitted to make any type of non budgetary change to a grant to include, but not limited to, project scope, changes to the period of performance, and personnel changes.
2. Budget GAN - must be submitted to make any changes to line items within the budget to include, but not limited to, reallocating funding, adding budget line items, deobligating funds, and requesting additional funding.

Depending on the adjustments requested, the subrecipient may need to submit a general and/or a budget GAN; however only one GAN of each type may be active in the GMS at a time.

GANs must be completed by one of the following authorized personnel: authorized official, project director, the fiscal officer, or pre-approved alternative authorized signatory. GANs submitted by anyone else will be returned to the subrecipient.



Grant Award - General Conditions

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Project Title:	Washington County MCIN Coalition Program		

19 Authorized Official/Alternate Authorized Official

The Authorized Official must possess the authority to enter into a legal agreement on behalf of the entity and bind it to the award terms and conditions. The Authorized Official on the submitted application is the County Executive, Duly Authorized Official of the local unit of Government, Mayor, Commissioner, Town Administrator (if confirmed), President (if confirmed), or if agencies are permitted to apply directly, the head of the agency receiving the subaward.

If there is a change of the person in the Authorized Official position, a letter, on letterhead, must be submitted to the Office via email at support@goccp.freshdesk.com and contain all of the following:

1. Authorized official's contact information: All of the contact information listed on the new user page (name, title, organization, address, phone, email, etc.) for the new authorized official.
2. Statement of authority: The new authorized official must state that they are the authorized official for the organization and provide their job title and the date on which they assumed the role of authorized official.
3. Signature of the new authorized official.

The Alternate Authorized Signatory is not the same as the Authorized Official. The Alternate Authorized Signatory is a person permitted to sign on behalf of the Authorized Official (county executive, mayor, town administrator, president); Authorized Point of Contact (head of any sub-unit of government, agency, division, department, or bureau); Project Director and/or Fiscal Officer. To authorize an alternate signatory, the person granting authorization for another party to sign on their behalf must follow the three steps documented above. The purpose of the request must be acknowledged in the letter (e.g. sign all award documents at all times, change of personnel, in case of illness, vacation, leave of absence, etc.). If authorization is to sign all award documents at all times please attach a copy, if applicable, of an Executive Order, or the vote from Council minute meetings.

Subrecipients may use the same directions above to make additional updates to the Alternative Authorized Signatory to include, but not limited to, removal of personnel no longer authorized to make grant changes on behalf of the organization.

20 Issuance of Statements, Press Releases, or Other Documents - GOCOPYVS role

When issuing public statements, press releases, or other documents relating to this project or when conferences, seminars, workshops, or forums are held in reference to this project, the subrecipient agrees that the source of funding of this project and the role of the Office must and will be clearly acknowledged. The subrecipient will ensure that all publications resulting from this project will have the following language on the publication: "The Governor's Office of Crime Prevention, Youth, and Victim Services funded this project under subaward number BJAG-2009-9000 (your subaward number). All points of view in this document are those of the author and do not necessarily represent the official position of any State or Federal agency."

21 Reproduction and Sharing of Subaward and Project Materials

The Office has the right to reproduce, with attribution, and share any and all materials and documents generated as a result of this subaward and project.

22 Online Reporting and Post-Award Technical Assistance

All subrecipients are required to view the Office's Grants Management System (GMS) Training Videos, which can be accessed at: <http://goccp.maryland.gov/grants/gms-help-videos/>. These videos provide step-by-step guidance through the online system, from application to reporting. If you require technical assistance relative to the online GMS Reporting software during business hours you may contact the Office IT Staff at support@goccp.freshdesk.com.



Grant Award - General Conditions

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Project Title:	Washington County MCIN Coalition Program		

23 Privacy and Confidentiality of Client Records

The subrecipient must comply with federal regulations and state laws concerning the privacy and confidentiality of client records, including statistical information gathered for research purposes.

24 Use of GOCOPYVS forms

All Governor's Office of Crime Prevention, Youth, and Victim Services' required forms must be generated electronically through the web-based Grants Management System (GMS). Only applications and/or reports that are in "Submitted" status online will be reviewed and considered.

25 Online Submission of Quarterly Report Forms inline with Project Scope

The subrecipient must implement the project in accordance with the approved narrative and budget set-forth in the subaward.

All Quarterly Report Forms (Progress Reports, Performance Measurements, and Financial Reports) must be submitted via the Office web-based Grants Management System (GMS). In accordance with policy, the Office may freeze the release of funds until a subrecipient is current in the filing of all programmatic and financial reports and said reports have been approved by the Office.

PROGRAM REPORTS: Progress Reports and Performance Measurements must be submitted via the GMS on a quarterly basis. Additionally, federal required reports, as applicable to include the Performance Measurement Tool (PMT), are due no later than 15 calendar days after the end of each quarter. This due date is prior to the submission of relative quarterly financial reports. Financial reports submitted with Programmatic reports cannot be processed for payment until programmatic reports are in "Submitted" status online. Where the start date of any subaward may vary, the quarterly time frames are constant. Those time frames and the relative due dates are:

07/01 - 09/30: reports due 10/15
10/01 - 12/31: reports due 01/15
01/01 - 03/31: reports due 04/15
04/01 - 06/30: reports due 07/15

In addition the Office may require an Annual Progress Report which would be documented in the Special Conditions. This information will be used to monitor and assess the program to determine if it is meeting the stated goals and objectives, supports the State Crime Control and Prevention Strategy Plan and complies with federal requirements. Failure to submit these reports in the prescribed time may prevent the disbursement of funds.

FINANCIAL REPORTS: The Financial Report form must be electronically submitted within 30 calendar days after the end of each quarter. The Award Acceptance, Project Commencement, Progress and Performance Measurement Reports must be submitted prior to processing the quarterly financial report. If the above noted documents and program reports have not been submitted within the required time frame, financial reports may be denied and returned. Where the start date of any subaward may vary, the quarterly time frames are constant. Those time frames and the relative due dates are:

07/01 - 09/30: reports due 10/30
10/01 - 12/31: reports due 01/30
01/01 - 03/31: reports due 04/30
04/01 - 06/30: reports due 07/30

There are two exceptions to the above timeline. The first, is if a subaward does not end at the end of a quarter. The second is for nonprofit agencies that qualify for and have been granted monthly reimbursement for a particular subaward. In these instances, the financial report is due on the 30th of the following month.



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26 Submission of Revised Financial Report

The Financial Reports must be submitted no later than 30 calendar days from the end of the reporting period. If the initial 30 calendar day submission is not your actual final report for the reporting period, the subrecipient must email the Fiscal Specialist and copy the Program Manager stating that the report is not final at the same time that the financial report is submitted electronically, which is no later than 30 calendar days from the end date of the reporting period. Submission of a "Final/Revised" report must be emailed to the Office staff described above and uploaded into the Grants Management System (GMS) for this particular subaward no later than 60 calendar days after the end of the reporting period. Revisions are a manual process that require the subrecipient to make corrections on a copy of the previously electronically submitted 30 day report, with the words "Final/Revised" labeled across the top. Additionally, the "Final/Revised" submission document must include the dated signatures from the authorized agency representative. The corrections must be actual expenditures, not the variance. At the end of the subaward period, the Office reserves the right to complete an administrative closeout and deobligate remaining funds on any subaward that does not comply with this requirement.

27 Failure to Submit Reports within allotted time frames

Failure to submit any report within the allotted time frame(s) noted in the above conditions, or any pre-authorized extension thereof, may result in the delay or prevention of payment, and/or the deobligation of funds. If late reporting occurs, the expenditure or obligation may become the responsibility of the subrecipient.

28 Holding Funds

In accordance with policy, the Office will hold the release of funds until a subrecipient is current in the filing of all reports, submission of documentation, and have resolved any remaining issues.

29 Monitoring Expenditures

In order to verify the appropriateness of all grant fund related expenditures, the Office staff will monitor the use of grant funds as reported by subrecipients. Back-up documentation must be maintained on-site, be available upon request, correlate with the mandatory quarterly reporting, and be maintained as necessary to provide that obligations under this subaward and other such standards as they apply are being met. The Office, fund source agencies, State Legislative Auditors, or any State or Federal authorized representatives must have access to any documents, papers, or other records of recipients which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. Please also see the General Condition on Records Retention.

30 Records Retention

Retain all financial records, supporting documents, statistical records, and all other records pertinent to the award for a period of 3 years from the date of submission of the final programmatic and financial reports. Retention is required for purposes of examination and audit. Records may be retained in an electronic format. Please also see the General Condition on Monitoring Expenditures and 2 C.F.R. 200.333 regarding federal requirements.



Grant Award - General Conditions

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31 Termination of Subaward

The performance of work under this award may be terminated by the Office in accordance with this clause in whole, or in part, whenever the Office determines that such termination is in the best interest of the State. If the subrecipient fails to fulfill obligations under this award properly and on time, or otherwise violates any provisions of the subaward, the Office may terminate the award by written notice to the subrecipient. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished supplies and services provided by the subrecipient shall become Office property. The Office will pay all reasonable costs associated with this program that the subrecipient has incurred prior to the date of termination, and all reasonable costs associated with the termination of the subaward. When an award is terminated or partially terminated, the awarding agency or pass-through entity and the recipient or subrecipient remain responsible for compliance with the requirements in 2 C.F.R. § 200.343 (Closeout) and 2 C.F.R. § 200.344 (Post-closeout adjustments and continuing responsibilities).

32 Civil Rights Discrimination

The subrecipient affirms that it shall not discriminate in any manner against any employee, applicant for employment, or clients of services, because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, sexual orientation, pregnancy, physical or mental handicap, or limited English proficiency, so as reasonably to preclude the performance of such employment and/or services provided. The subrecipient also agrees to include a provision like that contained in the preceding sentence for any underlying sub-contract, except a sub-contract for standard commercial supplies or raw material. The subrecipient must have a non-discrimination poster, publicly displayed, acknowledging that the entity does not discriminate and provides an avenue for employees, program beneficiaries, and any relative vendors. Formal complaints may be submitted online at Maryland Commission on Civil Rights: <https://mccr.maryland.gov/>; (410)767-8600; U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights: <https://www.ojp.gov/program/civil-rights/filing-civil-rights-complaint>; (202) 307-0690, United States Equal Employment Opportunity Commission: <https://www.eeoc.gov/>; (800) 669-4000. Additionally, a complaint may be reported utilizing the form located on our website at <http://goccp.maryland.gov/grants/civil-rights-compliance/>. Also see the General Conditions related to Civil Rights Federal Reporting Requirements and Applicable Statutorily-imposed Nondiscrimination Requirements.

33 Proof of Applicable Audit Regulations - On Site

All subrecipients must have proper documentation to present to the Office upon request, to prove compliance with the Audit Regulations that apply. Local and State governments must have proof that they had an annual audit and submitted said audit to the State Legislature in September of the year of their subaward. Non-Profit Organizations must follow guidance located on the Maryland Secretary of State's website under the Charitable Division, located here: <https://sos.maryland.gov/Charity/Pages/Instructions.aspx>.

34 Single Audit Requirement

If your entity spends \$750,000 or more per fiscal year in federal funds, a Single Audit is required in accordance with 2 CFR §200.514. If the audit discloses findings on Office grants, provide a copy of the report so that we may issue a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521

35 ACORN

The subrecipient agrees and understands that it cannot use any grant funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.



Grant Award - General Conditions

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Project Title:	Washington County MCIN Coalition Program		

36 Reporting Fraud, Waste and Abuse

The subrecipient must promptly report any credible evidence of fraud, waste, abuse and similar misconduct with grant funding.

37 OJP Financial Guide

In addition to the Office's General Conditions (Post Award Instructions) and Special Conditions, the subrecipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide where applicable, and to abide by any other terms and conditions imposed by the Office. The financial guide may be accessed at the following web URL:
http://www.ojp.usdoj.gov/financialguide/PDFs/OCFO_2013Financial_Guide.pdf

38 Food and Conference Costs

On October 21, 2011 the U.S. Department of Justice, Office of Justice Programs, Office of the Assistant Attorney General issued a memorandum to all Office of Justice Programs Grantees and Contractors regarding enacted conference costs and reporting requirements. In order to follow the federal guidelines, the Office will not approve any food and/or beverage costs associated with meetings, training, conferences, and/or other events. All conference costs will be thoroughly examined for compliance with the federal requirements. This restriction does not impact direct payment of per diem amounts to individuals in a travel status under your organization's travel policy. The Office may consider exceptions to this General Condition for non-federal funded grants.

39 Applicable Statutorily-imposed Nondiscrimination Requirements

Subrecipients will comply (and will require any subrecipients or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include § Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; Omnibus Crime Control and Safe Streets Act of 1968, as amended, 34 U.S.C. §§ 10228(c) & 10221(a); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681; Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132; Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); Violence Against Women Act of 1994, as amended, 34 U.S.C. § 12291(b)(13); and Partnerships with Faith-Based and Other Neighborhood Organizations, (28 CFR Part 38).

40 DUNS and SAM.Gov Requirements

Throughout the entire period of the grant, the subrecipient must maintain a valid unique identifier (currently DUNS Number) and current registration with SAM.Gov. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. It is provided by the commercial company Dun and Bradstreet. SAM is the repository for certain standard information about federal financial assistance applicants, recipients, and subrecipients.

Access to SAM.GOV: <https://sam.gov/SAM/>

41 Computer Equipment/Program/Network Procurement

No award funds may be used to maintain or establish a computer network unless such network prohibits the viewing, downloading, and exchanging of pornography, and nothing limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.



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Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

42 Hire within 45 days

All project personnel supported with grant funding must be hired within 45 calendar days of receipt of the grant award package. Any delays in hiring must be reported in writing within 30 calendar days of receipt of the grant award package. If project personnel are not hired within 45 calendar days, project personnel allocations may be de-obligated at the discretion of the Office.

43 No distracted Driving While Performing Program Duties

Subrecipients are to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

44 Services to those with Limited English Proficiency

The subrecipients are obligated to provide services to Limited English Proficient (LEP) individuals. Refer to the DOJ's Guidance Document. This regulation may be accessed at: <https://www.lep.gov/>.

State Government Article, Subtitle 11- Equal Access to Public Services for Individuals with Limited English Proficiency, §§10-1101—10-1105, Annotated Code of Maryland.

45 Drug-Free Workplace Requirements

Subrecipients are subject to the applicable requirements regarding the state and federal drug free workplace requirements. The state's policy can be found here: State of Maryland Substance Abuse Policy -- <https://dbm.maryland.gov/employees/Documents/Policies/SubstanceAbusePolicy.pdf>. The Federal Government-wide Requirements for Drug-Free Workplace (Grants) is codified at 28 C.F.R. Part 83.

46 Office Name Change Effective 1.1.2020

Any reference to the Governor's Office of Crime Control and Prevention or GOCCP should now be referenced as the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) per Executive Order 01.01.2020.01.



Grant Award - Special Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

1 General Conditions

This grant award is subject to the General Conditions (POST AWARD INSTRUCTIONS) found on the GOCOPYVS website (<http://www.goccp.maryland.gov/grants/general-conditions.php>). The aforementioned General Conditions/Post Award Instructions are REQUIRED to be reviewed, should be printed for your reference and are subject to change without written notice.

In addition, the Tips and Guidance page is provided as a resource on the GOCOPYVS website (<http://goccp.maryland.gov/grants/tips-and-guidance/>) to address frequently asked questions.

- 2 If the SAM.gov account expires anytime during the life of the grant, GOCOPYVS reserves the right to stop all activity / payments on the grant until the account is made current.
- 3 All positions under the Personnel Budget Category, submitted under the methodology of a 12 month budget projection, must expend and draw down their personnel funds quarterly or be subject to de-obligation of funds. Exceptions include, but are not limited to, overtime and on-call services.
- 4 Final quarterly programmatic reports indicating progress towards the attainment of each program/project objective must be submitted no later than 15 calendar days from the End Date of the sub-award. Financial reports will not be processed unless Programmatic Reports are in "submitted" status in the GMS.

The FINAL Financial Report must be submitted no later than 30 calendar days from the End Date of this sub-award.

If the initial 30 calendar day submission is not your actual FINAL report, send an email to the Fiscal Specialist so that the GMS can be noted.

Submission of a "Not Final" report will require a "Final/Revised" report to be submitted no later than 60 calendar days after the End Date of the sub-award. Revised reports may only be submitted if an initial 30 calendar day report was submitted as required. ALL Final financials must be submitted within the 60 days or GOCOPYVS reserves the right to complete an administrative closeout on this grant award and de-obligate all remaining funds.

Revisions are a manual process that requires hand written corrections on a copy of the previously submitted 30 day report, with the word "FINAL" written in red ink. The corrections must be actual expenditures, not the variance. New signatures and current dates are required in blue ink. The revised report can be mailed, emailed, or delivered.

- 5 The sub-recipient must provide a copy of the Contract/ Memorandum of Understanding (MOU) that demonstrates the partnership or the development of a coalition for this program within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 6 The sub-recipient must provide a copy of the set of standard operating procedures that governs their Maryland Criminal Intelligence Network coalition within 90 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 7 The sub-recipient must provide a copy of their Maryland Criminal Intelligence Network (MCIN) site's organizational structure within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 8 Sub-recipients are required to report on the monthly progress of this initiative by submitting data through HIDTA's Case Explorer system. All data should be reported by the 15th of each month. Should there be any delay in submitting data into the Case Explorer system the sub-recipient must notify their program manager and provide a plan and timeline for entry into the system.

- 9 The Governor's Office of Crime Prevention, Youth, and Victim Services support must be noted in any press releases, newsletters, brochures, materials or RFPS related to this sub-award.

Example:

"This investigation was a coordinated effort between (please list law enforcement organizations involved in operation) under the Maryland Criminal Intelligence Network (MCIN). The Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) provides grant funding and strategic support to MCIN member sites to identify, disrupt, and dismantle criminal organizations through inter-agency collaboration and data sharing to make Maryland safer.

The Governor's Office of Crime Prevention, Youth, and Victim Services funded this project under subaward number, XXXX-XXXX-XXXX. All points of view in this document are those of the author and do not necessarily represent the official position of any Maryland State office or agency."

- 10 Sub-recipient understands that by accepting this award, the designated Maryland Criminal Intelligence Network (MCIN) point of contact agrees to be an active participant in collaborative efforts which may include, but not limited to, monthly conference calls, email discussions, in-person meetings, and attending specified training.
- 11 The Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) encourages all Maryland Criminal Intelligence Network (MCIN) sites to participate in Maryland's Handle with Care Program. In 2018, Governor Larry Hogan announced that the Handle with Care Program will be implemented statewide and GOCPYVS has been assigned with implementing the program throughout the state to increase trauma-informed approaches and to address Adverse Childhood Experiences (ACEs) to prevent future victimization or criminality. For more information about the program and implementation within your agency please visit <https://handlewithcaremd.org/law-enforcement-protocol.php>.
- 12 Sub-recipient agrees to submit a copy of the agency's overtime policy, which include information on the approval process, within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 13 Sub-recipient agrees to keep documentation of monthly overtime usage by using the Monthly Overtime Summary Report provided by the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) or their own overtime report. Please note that the overtime report should identify how overtime was used as it relates to MCIN initiatives.
- 14 Sub-recipient agrees when planning a warrant sweep or warrant initiative to include and coordinate with their coalition partners and at least one other MCIN site. MCIN partners and their stakeholders should be coordinating efforts and prioritizing targets of criminal organizations (Gangs, Guns, Drugs, Human Trafficking), violent criminals, and repeat violent offenders prior to the operation. When executing the warrant sweep, Maryland's Handle with Care Program must be implemented. Upon completion of the warrant sweep a press release should be completed outlining the results and the participation by MCIN coalition partners.

**Budget Notice**

Grant Award Number:	MCIN-2023-0009	
Sub-recipient:	Hagerstown Police Department	
Project Title:	Washington County MCIN Coalition Program	
Implementing Agency:	Hagerstown Police Department	
Award Period:	07/01/2022 - 06/30/2023	CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

Personnel

Description of Position	Salary Type	Funding	Total Budget
Crime Analyst	Fringe	Grant Funds	\$4,976.00
Crime Analyst	Salary	Grant Funds	\$16,588.00
Law Enforcement - Gun Violence	Overtime	Grant Funds	\$25,000.00
Law Enforcement - MCIN	Overtime	Grant Funds	\$46,000.00
MCIN Coordinator	Fringe	Grant Funds	\$22,100.00
MCIN Coordinator	Salary	Grant Funds	\$54,995.00

Personnel Total: \$169,659.00

Travel

Description	Funding	Quantity	Unit Cost	Total Budget
Human Trafficking Training Travel Expenses - Lodging	Grant Funds	4	\$150.00	\$600.00
Human Trafficking Training Travel Expenses - Meals	Grant Funds	5	\$50.00	\$250.00

Travel Total: \$850.00

Contractual Services

Description	Funding	Quantity	Unit Cost	Total Budget
Allied Law Enforcement - Overtime	Grant Funds	1	\$20,000.00	\$20,000.00
MCIN Prosecutor - State's Attorney's Office	Grant Funds	1	\$64,397.00	\$64,397.00

Contractual Services Total: \$84,397.00

Other

Description	Funding	Quantity	Unit Cost	Total Budget
GangScope	Grant Funds	3	\$1,200.00	\$3,600.00
Human Trafficking Training Registration	Grant Funds	1	\$3,000.00	\$3,000.00
Mobile Crime Cameras & Licenses	Grant Funds	4	\$3,478.00	\$13,912.00

Other Total: \$20,512.00



Governor's Office of Crime Control and Prevention

Regional Monitor:
Fiscal Specialist:

Jones, Quentin
Lee, Dorothy

Budget Notice

Grant Award Number:	MCIN-2023-0009	
Sub-recipient:	Hagerstown Police Department	
Project Title:	Washington County MCIN Coalition Program	
Implementing Agency:	Hagerstown Police Department	
Award Period:	07/01/2022 - 06/30/2023	CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

Approved:

Governor's Office of Crime Control and Prevention Authorized
Representative

Effective Date: 8/4/2022



Governor's Office of Crime Control and Prevention



Control Number:

43427

Regional Monitor:

Jones, Quentin

Fiscal Specialist:

Lee, Dorothy

Submitted Date:

Programmatic Reporting

Grant Award Number:	MCIN-2023-0009	
Sub-recipient:	Hagerstown Police Department	
Project Title:	Washington County MCIN Coalition Program	
Implementing Agency:	Hagerstown Police Department	
Award Period:	07/01/2022 - 06/30/2023	CFDA: State General Fund

The information collected on this form helps us measure the progress you are making in achieving your project's goals and objectives. It also helps us determine what, if any, technical assistance you may need in implementing your project.

Performance Measures (14)

1	During this reporting period, how many individuals were identified as priority criminal offenders?	
2	During this reporting period, how many of the priority criminal offenders were arrested?	
3	During this reporting period, how many investigative operations conducted for MCIN related cases?	
4	During this reporting period, how many law enforcement personnel (officers, detectives, analyst, etc.) were involved in investigative operations for MCIN related cases?	
5	During this reporting period, what are the total number of hours in overtime used for investigative operations for MCIN related cases?	
6	During this reporting period, how many MCIN cases were formally charged by a grand jury (indictments)?	
7	During this reporting period, how many offenders were convicted on MCIN related offenses?	
8	During this reporting period, how many MCIN cases were prosecuted as RICO (federal racketeering)?	
9	During this reporting period, how many MCIN related offenders were convicted of RICO (federal racketeering)?	
10	During this reporting period, how many MCIN related investigative operations resulted from multi-jurisdictional intelligence such as data-sharing and/ or collaborative activities?	
11	During this reporting period, how many new criminal organizations/ networks identified related to MCIN initiatives?	
12	During this reporting period, was all data entered into HIDTA CAP and Case Explorer? Enter 1 for "yes" and 2 for "no."	
13	During this reporting period, how many "Handle with Care" notices has been sent as a result of an investigative operation related to a MCIN case?	

14	During this reporting period, how many children (under the age of 18) were involved in an investigative operation as a victim or witness?	
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Progress Report Questions (9)

1	Please explain how this award helped reduce crime and/ or improve public safety in your jurisdiction.
2	Please explain how your MCIN site helped to identify, disrupt and/or dismantle criminal organizations, gangs, and/or violent criminal networks.
3	Please explain how your MCIN site is collaborating with partners to include information sharing, enforcement activities and success stories.
4	Describe barriers/ challenges to implementing or completing any of the objectives. Include corrective actions taken or planned to overcome described barriers (include timeline). Are there any obstacles or barriers that could prevent you from expending all grant funds? Please include any requests for technical assistance if needed.
5	If no funds or minimal funds (less than 25%) were expended during this reporting period please provide an explanation as to why and when you anticipate requesting funds. Your detailed explanation should address each budget category.
6	Please explain the activities that have been planned for the upcoming quarter to include dates and a brief summary of each.
7	Did overtime hours occur during this reporting period? If so, please give a brief description of the accomplishments due to the funded law enforcement overtime. If overtime hours were not utilized, explain why and describe your agency's course of action to spend or de-obligate these funds.
8	Please provide a detailed narrative describing how the quarterly performance measures report numbers are collected and what method or system is currently used to track them.
9	Only Required to be Completed in the Final Quarter of the Grant Period: What projects have you accomplished with the grant award? List accomplishments/successes and/or best practices developed through this grant funded program. Have all intended projects been completed? Please note any delays in project completions.

Signed: _____ Date: _____

Project Director - Alexander, Thomas

(Project Director is preferred, Fiscal Contact or Authorized Official if Project Director is unavailable)

Printed Name: _____ Phone: _____



AGREEMENT OF UNDERSTANDING AND COMMITMENT

CITY OF HAGERSTOWN POLICE DEPARTMENT WASHINGTON COUNTY MARYLAND CRIMINAL INTELLIGENCE NETWORK (MCIN)

PREAMBLE

WHEREAS, the City of Hagerstown Police Department, Washington County Maryland Criminal Intelligence Network (MCIN), an unprecedented collaboration of state and local public agencies, has been convened as a system of criminal justice agencies focused on identifying, disrupting and dismantling criminal networks through collaboration and comprehensive data sharing at the local, state and federal levels. Partner agencies will coordinate tactics, resources, information and intelligence for the purpose of the targeting gangs and violent criminal networks who are involved in the distribution of illegal drugs, the use of firearms in crimes of violence, human trafficking or other inherently violent criminal enterprises within the City of Hagerstown; Washington County and,

WHEREAS, the initial focus of the agencies brought together was to discuss conditions in the City of Hagerstown that were contributing to violent crime and recidivism; and

WHEREAS, the members have continued to meet, develop relationships and have identified specific actions that will improve public safety in the City of Hagerstown; and

WHEREAS, these discussions have already begun to enhance communication and coordination among Federal, State and Local agencies committed to the public safety of the City of Hagerstown; and

WHEREAS, the signatories below further commit to working together to implement strategies, continue constructive communication and problem solving, develop action plans, establish performance measures and evaluate success.

It is, by way of this Agreement of Understanding and Commitment,

HEREBY established the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN).

I. Purpose.

The function of the Hagerstown Washington County Maryland Criminal Intelligence Network (MCIN) is to address issues affecting the public safety of the City of Hagerstown involving gangs and violent criminal networks.

II. Established. There is the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN).

III. Composition.

A. The (MCIN) shall consist of the following members or their designees:

1. Chief, Hagerstown Police Department
2. State's Attorney, Washington County
3. Sheriff, Washington County Sheriff's Office
4. Commander, Hagerstown Barrack, Maryland State Police
5. Chief, Smithburg Police Department
6. Chief, Boonsboro Police Department
7. Chief, Hancock Police Department
8. Parole and Probation Supervisor, Maryland Department of Public Safety and Correctional Services
9. Fire Marshal, Hagerstown Fire Marhsal's Office
10. Safety Director, Washington County Board of Education

B. The MCIN partners shall meet at least once a month.

IV. Duties. The Coalition shall:

- A. Develop a strategy which deploys local, state and federal resources to identify, disrupt, and dismantle criminal networks through collaboration and comprehensive data sharing;
- B. Coordinate local and federal prosecution strategies so that they are focused on the most violent offenders and repeat offenders, with an emphasis on reducing gun and drug-related violence, human trafficking, gangs as individuals and violent criminal enterprises utilizing RICO prosecutions;
- C. Enhance information sharing, data analysis, and use of technology in accordance with Federal and State law to identify crime trends and to address community conditions leading to crime involving the distribution of illegal drugs, the use of firearms in crimes of violence, human trafficking or other inherently violent criminal enterprises;
- D. Identify laws and regulations that can be used to support public safety efforts. Research legislative and regulatory changes that may enhance the success of the Coalition.
- E. Commit to a monthly forum to share data, in accordance with Federal and State law, and to evaluate progress among the state and local public safety agencies working within the Hagerstown Washington County MCIN.

Signatories to this Agreement for the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN) as of April 2021.

Chief Paul J. Kifer
Hagerstown Police Department

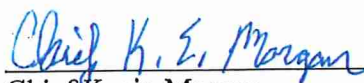
Sheriff Douglas W. Mullendore
Washington County Sheriff's Office

The Honorable Charles P. Strong, State's Attorney
Washington County

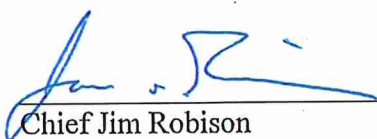
Lieutenant W. Joe George
Maryland State Police



Chief Bruce Degrange
Smithsburg Police Department



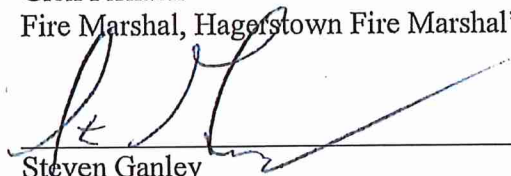
Chief Kevin Morgan
Boonsboro Police Department



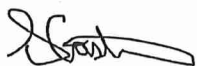
Chief Jim Robison
Hancock Police Department



Glen Fishack
Fire Marshal, Hagerstown Fire Marshal's Office



Steven Ganley
Safety Director, Washington County Board of Education



4/23/2021

Shina Castain-Thompson
Supervisor, Department of Public Safety and Correctional Services
Division of Parole and Probation

APPROVED
Mayor & Council
Date 8/24/21

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: August 24, 2021

TOPIC: Approval to Accept the Maryland Criminal Intelligence Network Grant

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

MOTION: I hereby move for Mayor and Council approval to accept the Maryland Criminal Intelligence Network grant, which is 100% grant funded and totals \$266,196. The goal of this grant is to focus on high priority offenders within our community, with an emphasis on criminal networks and enforcement.

This non-match grant has been offered and awarded annually for the last several years. It would provide salary support for a Crime Analyst (\$29,315), Program Coordinator (\$60,034), HPD law enforcement overtime (\$80,000), overtime funding for the Washington County Sheriff's Office (\$25,000 - for collaborative enforcement efforts), Community Based Prosecutor (\$64,397), Human Trafficking training expenses (\$850), GangScope software (\$3,600), and Human Trafficking training registration (\$3,000).

DATE OF PASSAGE: 08/24/21



GOVERNOR'S COORDINATING OFFICES

Community Initiatives • Service & Volunteerism • Performance Improvement
Crime Prevention, Youth, & Victim Services • Small, Minority, & Women Business Affairs
Banneker-Douglass Museum • Volunteer Maryland • Deaf & Hard of Hearing

August 08, 2022

Chief Paul Kifer
Chief of Police
Hagerstown Police Department
50 North Burhans Boulevard
Hagerstown, MD 21740

RE: MCIN-2023-0009

Dear Chief Kifer:

I am pleased to inform you that your grant application submitted by **Hagerstown Police Department**, entitled "**Washington County MCIN Coalition Program**," in the amount of \$275,418.00 has received approval under the Maryland Criminal Intelligence Network program. Enclosed is the grant award packet containing information and forms necessary to initiate the project.

The grant will fund the program described below:

The Hagerstown Police Department's FY23 MCIN Coalition - Washington County program fosters collaboration amongst stakeholders and coalition partners to identify violent criminal organizations involved in firearms, drugs, human trafficking, and gang activity. The program focuses on crime prevention, law enforcement, and prosecution strategies that impact violent crimes in the city and surrounding communities. Strategies rely on cooperation of coalition partners for intelligence gathering, information sharing, targeted enforcement, and effective prosecution. Resources are leveraged to identify, track, and apprehend violent offenders in a collaborative effort to disrupt and dismantle these criminal enterprises. Program funds provide personnel and contractual services.

Please pay particular attention to the instructions included on the grant award. It is important that you **carefully review all Special Conditions** attached to this award. Additionally, the General Conditions for all grant awards issued by our office are also located online, at www.goccp.maryland.gov. The chief elected official, or another legally authorized official of the jurisdiction, state agency, or 501(c)(3) receiving the grant award, must sign the original Grant Award & Acceptance Form, initial each page of the Special Conditions document, and upload them in the Grants Management System within **twenty-one (21) calendar days**. Should the acceptance form not be received, requests for reimbursement will not be honored.

A copy of the grant award, Notification of Project Commencement, and individual project reports has also been sent to the project director. The project director is responsible for completing these and other required forms now and at the end of each reporting period. If the project director changes, we must be notified immediately to avoid potential reporting problems.

Projects may commence as soon as the grant award is signed and you have reviewed and accepted all of the General and Special Conditions. No funds may be encumbered or expended prior to this time without the specific written approval of the Governor's Office of Crime Control and Prevention.

If you have any questions or need any clarification regarding this grant award, please contact **Quentin Jones**, your program manager, or **Dorothy Lee**, fiscal specialist. We look forward to working with you on this project and anticipate its success in helping to address criminal justice problems in our state.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kunle Adeyemo', written in a cursive style.

Kunle Adeyemo, Esq.
Executive Director

cc: Captain Thomas S. Alexander



8/8/2022

Governor's Office of Crime Control and Prevention



Control Number:

43427

Regional Monitor:

Jones, Quentin

Fiscal Specialist:

Lee, Dorothy

Grant Award & Acceptance Form

Grant Award Number: MCIN-2023-0009

Sub-recipient: Hagerstown Police Department

Project Title: Washington County MCIN Coalition Program

Implementing Agency: Hagerstown Police Department

Award Period: 07/01/2022 - 06/30/2023

CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

This Grant Award is hereby made for financial assistance by the Governor's Office of Crime Control and Prevention in accordance with the

Maryland Criminal Intelligence Network

This Grant Award is subject to the General Conditions and any Special Conditions attached to this award, as well as all statutes and requirements of the State of Maryland.

This Grant Award incorporates all the information, conditions, representations and Certified Assurances contained in the grantee's application.

The Grant Award shall become effective as of the start date of the award, unless otherwise specified, and upon submission to the Grants Management System, within twenty-one (21) calendar days, of a fully executed original of this document signed by the duly authorized official of the sub-recipient unit of government or sub-recipient agency receiving this Grant Award. Copies and faxes are not acceptable.

FOR THE STATE OF MARYLAND:

Executive Director

Governor's Office of Crime Control and Prevention

SUB-RECIPIENT ACCEPTANCE:

Signature of Authorized Official

Typed Name And Title

Date

To submit, sign in blue ink and scan and upload the document to the grant award Documents section in the Grants Management System.

D21A05.01 STATE



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

1 Award Period of Performance

Approved by the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) of the submitted application, and the subaward that it has generated, is for the time period stated in this Subaward Package and constitutes no commitment for funding prior to the time period nor the continuation of funding beyond that time period. The subaward may be terminated by one or both parties with written notice. If the subaward is terminated before the end of the funding period, an accounting of the current quarterly and year to date expenses must be provided within 60 calendar days. Also see the General Condition related to Termination of the Subaward.

2 Statutes and Requirements of State and Federal Funds

This sub-award is subject to all State of Maryland and Federal statutes and requirements that apply to the relative funding source.

3 General and Special Conditions (POST AWARD INSTRUCTIONS)

This subaward is subject to the Special Conditions contained in your award packet and General Conditions (Post Award Instructions) referenced on the Office website, as accepted by the Authorized Official on the official Award Acceptance document. The Office retains the right to add Special Conditions, if and when needed, during the award period of performance. General Conditions (<http://www.goccp.maryland.gov/grants/general-conditions.php>) are the Post Award policies, procedures, guidelines, and business rules from the Office for grant funds, irrelevant of the funding source.

4 Sub-award Acceptance Document

The original Award Acceptance document containing the original signature of the Executive Director of the Office must be signed (electronic signature is acceptable) by the Authorized Official noted on the submitted application. This signed document must be uploaded in the Grants Management System (GMS) WITHIN 21 CALENDAR DAYS of receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. Acceptance of this subaward constitutes a commitment. The Authorized Official on the submitted application is the County Executive, Duly Authorized Official of the local unit of Government, Mayor, Commissioner, Town Administrator (if confirmed), President (if confirmed), or if agencies are permitted to apply directly, the head of the agency receiving the subaward.

5 Notification of Project Commencement Form

The Notice of Project Commencement/Delay form must be initialed in the Award Information Verification Section, AND signed at the bottom (electronic signature is acceptable) preferably by the Project Director. Alternatively, if the Project Director is unavailable, the Fiscal Contact or Authorized Official may sign. The signed document must be uploaded in the Grants Management System (GMS) within 30 calendar days of the receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. Please be advised online reporting is not accessible until the signed Award Acceptance and Project Commencement documents have been received by the Office. NOTE: If the project will not commence within 45 calendar days of the start date of the period of performance, you may submit Grant Adjustment Notice (GAN) within the GMS for review and approval. Any delay to the start date of this project does not warrant, or necessarily allow, an extension to the end date.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

6 Special Conditions

It is important that you review all conditions attached to this subaward including general and special conditions. Each Special Condition page must be initialed by the Authorized Official* on the bottom right hand corner (electronic signature is acceptable). The initialed Special Condition pages must be uploaded in the Grants Management System (GMS) within 21 calendar days of receipt of the award package. Late submission will be accepted on a case by case basis and may result in an increased risk/monitoring level of the subaward, a delay in the project activity and related reimbursement, and/or termination of the subaward. *See General Conditions below related to the Authorized Official.

7 Subrecipient Organizational Capacity Questionnaire

This questionnaire (<http://goccp.maryland.gov/subrecipient-organizational-capacity-questionnaire/>) is used as an assessment tool post award for the purpose of determining the appropriate subrecipient monitoring and technical assistance level. Please note, this document assessment is not part of the criteria used in making award decisions. This completed questionnaire is required post-award and must be submitted with your Award Acceptance Document and Notification of Project Commencement. Please note, this questionnaire must be completed by the Applicant Agency. For government agencies, it may be necessary to coordinate with the State or County directly and the agency, unit or division implementing the project.

8 Civil Rights Federal Reporting Requirements

Recipients as well as subrecipients of Federal Financial Assistance through the Office of Justice Programs are subject to various Federal Civil Rights Laws such as those related to discrimination on the basis of race, color, national origin, sex, religion or disability.

The U.S. Department of Justice, Office of Justice Programs (OJP), Office for Civil Rights (OCR) developed the Equal Employment Opportunity Reporting tool to help recipients receiving funding (Safe Streets Act which authorizes VAWA, VOCA or JJDPA) comply with the Equal Employment Opportunity Plan (EEOP). The EEOP Reporting Tool is accessed online at <https://ojp.gov/about/ocr/eeop.htm>

New users will need to register for an account. Prior to registering for a new account and/or completing your report, please know the source of grant and from which year your award has been funded. Your grant number can be found on your award documents (for example: VOCA-17-XXXX would indicate VOCA 2017 funding).

Once you are registered, the EEOP Utilization Report tool will give you step-by-step guidance for preparing and submitting your EEO Utilization Report and/or certification form.

Upon submission/completion of your report, forward the confirmation email to your funding manager and include a cc: dlcivilrightscompliance_goccp@maryland.gov In your forwarded email, include in the subject line: Civil Rights/EEOP reporting and your award number so the Office can update your organization's information. If you have any questions, please email your funding manager and cc: dcivilrightscompliance_goccp@maryland.gov.

9 Sub-award Budget Notice and New Personnel

The approved Budget Notice is included in your subaward packet. This Budget Notice may have been modified from the project budget submitted in the original application and represents approved expenses for the project. Any delays in hiring must be reported to your Program Fund Manager in writing within 30 calendar days of receipt of the subaward package. If project personnel are not hired within 45 calendar days, project personnel allocations may be deobligated at the discretion of the Office. Also see General Condition related to Key Personnel.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

10 Personnel Costs

Support of Salaries, Wages, and Fringe Benefits: Charges made to awards for salaries, wages, and fringe benefits must be based on records that accurately reflect the work performed and comply with the established policies and practices of the organization. 2 CFR §200.430 (Compensation - personnel services) and 2 CFR §200.431 (Compensation - fringe benefits)

The use of percentages is not allowable to claim personnel costs. Records to support claimed costs in this category need to include timesheets or time and effort reports that record actual time charged to allowable grant program activities and signed by a supervisor. When necessary and as an alternative, payroll records may reflect certified after the fact work distribution of an employee's actual work activities. The certification statement must reflect the dates and number of hours charged to the award and the specific activities that were completed. The certification statement must be dated and signed by the supervisor, and the grant number must also be included in the statement.

11 Consultant Rates

The threshold for consultant rates is \$650 per day. Rates above this threshold will be considered on a case by case basis, with sufficient budget justification. Advanced approval is required.

12 Supplanting

Supplanting is the use of grant funds to replace state or local funds which were previously appropriated/budgeted for, or otherwise would have been spent on, the specific purpose(s) for which this subaward has been awarded. Any line item paid for with Office grant funds must be used to supplement your organization's existing budget, and may not replace any funds that were already included in your entity's existing or projected budget.

13 Budgeted Match Above Standard Requirements

The subrecipient's acceptance of this subaward constitutes a commitment that the budgeted match (if applicable), as stated on the Award Acceptance Form, may be above the standard requirements and will remain so throughout the life of the award. The subrecipient agrees that the required match (if applicable) will be allotted and relative expenditures reported, for each quarterly reporting period in which they are expended. It is further agreed that the full amount of the budgeted match (if applicable and over match if submitted) will be reported regardless of any subsequent adjustments to the grant funds budgeted and/or any financial modifications to this subaward. Any requested change to this match (if applicable) must be submitted electronically in the GMS through a GAN request and is subject to prior approval by the Office.

14 Expended Grant Funds During Award Period

All grant funds related to the subaward project, as well as any required match funds (if and where applicable) must be encumbered, obligated (requisitions, purchase orders, or contracts, which are negotiated purchases) or expended (payment of an invoice) by the end of the subaward period or any pre-authorized extension thereof. Failure to expend encumbered funds within 30 calendar days following the End Date of the award period may jeopardize reimbursement and/or result in the deobligation of funds. In that event, remaining obligations will be the sole responsibility of the subrecipient.

15 Property Inventory Report Form

The submission of the Property Inventory Report Form (PIRF) is a requirement for each financial reimbursement request that includes equipment with acquisition costs of \$5,000 or more per unit, that is approved under this subaward. The form is included in the Project Director's award package. Body Armor subawards (BARM and BPVP) are additionally referred to their Special Conditions for the required PIRF, all other conditions remain the same.



Governor's Office of Crime Control and Prevention

GOCCP Regional Monitor:
GOCCP Fiscal Specialist:

Jones, Quentin
Lee, Dorothy

Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

16 Procurement

If the subrecipient does not have written procurement guidelines, the subrecipient must refer to the State of Maryland Procurement Policy and Procedures, which includes the consideration of Minority Business Enterprises (MBE). An overview of Maryland Procurement may be accessed here: <https://procurement.maryland.gov/> and the manual can be found here: <https://procurement.maryland.gov/maryland-procurement-manual-1-introduction-and-general-overview/>.

17 Issuance of Request for Proposals, Bids, Procurement Process

When issuing requests for proposals, bid solicitations, or other procurement requests, all subrecipients shall clearly state within said document that the cost of the potential purchase is being funded in part, or in its entirety, with government grant funds.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

18 Modifications to Subaward

You are required to submit a GAN if the budget modification changes the scope of the project, the project award period, and/or changes to Project Director or Fiscal Officer. This would include altering the period of performance, goals, activities and/or outcomes, adding budget line items, authorizing use of a subcontractor or other organization that was not identified in the original approved budget, or contracting for or transferring of grant award efforts; or if a budget modification affects more than one budget category. For example, if you wish to transfer funds between the Equipment and Personnel categories, the Office currently requires the submission of a GAN.

Requests for changes or modifications must be submitted electronically in the GMS at least 30 calendar days prior to the end of the award through a GAN and approved by the Office prior to the occurrence. To be clear, the activity may not take place until the Authorized Official and/or the Project Director receives documented approval from the Office. This approval will come via an automated email from the GMS. These changes may not be requested via telephone, fax, or email.

There are limited subaward adjustments that do not require the submission of a GAN. Subrecipients are not required to submit a GAN if the proposed changes are within both the same budget category and existing line items and if the overall changes do not exceed the total budget category (i.e. you are not requesting additional funding). Additionally, subrecipients are not required to submit a GAN to change the name(s) of approved grant funded personnel as a result of staffing changes. subrecipients should update the Program Fund Manager of staffing changes via email or by including this information on the next quarterly progress reports. See the Grant Management System Help Documents area of the Office website for more information.

The recipient should act as soon as possible to submit an GAN via the GMS. All GANs must be submitted at least 30 days prior to the end of the award period, allowing the Office sufficient time to review the GAN. Exceptions for GANs within 30 days of the end of the award period will be considered on a case by case basis. Requests for an exception must be submitted via email to the Program Fund Manager with sufficient justification for the consideration of completion of the GAN administratively by the Program Fund Manager.

There are two types of GANs as follows:

1. General GAN - must be submitted to make any type of non budgetary change to a grant to include, but not limited to, project scope, changes to the period of performance, and personnel changes.
2. Budget GAN - must be submitted to make any changes to line items within the budget to include, but not limited to, reallocating funding, adding budget line items, deobligating funds, and requesting additional funding.

Depending on the adjustments requested, the subrecipient may need to submit a general and/or a budget GAN; however only one GAN of each type may be active in the GMS at a time.

GANs must be completed by one of the following authorized personnel: authorized official, project director, the fiscal officer, or pre-approved alternative authorized signatory. GANs submitted by anyone else will be returned to the subrecipient.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

19 Authorized Official/Alternate Authorized Official

The Authorized Official must possess the authority to enter into a legal agreement on behalf of the entity and bind it to the award terms and conditions. The Authorized Official on the submitted application is the County Executive, Duly Authorized Official of the local unit of Government, Mayor, Commissioner, Town Administrator (if confirmed), President (if confirmed), or if agencies are permitted to apply directly, the head of the agency receiving the subaward.

If there is a change of the person in the Authorized Official position, a letter, on letterhead, must be submitted to the Office via email at support@goccp.freshdesk.com and contain all of the following:

1. Authorized official's contact information: All of the contact information listed on the new user page (name, title, organization, address, phone, email, etc.) for the new authorized official.
2. Statement of authority: The new authorized official must state that they are the authorized official for the organization and provide their job title and the date on which they assumed the role of authorized official.
3. Signature of the new authorized official.

The Alternate Authorized Signatory is not the same as the Authorized Official. The Alternate Authorized Signatory is a person permitted to sign on behalf of the Authorized Official (county executive, mayor, town administrator, president); Authorized Point of Contact (head of any sub-unit of government, agency, division, department, or bureau); Project Director and/or Fiscal Officer. To authorize an alternate signatory, the person granting authorization for another party to sign on their behalf must follow the three steps documented above. The purpose of the request must be acknowledged in the letter (e.g. sign all award documents at all times, change of personnel, in case of illness, vacation, leave of absence, etc.). If authorization is to sign all award documents at all times please attach a copy, if applicable, of an Executive Order, or the vote from Council minute meetings.

Subrecipients may use the same directions above to make additional updates to the Alternative Authorized Signatory to include, but not limited to, removal of personnel no longer authorized to make grant changes on behalf of the organization.

20 Issuance of Statements, Press Releases, or Other Documents - GOCOPYVS role

When issuing public statements, press releases, or other documents relating to this project or when conferences, seminars, workshops, or forums are held in reference to this project, the subrecipient agrees that the source of funding of this project and the role of the Office must and will be clearly acknowledged. The subrecipient will ensure that all publications resulting from this project will have the following language on the publication: "The Governor's Office of Crime Prevention, Youth, and Victim Services funded this project under subaward number BJAG-2009-9000 (your subaward number). All points of view in this document are those of the author and do not necessarily represent the official position of any State or Federal agency."

21 Reproduction and Sharing of Subaward and Project Materials

The Office has the right to reproduce, with attribution, and share any and all materials and documents generated as a result of this subaward and project.

22 Online Reporting and Post-Award Technical Assistance

All subrecipients are required to view the Office's Grants Management System (GMS) Training Videos, which can be accessed at: <http://goccp.maryland.gov/grants/gms-help-videos/>. These videos provide step-by-step guidance through the online system, from application to reporting. If you require technical assistance relative to the online GMS Reporting software during business hours you may contact the Office IT Staff at support@goccp.freshdesk.com.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

23 Privacy and Confidentiality of Client Records

The subrecipient must comply with federal regulations and state laws concerning the privacy and confidentiality of client records, including statistical information gathered for research purposes.

24 Use of GOCPYVS forms

All Governor's Office of Crime Prevention, Youth, and Victim Services' required forms must be generated electronically through the web-based Grants Management System (GMS). Only applications and/or reports that are in "Submitted" status online will be reviewed and considered.

25 Online Submission of Quarterly Report Forms inline with Project Scope

The subrecipient must implement the project in accordance with the approved narrative and budget set-forth in the subaward.

All Quarterly Report Forms (Progress Reports, Performance Measurements, and Financial Reports) must be submitted via the Office web-based Grants Management System (GMS). In accordance with policy, the Office may freeze the release of funds until a subrecipient is current in the filing of all programmatic and financial reports and said reports have been approved by the Office.

PROGRAM REPORTS: Progress Reports and Performance Measurements must be submitted via the GMS on a quarterly basis. Additionally, federal required reports, as applicable to include the Performance Measurement Tool (PMT), are due no later than 15 calendar days after the end of each quarter. This due date is prior to the submission of relative quarterly financial reports. Financial reports submitted with Programmatic reports cannot be processed for payment until programmatic reports are in "Submitted" status online. Where the start date of any subaward may vary, the quarterly time frames are constant. Those time frames and the relative due dates are:

07/01 - 09/30: reports due 10/15
10/01 - 12/31: reports due 01/15
01/01 - 03/31: reports due 04/15
04/01 - 06/30: reports due 07/15

In addition the Office may require an Annual Progress Report which would be documented in the Special Conditions. This information will be used to monitor and assess the program to determine if it is meeting the stated goals and objectives, supports the State Crime Control and Prevention Strategy Plan and complies with federal requirements. Failure to submit these reports in the prescribed time may prevent the disbursement of funds.

FINANCIAL REPORTS: The Financial Report form must be electronically submitted within 30 calendar days after the end of each quarter. The Award Acceptance, Project Commencement, Progress and Performance Measurement Reports must be submitted prior to processing the quarterly financial report. If the above noted documents and program reports have not been submitted within the required time frame, financial reports may be denied and returned. Where the start date of any subaward may vary, the quarterly time frames are constant. Those time frames and the relative due dates are:

07/01 - 09/30: reports due 10/30
10/01 - 12/31: reports due 01/30
01/01 - 03/31: reports due 04/30
04/01 - 06/30: reports due 07/30

There are two exceptions to the above timeline. The first, is if a subaward does not end at the end of a quarter. The second is for nonprofit agencies that qualify for and have been granted monthly reimbursement for a particular subaward. In these instances, the financial report is due on the 30th of the following month.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

26 Submission of Revised Financial Report

The Financial Reports must be submitted no later than 30 calendar days from the end of the reporting period. If the initial 30 calendar day submission is not your actual final report for the reporting period, the subrecipient must email the Fiscal Specialist and copy the Program Manager stating that the report is not final at the same time that the financial report is submitted electronically, which is no later than 30 calendar days from the end date of the reporting period. Submission of a "Final/Revised" report must be emailed to the Office staff described above and uploaded into the Grants Management System (GMS) for this particular subaward no later than 60 calendar days after the end of the reporting period. Revisions are a manual process that require the subrecipient to make corrections on a copy of the previously electronically submitted 30 day report, with the words "Final/Revised" labeled across the top. Additionally, the "Final/Revised" submission document must include the dated signatures from the authorized agency representative. The corrections must be actual expenditures, not the variance. At the end of the subaward period, the Office reserves the right to complete an administrative closeout and deobligate remaining funds on any subaward that does not comply with this requirement.

27 Failure to Submit Reports within allotted time frames

Failure to submit any report within the allotted time frame(s) noted in the above conditions, or any pre-authorized extension thereof, may result in the delay or prevention of payment, and/or the deobligation of funds. If late reporting occurs, the expenditure or obligation may become the responsibility of the subrecipient.

28 Holding Funds

In accordance with policy, the Office will hold the release of funds until a subrecipient is current in the filing of all reports, submission of documentation, and have resolved any remaining issues.

29 Monitoring Expenditures

In order to verify the appropriateness of all grant fund related expenditures, the Office staff will monitor the use of grant funds as reported by subrecipients. Back-up documentation must be maintained on-site, be available upon request, correlate with the mandatory quarterly reporting, and be maintained as necessary to provide that obligations under this subaward and other such standards as they apply are being met. The Office, fund source agencies, State Legislative Auditors, or any State or Federal authorized representatives must have access to any documents, papers, or other records of recipients which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. Please also see the General Condition on Records Retention.

30 Records Retention

Retain all financial records, supporting documents, statistical records, and all other records pertinent to the award for a period of 3 years from the date of submission of the final programmatic and financial reports. Retention is required for purposes of examination and audit. Records may be retained in an electronic format. Please also see the General Condition on Monitoring Expenditures and 2 C.F.R. 200.333 regarding federal requirements.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
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Project Title:	Washington County MCIN Coalition Program		

31 Termination of Subaward

The performance of work under this award may be terminated by the Office in accordance with this clause in whole, or in part, whenever the Office determines that such termination is in the best interest of the State. If the subrecipient fails to fulfill obligations under this award properly and on time, or otherwise violates any provisions of the subaward, the Office may terminate the award by written notice to the subrecipient. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished supplies and services provided by the subrecipient shall become Office property. The Office will pay all reasonable costs associated with this program that the subrecipient has incurred prior to the date of termination, and all reasonable costs associated with the termination of the subaward. When an award is terminated or partially terminated, the awarding agency or pass-through entity and the recipient or subrecipient remain responsible for compliance with the requirements in 2 C.F.R. § 200.343 (Closeout) and 2 C.F.R. § 200.344 (Post-closeout adjustments and continuing responsibilities).

32 Civil Rights Discrimination

The subrecipient affirms that it shall not discriminate in any manner against any employee, applicant for employment, or clients of services, because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, sexual orientation, pregnancy, physical or mental handicap, or limited English proficiency, so as reasonably to preclude the performance of such employment and/or services provided. The subrecipient also agrees to include a provision like that contained in the preceding sentence for any underlying sub-contract, except a sub-contract for standard commercial supplies or raw material. The subrecipient must have a non-discrimination poster, publicly displayed, acknowledging that the entity does not discriminate and provides an avenue for employees, program beneficiaries, and any relative vendors. Formal complaints may be submitted online at Maryland Commission on Civil Rights: <https://mccr.maryland.gov/>; (410)767-8600; U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights :<https://www.ojp.gov/program/civil-rights/filing-civil-rights-complaint>; (202) 307-0690, United States Equal Employment Opportunity Commission: <https://www.eeoc.gov/>; (800) 669-4000. Additionally, a complaint may be reported utilizing the form located on our website at <http://goccp.maryland.gov/grants/civil-rights-compliance/>. Also see the General Conditions related to Civil Rights Federal Reporting Requirements and Applicable Statutorily-imposed Nondiscrimination Requirements.

33 Proof of Applicable Audit Regulations - On Site

All subrecipients must have proper documentation to present to the Office upon request, to prove compliance with the Audit Regulations that apply. Local and State governments must have proof that they had an annual audit and submitted said audit to the State Legislature in September of the year of their subaward. Non-Profit Organizations must follow guidance located on the Maryland Secretary of State's website under the Charitable Division, located here: <https://sos.maryland.gov/Charity/Pages/Instructions.aspx>.

34 Single Audit Requirement

If your entity spends \$750,000 or more per fiscal year in federal funds, a Single Audit is required in accordance with 2 CFR §200.514. If the audit discloses findings on Office grants, provide a copy of the report so that we may issue a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521

35 ACORN

The subrecipient agrees and understands that it cannot use any grant funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

36 Reporting Fraud, Waste and Abuse

The subrecipient must promptly report any credible evidence of fraud, waste, abuse and similar misconduct with grant funding.

37 OJP Financial Guide

In addition to the Office's General Conditions (Post Award Instructions) and Special Conditions, the subrecipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide where applicable, and to abide by any other terms and conditions imposed by the Office. The financial guide may be accessed at the following web URL:
http://www.ojp.usdoj.gov/financialguide/PDFs/OCFO_2013Financial_Guide.pdf

38 Food and Conference Costs

On October 21, 2011 the U.S. Department of Justice, Office of Justice Programs, Office of the Assistant Attorney General issued a memorandum to all Office of Justice Programs Grantees and Contractors regarding enacted conference costs and reporting requirements. In order to follow the federal guidelines, the Office will not approve any food and/or beverage costs associated with meetings, training, conferences, and/or other events. All conference costs will be thoroughly examined for compliance with the federal requirements. This restriction does not impact direct payment of per diem amounts to individuals in a travel status under your organization's travel policy. The Office may consider exceptions to this General Condition for non-federal funded grants.

39 Applicable Statutorily-imposed Nondiscrimination Requirements

Subrecipients will comply (and will require any subrecipients or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include § Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; Omnibus Crime Control and Safe Streets Act of 1968, as amended, 34 U.S.C. §§ 10228(c) & 10221(a); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681; Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132; Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102; Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); Violence Against Women Act of 1994, as amended, 34 U.S.C. § 12291(b)(13); and Partnerships with Faith-Based and Other Neighborhood Organizations, (28 CFR Part 38).

40 DUNS and SAM.Gov Requirements

Throughout the entire period of the grant, the subrecipient must maintain a valid unique identifier (currently DUNS Number) and current registration with SAM.Gov. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. It is provided by the commercial company Dun and Bradstreet. SAM is the repository for certain standard information about federal financial assistance applicants, recipients, and subrecipients.

Access to SAM.GOV: <https://sam.gov/SAM/>

41 Computer Equipment/Program/Network Procurement

No award funds may be used to maintain or establish a computer network unless such network prohibits the viewing, downloading, and exchanging of pornography, and nothing limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.



Grant Award - General Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

42 Hire within 45 days

All project personnel supported with grant funding must be hired within 45 calendar days of receipt of the grant award package. Any delays in hiring must be reported in writing within 30 calendar days of receipt of the grant award package. If project personnel are not hired within 45 calendar days, project personnel allocations may be de-obligated at the discretion of the Office.

43 No distracted Driving While Performing Program Duties

Subrecipients are to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

44 Services to those with Limited English Proficiency

The subrecipients are obligated to provide services to Limited English Proficient (LEP) individuals. Refer to the DOJ's Guidance Document. This regulation may be accessed at: <https://www.lep.gov/>.

State Government Article, Subtitle 11- Equal Access to Public Services for Individuals with Limited English Proficiency, §§10-1101—10-1105, Annotated Code of Maryland.

45 Drug-Free Workplace Requirements

Subrecipients are subject to the applicable requirements regarding the state and federal drug free workplace requirements. The state's policy can be found here: State of Maryland Substance Abuse Policy -- <https://dbm.maryland.gov/employees/Documents/Policies/SubstanceAbusePolicy.pdf>. The Federal Government-wide Requirements for Drug-Free Workplace (Grants) is codified at 28 C.F.R. Part 83.

46 Office Name Change Effective 1.1.2020

Any reference to the Governor's Office of Crime Control and Prevention or GOCCP should now be referenced as the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) per Executive Order 01.01.2020.01.



Regional Monitor:
Fiscal Specialist:

Jones, Quentin
Lee, Dorothy

Governor's Office of Crime Control and Prevention

Grant Award - Special Conditions

Grant Award Number:	MCIN-2023-0009	Sub-Recipient:	Hagerstown Police Department
Award Period:	07/01/2022 - 06/30/2023	Implementing Agency:	Hagerstown Police Department
Project Title:	Washington County MCIN Coalition Program		

1 General Conditions

This grant award is subject to the General Conditions (POST AWARD INSTRUCTIONS) found on the GOCOPYVS website (<http://www.goccp.maryland.gov/grants/general-conditions.php>). The aforementioned General Conditions/Post Award Instructions are REQUIRED to be reviewed, should be printed for your reference and are subject to change without written notice.

In addition, the Tips and Guidance page is provided as a resource on the GOCOPYVS website (<http://goccp.maryland.gov/grants/tips-and-guidance/>) to address frequently asked questions.

- 2 If the SAM.gov account expires anytime during the life of the grant, GOCOPYVS reserves the right to stop all activity / payments on the grant until the account is made current.
- 3 All positions under the Personnel Budget Category, submitted under the methodology of a 12 month budget projection, must expend and draw down their personnel funds quarterly or be subject to de-obligation of funds. Exceptions include, but are not limited to, overtime and on-call services.
- 4 Final quarterly programmatic reports indicating progress towards the attainment of each program/project objective must be submitted no later than 15 calendar days from the End Date of the sub-award. Financial reports will not be processed unless Programmatic Reports are in "submitted" status in the GMS.

The FINAL Financial Report must be submitted no later than 30 calendar days from the End Date of this sub-award.

If the initial 30 calendar day submission is not your actual FINAL report, send an email to the Fiscal Specialist so that the GMS can be noted.

Submission of a "Not Final" report will require a "Final/Revised" report to be submitted no later than 60 calendar days after the End Date of the sub-award. Revised reports may only be submitted if an initial 30 calendar day report was submitted as required. ALL Final financials must be submitted within the 60 days or GOCOPYVS reserves the right to complete an administrative closeout on this grant award and de-obligate all remaining funds.

Revisions are a manual process that requires hand written corrections on a copy of the previously submitted 30 day report, with the word "FINAL" written in red ink. The corrections must be actual expenditures, not the variance. New signatures and current dates are required in blue ink. The revised report can be mailed, emailed, or delivered.

- 5 The sub-recipient must provide a copy of the Contract/ Memorandum of Understanding (MOU) that demonstrates the partnership or the development of a coalition for this program within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 6 The sub-recipient must provide a copy of the set of standard operating procedures that governs their Maryland Criminal Intelligence Network coalition within 90 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 7 The sub-recipient must provide a copy of their Maryland Criminal Intelligence Network (MCIN) site's organizational structure within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 8 Sub-recipients are required to report on the monthly progress of this initiative by submitting data through HIDTA's Case Explorer system. All data should be reported by the 15th of each month. Should there be any delay in submitting data into the Case Explorer system the sub-recipient must notify their program manager and provide a plan and timeline for entry into the system.

- 9** The Governor's Office of Crime Prevention, Youth, and Victim Services support must be noted in any press releases, newsletters, brochures, materials or RFPS related to this sub-award.

Example:

"This investigation was a coordinated effort between (please list law enforcement organizations involved in operation) under the Maryland Criminal Intelligence Network (MCIN). The Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) provides grant funding and strategic support to MCIN member sites to identify, disrupt, and dismantle criminal organizations through inter-agency collaboration and data sharing to make Maryland safer.

The Governor's Office of Crime Prevention, Youth, and Victim Services funded this project under subaward number, XXXX-XXXX-XXXX. All points of view in this document are those of the author and do not necessarily represent the official position of any Maryland State office or agency."

- 10** Sub-recipient understands that by accepting this award, the designated Maryland Criminal Intelligence Network (MCIN) point of contact agrees to be an active participant in collaborative efforts which may include, but not limited to, monthly conference calls, email discussions, in-person meetings, and attending specified training.
- 11** The Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) encourages all Maryland Criminal Intelligence Network (MCIN) sites to participate in Maryland's Handle with Care Program. In 2018, Governor Larry Hogan announced that the Handle with Care Program will be implemented statewide and GOCPYVS has been assigned with implementing the program throughout the state to increase trauma-informed approaches and to address Adverse Childhood Experiences (ACEs) to prevent future victimization or criminality. For more information about the program and implementation within your agency please visit <https://handlewithcaremd.org/law-enforcement-protocol.php>.
- 12** Sub-recipient agrees to submit a copy of the agency's overtime policy, which include information on the approval process, within 30 calendar days of the receipt of the award. Should there be any delay in the process, written, or email, contact must be maintained with the Program Manager until the physical document is submitted.
- 13** Sub-recipient agrees to keep documentation of monthly overtime usage by using the Monthly Overtime Summary Report provided by the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) or their own overtime report. Please note that the overtime report should identify how overtime was used as it relates to MCIN initiatives.
- 14** Sub-recipient agrees when planning a warrant sweep or warrant initiative to include and coordinate with their coalition partners and at least one other MCIN site. MCIN partners and their stakeholders should be coordinating efforts and prioritizing targets of criminal organizations (Gangs, Guns, Drugs, Human Trafficking), violent criminals, and repeat violent offenders prior to the operation. When executing the warrant sweep, Maryland's Handle with Care Program must be implemented. Upon completion of the warrant sweep a press release should be completed outlining the results and the participation by MCIN coalition partners.



Budget Notice

Grant Award Number:	MCIN-2023-0009	
Sub-recipient:	Hagerstown Police Department	
Project Title:	Washington County MCIN Coalition Program	
Implementing Agency:	Hagerstown Police Department	
Award Period:	07/01/2022 - 06/30/2023	CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

Personnel

Description of Position	Salary Type	Funding	Total Budget
Crime Analyst	Fringe	Grant Funds	\$4,976.00
Crime Analyst	Salary	Grant Funds	\$16,588.00
Law Enforcement - Gun Violence	Overtime	Grant Funds	\$25,000.00
Law Enforcement - MCIN	Overtime	Grant Funds	\$46,000.00
MCIN Coordinator	Fringe	Grant Funds	\$22,100.00
MCIN Coordinator	Salary	Grant Funds	\$54,995.00
Personnel Total:			\$169,659.00

Travel

Description	Funding	Quantity	Unit Cost	Total Budget
Human Trafficking Training Travel Expenses - Lodging	Grant Funds	4	\$150.00	\$600.00
Human Trafficking Training Travel Expenses - Meals	Grant Funds	5	\$50.00	\$250.00
Travel Total:				\$850.00

Contractual Services

Description	Funding	Quantity	Unit Cost	Total Budget
Allied Law Enforcement - Overtime	Grant Funds	1	\$20,000.00	\$20,000.00
MCIN Prosecutor - State's Attorney's Office	Grant Funds	1	\$64,397.00	\$64,397.00
Contractual Services Total:				\$84,397.00

Other

Description	Funding	Quantity	Unit Cost	Total Budget
GangScope	Grant Funds	3	\$1,200.00	\$3,600.00
Human Trafficking Training Registration	Grant Funds	1	\$3,000.00	\$3,000.00
Mobile Crime Cameras & Licenses	Grant Funds	4	\$3,478.00	\$13,912.00
Other Total:				\$20,512.00



Governor's Office of Crime Control and Prevention

Regional Monitor:
Fiscal Specialist:

Jones, Quentin
Lee, Dorothy

Budget Notice

Grant Award Number:	MCIN-2023-0009		
Sub-recipient:	Hagerstown Police Department		
Project Title:	Washington County MCIN Coalition Program		
Implementing Agency:	Hagerstown Police Department		
Award Period:	07/01/2022 - 06/30/2023		CFDA: State General Fund

Funding Summary	Grant Funds	100.0 %	\$275,418.00
	Cash Match	0.0 %	\$0.00
	In-Kind Match	0.0 %	\$0.00
	Total Project Funds		\$275,418.00

Approved: 
Governor's Office of Crime Control and Prevention Authorized Representative

Effective Date: 8/4/2022



Governor's Office of Crime Control and Prevention



Control Number:

43427

Regional Monitor:

Jones, Quentin

Fiscal Specialist:

Lee, Dorothy

Submitted Date:

Programmatic Reporting

Grant Award Number:	MCIN-2023-0009	
Sub-recipient:	Hagerstown Police Department	
Project Title:	Washington County MCIN Coalition Program	
Implementing Agency:	Hagerstown Police Department	
Award Period:	07/01/2022 - 06/30/2023	CFDA: State General Fund

The information collected on this form helps us measure the progress you are making in achieving your project's goals and objectives. It also helps us determine what, if any, technical assistance you may need in implementing your project.

Performance Measures (14)

1	During this reporting period, how many individuals were identified as priority criminal offenders?	
2	During this reporting period, how many of the priority criminal offenders were arrested?	
3	During this reporting period, how many investigative operations conducted for MCIN related cases?	
4	During this reporting period, how many law enforcement personnel (officers, detectives, analyst, etc.) were involved in investigative operations for MCIN related cases?	
5	During this reporting period, what are the total number of hours in overtime used for investigative operations for MCIN related cases?	
6	During this reporting period, how many MCIN cases were formally charged by a grand jury (indictments)?	
7	During this reporting period, how many offenders were convicted on MCIN related offenses?	
8	During this reporting period, how many MCIN cases were prosecuted as RICO (federal racketeering)?	
9	During this reporting period, how many MCIN related offenders were convicted of RICO (federal racketeering)?	
10	During this reporting period, how many MCIN related investigative operations resulted from multi-jurisdictional intelligence such as data-sharing and/ or collaborative activities?	
11	During this reporting period, how many new criminal organizations/ networks identified related to MCIN initiatives?	
12	During this reporting period, was all data entered into HIDTA CAP and Case Explorer? Enter 1 for "yes" and 2 for "no."	
13	During this reporting period, how many "Handle with Care" notices has been sent as a result of an investigative operation related to a MCIN case?	

14	During this reporting period, how many children (under the age of 18) were involved in an investigative operation as a victim or witness?	
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Progress Report Questions (9)

1	Please explain how this award helped reduce crime and/ or improve public safety in your jurisdiction.
2	Please explain how your MCIN site helped to identify, disrupt and/or dismantle criminal organizations, gangs, and/or violent criminal networks.
3	Please explain how your MCIN site is collaborating with partners to include information sharing, enforcement activities and success stories.
4	Describe barriers/ challenges to implementing or completing any of the objectives. Include corrective actions taken or planned to overcome described barriers (include timeline). Are there any obstacles or barriers that could prevent you from expending all grant funds? Please include any requests for technical assistance if needed.
5	If no funds or minimal funds (less than 25%) were expended during this reporting period please provide an explanation as to why and when you anticipate requesting funds. Your detailed explanation should address each budget category.
6	Please explain the activities that have been planned for the upcoming quarter to include dates and a brief summary of each.
7	Did overtime hours occur during this reporting period? If so, please give a brief description of the accomplishments due to the funded law enforcement overtime. If overtime hours were not utilized, explain why and describe your agency's course of action to spend or de-obligate these funds.
8	Please provide a detailed narrative describing how the quarterly performance measures report numbers are collected and what method or system is currently used to track them.
9	Only Required to be Completed in the Final Quarter of the Grant Period: What projects have you accomplished with the grant award? List accomplishments/successes and/or best practices developed through this grant funded program. Have all intended projects been completed? Please note any delays in project completions.

Signed: _____ **Date:** _____

Project Director - Alexander, Thomas

(Project Director is preferred, Fiscal Contact or Authorized Official if Project Director is unavailable)

Printed Name: _____ **Phone:** _____



AGREEMENT OF UNDERSTANDING AND COMMITMENT

CITY OF HAGERSTOWN POLICE DEPARTMENT WASHINGTON COUNTY MARYLAND CRIMINAL INTELLIGENCE NETWORK (MCIN)

PREAMBLE

WHEREAS, the City of Hagerstown Police Department, Washington County Maryland Criminal Intelligence Network (MCIN), an unprecedented collaboration of state and local public agencies, has been convened as a system of criminal justice agencies focused on identifying, disrupting and dismantling criminal networks through collaboration and comprehensive data sharing at the local, state and federal levels. Partner agencies will coordinate tactics, resources, information and intelligence for the purpose of the targeting gangs and violent criminal networks who are involved in the distribution of illegal drugs, the use of firearms in crimes of violence, human trafficking or other inherently violent criminal enterprises within the City of Hagerstown; Washington County and,

WHEREAS, the initial focus of the agencies brought together was to discuss conditions in the City of Hagerstown that were contributing to violent crime and recidivism; and

WHEREAS, the members have continued to meet, develop relationships and have identified specific actions that will improve public safety in the City of Hagerstown; and

WHEREAS, these discussions have already begun to enhance communication and coordination among Federal, State and Local agencies committed to the public safety of the City of Hagerstown; and

WHEREAS, the signatories below further commit to working together to implement strategies, continue constructive communication and problem solving, develop action plans, establish performance measures and evaluate success.

It is, by way of this Agreement of Understanding and Commitment,

HEREBY established the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN).

I. Purpose.

The function of the Hagerstown Washington County Maryland Criminal Intelligence Network (MCIN) is to address issues affecting the public safety of the City of Hagerstown involving gangs and violent criminal networks.

II. Established. There is the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN).

III. Composition.

A. The (MCIN) shall consist of the following members or their designees:

1. Chief, Hagerstown Police Department
2. State's Attorney, Washington County
3. Sheriff, Washington County Sheriff's Office
4. Commander, Hagerstown Barrack, Maryland State Police
5. Chief, Smithburg Police Department
6. Chief, Boonsboro Police Department
7. Chief, Hancock Police Department
8. Parole and Probation Supervisor, Maryland Department of Public Safety and Correctional Services
9. Fire Marshal, Hagerstown Fire Marhsal's Office
10. Safety Director, Washington County Board of Education

B. The MCIN partners shall meet at least once a month.

IV. Duties. The Coalition shall:

- A. Develop a strategy which deploys local, state and federal resources to identify, disrupt, and dismantle criminal networks through collaboration and comprehensive data sharing;
- B. Coordinate local and federal prosecution strategies so that they are focused on the most violent offenders and repeat offenders, with an emphasis on reducing gun and drug-related violence, human trafficking, gangs as individuals and violent criminal enterprises utilizing RICO prosecutions;
- C. Enhance information sharing, data analysis, and use of technology in accordance with Federal and State law to identify crime trends and to address community conditions leading to crime involving the distribution of illegal drugs, the use of firearms in crimes of violence, human trafficking or other inherently violent criminal enterprises;
- D. Identify laws and regulations that can be used to support public safety efforts. Research legislative and regulatory changes that may enhance the success of the Coalition.
- E. Commit to a monthly forum to share data, in accordance with Federal and State law, and to evaluate progress among the state and local public safety agencies working within the Hagerstown Washington County MCIN.

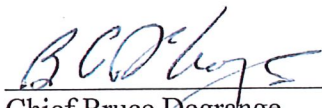
Signatories to this Agreement for the City of Hagerstown Police Department Washington County Maryland Criminal Intelligence Network (MCIN) as of April 2021.

Chief Paul J. Kifer
Hagerstown Police Department

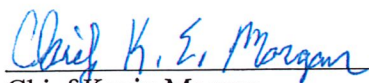
Sheriff Douglas W. Mullendore
Washington County Sheriff's Office

The Honorable Charles P. Strong, State's Attorney
Washington County

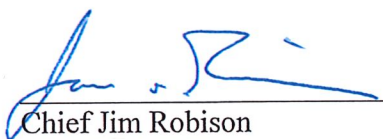
Lieutenant W. Joe George
Maryland State Police



Chief Bruce Degrange
Smithsburg Police Department



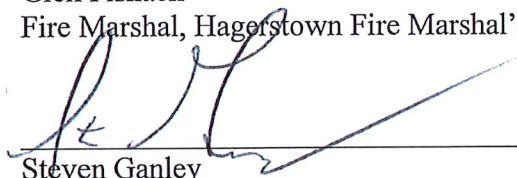
Chief Kevin Morgan
Boonsboro Police Department



Chief Jim Robison
Hancock Police Department



Glen Fishack
Fire Marshal, Hagerstown Fire Marshal's Office



Steven Ganley
Safety Director, Washington County Board of Education



4/23/2021

Shina Castain-Thompson
Supervisor, Department of Public Safety and Correctional Services
Division of Parole and Probation

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

Topic:

Approval of Solid Waste "Collection Service Fee" Increase

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion -
_Approval_of_Solid_Waste_Collection_Service_Fee_Increase.pdf

Description

Motion - Solid Waste
Collection Fee Increase

REQUIRED MOTION
MAYOR & CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: November 22, 2022

TOPIC: Approval of Solid Waste "Collection Service Fee" Increase

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

MOTION: I hereby move to approve the curbside collection monthly fees paid to Waste Management of Pennsylvania as follows:

- \$6.55/month for municipal solid waste
- \$1.56/month for yard waste
- \$5.56/month for collection and processing of recyclables

To fund these increased costs, I authorize an increase in the collection service fee of \$5 per quarter per unit for all residential and commercial collections for bills issued after January 1, 2023.

I further move to authorize staff to obtain bids for portable totes for trash collection, to be issued to residential properties, starting with the downtown Zone 'F' in early 2023 and City wide in 2024. Funding for the 15,500+ totes will be from the American Rescue Plan Act (ARPA) and is estimated at \$1.2 million.

DATE OF PASSAGE: 11/22/2022