

**10th Regular Session
Mayor and City Council
March 28, 2017
Agenda**

5:00 PM Work Session

5:05 PM Executive Session

6:00 PM Work Session

7:00 PM - March 28, 2017 - REGULAR SESSION *-Council Chamber, 2nd floor, City Hall*

I. CALL TO ORDER

Mayor Robert E. Bruchey, II

II. INVOCATION

Councilmember Emily Keller

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

A. Rules of Procedure - Adopted December 20, 2016

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, April 4, 2017 - Work Session at 4:00 p.m.
2. Tuesday, April 11, 2017 - Work Session at 4:00 p.m.
3. Tuesday, April 18, 2017 - Work Session at 4:00 p.m.
4. Tuesday, April 25, 2017 - Regular Session at 7:00 p.m.

V. GUESTS

Proclamation: Maryland International Film Festival

VI. CITIZEN COMMENTS

VII. PUBLIC HEARINGS

Annexation - 2009 Salem Avenue North LLC (Fulton), Salem Avenue

VIII. CITY ADMINISTRATOR'S COMMENTS

IX. MAYOR AND COUNCIL COMMENTS

X. MINUTES

(February 7, 2017; February 14, 2017; February 21, 2017; February 28, 2017)

XI. CONSENT

A. Parks and Engineering

1. Climbing Wall for Potterfield Pool - Pyramid USA, Inc. (Frederick, MD) \$11,793.00

B. Police

1. Barrier Arms at Hagerstown Police Department Headquarters - Long Fence Company, Inc. (Ijamsville, MD) \$40,670.00
2. Concrete Planters at Hagerstown Police Department Headquarters - Petersen Manufacturing Co., Inc. (Denison, IO) \$6,005.68

C. Utilities

1. Wastewater: Oxygen Generation Skid Rehab - Yeager Supply, Inc. (Reading, PA) \$19,726.40
2. Wastewater: Grinder Pump Assemblies - Fluid Solutions, Inc. (Westminster, MD) \$16,940.00

XII. UNFINISHED BUSINESS

- A. Approval of an Ordinance: Authorizing the Purchase of Property Located at 11850 Indian Lane Hagerstown, MD

XIII. NEW BUSINESS

- A. Approval of a Resolution: 2017 Summer Play Camp Robert W. Johnson Community Center, Inc.
- B. Approval of a Resolution: 2017 Summer Play Camp - Hagerstown YMCA
- C. Approval of a Resolution: 2017 Summer Play Camp - Girls, Inc. of Washington County
- D. Approval of a Resolution: Lease Agreement with The Mulch Man for 931 Eldridge Drive
- E. Approval of a Resolution: Lease Agreement for 36-40 North Potomac Street, Apt. 1
- F. Approval of a Resolution: License Agreement for 36-40 North Potomac Street, Apt. 4
- G. Approval of a Resolution: Renewal of a Memorandum of Understanding between the Hagerstown Police Department and the Department of Social Services, Division of Adult Protective Services (APS)
- H. Approval of Contract for Reconstruction of Marsh Run - GRC General Contractor, Inc. (Zullinger, PA) \$315,000.00
- I. Approval of Amendments to FY16 and FY17 Community Development Block Grant (CDBG) Annual Action Plans
- J. Authorization to Renew the City's Sustainable Community Area Designation
- K. Approval of 2017 Western Maryland Blues Festival Rain Insurance - Weather Insurance Agency \$9,991.00

XIV. ADJOURN

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

Topic:

Work Session

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

March_28__2017_Work_and_Exec_Session.pdf

Description

Work Session Agenda



**MAYOR AND COUNCIL
EXECUTIVE SESSION AND WORK SESSION
MARCH 28, 2017
AGENDA**

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

“The greatest results in life are usually attained by common sense and perseverance.”

O. Feltham

5:00 p.m. WORK SESSION

5:05 p.m. EXECUTIVE SESSION

6:00 p.m. WORK SESSION

1. City Comprehensive Plan Update (*visionHagerstown 2035*) – Alex Rohrbaugh,
Planner

6:45 p.m. ADJOURN

7:00 p.m. REGULAR SESSION

*****All times are approximate and subject to change.**
Meetings are televised and recorded.***

***City Hall • Council Chamber • 1 East Franklin Street • Hagerstown, Maryland 21740 301.790.3200 ext. 113
Hearing Impaired Call 301.797.6617***

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

Topic:

Executive Session

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

March_28__2017_Executive_Session.pdf

Description

Executive Session Agenda



EXECUTIVE SESSION

MAYOR & CITY COUNCIL

MARCH 28, 2017

AGENDA

5:05 p.m. EXECUTIVE SESSION – *Council Chamber, 2nd floor, City Hall*

1. To consult with counsel to obtain legal advice, #7
**Negotiation of an Agreement*

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

CITY OF HAGERSTOWN, MARYLAND

PUBLIC BODY: Mayor & City Council

DATE: March 28, 2017

PLACE: Council Chamber, 2nd floor, City Hall

TIME: 5:05 p.m.

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

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

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

Topic:

Work Session

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Mayor Robert E. Bruchey, II

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Councilmember Emily Keller

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Rules of Procedure - Adopted December 20, 2016

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Use of cell phones during meetings is restricted.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

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.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Meeting Schedule

1. Tuesday, April 4, 2017 - Work Session at 4:00 p.m.
2. Tuesday, April 11, 2017 - Work Session at 4:00 p.m.
3. Tuesday, April 18, 2017 - Work Session at 4:00 p.m.
4. Tuesday, April 25, 2017 - Regular Session at 7:00 p.m.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Proclamation: Maryland International Film Festival

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Annexation - 2009 Salem Avenue North LLC (Fulton), Salem Avenue

Mayor and City Council Action Required:

The proposed annexation is scheduled for Public Hearing on March 28th.

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Fulton_Annexation_PH_Memo_03-23-17.pdf
Salem_Ave_Annex_Map.pdf

Description

Cover Memo
Map of Annexation




CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Alex W. Rohrbaugh, AICP, Planner 

DATE: March 23, 2017

SUBJECT: A-2017-01, Annexation – 2009 Salem Ave North LLC (Fulton), Salem Avenue

The proposed annexation is scheduled for Public Hearing on March 28th. The proposed annexation was introduced on January 31. The Annexation Plan was also adopted at that time.

The Fulton family has assembled some properties on the north side of Salem Avenue in anticipation of future redevelopment for commercial clients as yet unknown. (See attached map.) Annexation is proposed at this time to get the tract ready for redevelopment, so the 4 to 6 month time delay associated with the annexation process will not be an impediment to securing future commercial prospects.

Currently, the properties are zoned HI (Highway Interchange) in the County and contain a commercial building on four acres, three small houses, and a small commercial building. Public water and wastewater are not currently in Salem Avenue in this area. As redevelopment plans materialize, in addition to extension of utility lines, the Fultons anticipate a plan that sees a roadway/driveway connection to Terps Boulevard and extension of Garland Groh Boulevard into this area to serve commercial development between Terps Boulevard and I-81.

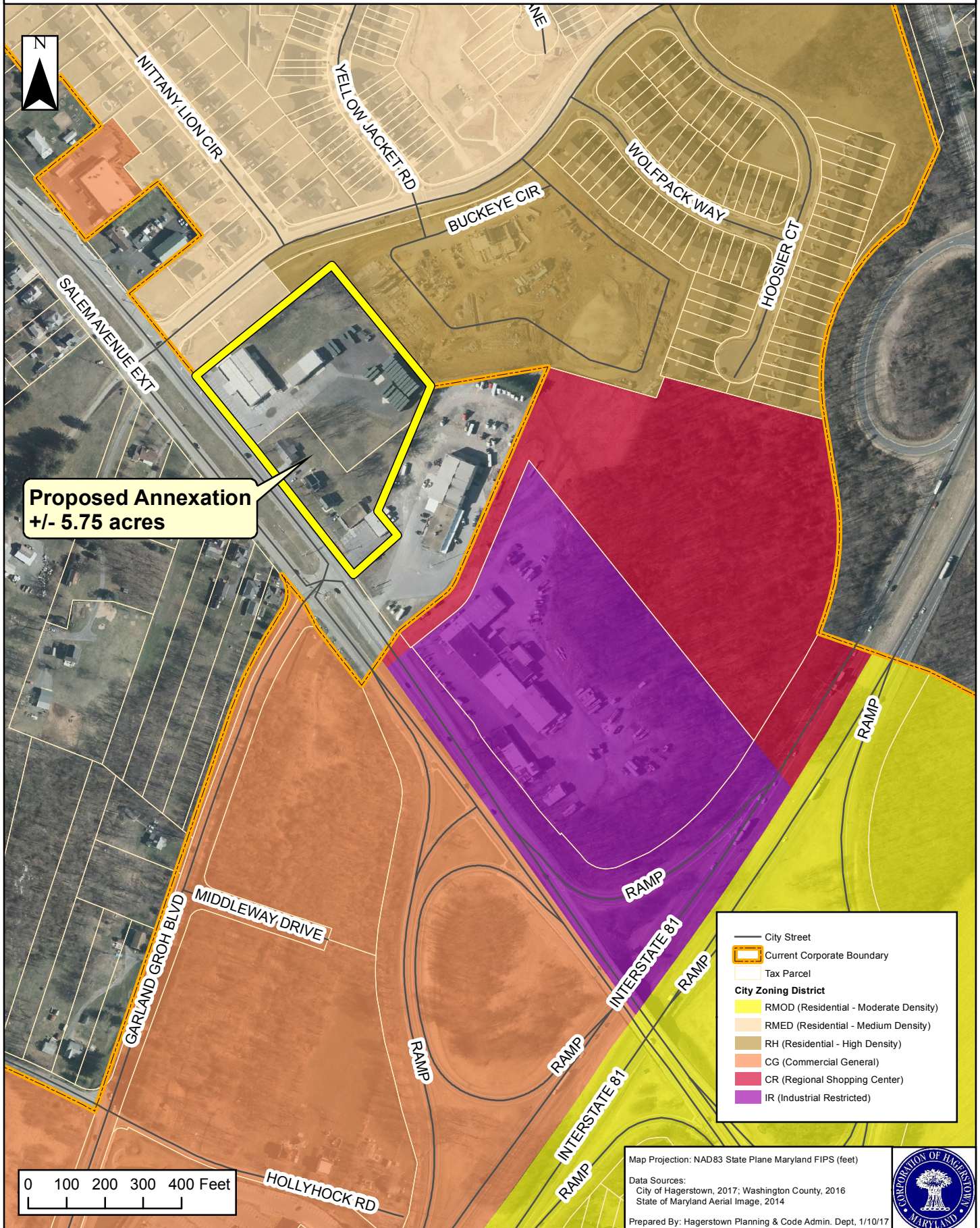
The total area of annexation is approximately 5.75 acres. The property is zoned HI (Highway Interchange) in the County, and, if annexed, the property would be zoned CG (Commercial General). The zoning classifications are consistent with one another; therefore, no express approval of a zoning change is required from the County Commissioners. The Future Land Use Plan in the City's 2008 Comprehensive Plan identifies this area as Medium-Density Residential and Industrial. The forthcoming Comprehensive Plan update, *visionHagerstown 2035*, has preliminarily identified the Salem Avenue corridor north of I-81, including the area of annexation, as Commercial General.

As required by State Law, there were two published notices advertising the annexation hearing at no less than weekly intervals. The Annexation Plan was provided to the appropriate County, Regional, and State Planning Agencies, at least 30 days prior to the Public Hearing. After the Public Hearing, the Mayor and Council may pass or reject the annexation resolution. If the resolution is passed the annexation becomes effective in forty-five (45) days.

Attachment: Map of Proposed Annexation

Copy: Kathleen Maher, PCAD Director

A-2017-01, 2009 Salem Ave North LLC, Salem Avenue



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

Topic:

(February 7, 2017; February 14, 2017; February 21, 2017; February 28, 2017)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion.minutes.pdf

Description

Motion

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 28, 2017

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 February 7, 2017, February 14, 2017, February 21, 2017, and February 28, 2017.

DATE OF PASSAGE: March 28, 2017

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

Topic:

Climbing Wall for Potterfield Pool - Pyramid USA, Inc. (Frederick, MD) \$11,793.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion.consent_agenda.doc
Complete_Consent_Form_-
_Climbing_Wall_at_Potterfield_Pool.pdf
Climbing_Wall_Consent.pdf

Description

Consent Agenda Motion
Signed Purchase Form
Climbing Wall

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 28, 2017

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.”

**City of Hagerstown
Mayor and Council
Purchase / Contract Information
Meeting of 3/28/17**

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

Originating Department: Parks and Engineering By: Rodney Tissue
Account Number: 4545000-5594 Account / Project Name: Climbing Wall for Potterfield Pool
Budget Amount: \$25,000 Account Balance: \$25,000 Year: 16/17 CIP Control No. C0822
Unbudgeted \$: -0- Source of Funds: General Fund *Transfers (and GR from C0773)*

Quantity	Description	Value
1	3D Contour polycarbonate climbing wall	\$11,793.00

TOTAL VALUE OF PROJECT: \$11,793.00

ABOVE TO BE USED FOR:

New amenity for the Potterfield Pool

Recommended Vendor:

Business Name: Pyramide USA Inc.
Address: P.O. Box 530
City, State: Frederick, MD 21705
Bid/Proposal/Quote No.: _____

OTHER VENDORS:		
Firm	City/State	Total Amount
None – Sole source provider(see letter)		

(1) Department Manager

Staff recommends the purchase of climbing wall from AquaClimb in the amount of \$11,793.00.

Trend across the United States is for municipal pools to have several aquatic features and attractions similar to waterparks but at a much lower price point.

This is a sole source purchase, please see attached letter.

[Signature] 3/10/17

Signature / Date

(2) Purchasing Agent:

*Recommend Approval.
*Will need all vendor docs -
Vendor not setup in MUNIS.*

[Signature]
3/13/17

Signature / Date

(3) Finance Manager:

*Recommend approval. This project was
included in the FY17 approved budget?
funding has been
identified.*

[Signature]
3/13/17

Signature / Date

(4) City Administrator's Recommendation:

Approved

[Signature]
3/17/17

Signature / Date

**City of Hagerstown
Mayor and Council
Purchase / Contract Information
Meeting of 3/28/17**

Do Not Complete This Section

Approved Consent Agenda: _____

New Business: _____

Originating Department: Parks and Engineering By: Rodney Tissue

Account Number: 4545000-5594 Account / Project Name: Climbing Wall for Potterfield Pool

Budget Amount: \$25,000 Account Balance: \$25,000 Year: 16/17 CIP Control No. C0822

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*Transfers (and GR
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Business Name: Pyramide USA Inc.

Address: P.O. Box 530

City, State: Frederick, MD 21705

Bid/Proposal/Quote No.: _____

OTHER VENDORS:		
Firm	City/State	Total Amount
None – Sole source provider(see letter)		

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This is a sole source purchase, please see attached letter.

[Signature] 3/10/17

Signature / Date

(2) Purchasing Agent:

*Recommend Approval.
*Will need all vendor docs -
Vendor not setup in MUNIS.*

Jason T. Miller
3/13/17

Signature / Date

(3) Finance Manager:

*Recommend approval. This project was
included in the FY17 approved budget?
funding has been
identified.*

Michelle [Signature]
3/13/17

Signature / Date

(4) City Administrator's Recommendation:

Approved

Valerie A. [Signature]
3/17/17

Signature / Date



800-956-6692
www.aquaclimb.com

January 18, 2017

Dear Sir/Madam,

I am writing to inform you that AquaClimb is a brand name of our poolside climbing walls. Our 3D Ice, Glacier, Ascent, and Canyon models attach to the pool deck and are used as an alternative fitness and recreational activity for the deep end of pools. AquaClimb 3D Ice, Glacier, Ascent and Canyon models are offered exclusively by Pyramide USA in North America and around the world. We are the sole source that manufactures, sells and provides these walls in North America. In addition, we are the sole source that manufactures and sells the peripheral equipment. Thank you for your interest and we look forward to working with you.

Russell I. Moy
CEO/President Pyramide USA, Inc
E: russell@climbpymide.com D: +1 800 736 2873 Ext 101 C: +1 571 246 1613





Leslie Amico
Cell: 720.486.5616
leslie@aquaclimb.com

Quotation / Purchase Agreement - Option B - 5hx1w Classic Plus

Classic Plus: Includes Ice, Glacier or Ascent options

Quote Provided For: City of Hagerstown

Job Ref./Order No.: H1-27-17B

Prices Valid Through: 2/26/17

Quote date: 1/27/17

Lead time: 8 weeks from signed quote
and receipt of 50% deposit

Please confirm shipping address

CUSTOMER/BILLING INFO

Facility: Potterfield Pool
Billing Contact: Rodney Tissue
Billing address: 351 N. Cleveland Ave
City: Hagerstown
State: MD
Phone: 301.739.8577 x 128
Email: rtissue@hagerstownmd.org

SHIP TO LOCATION

Facility: Potterfield Pool
Ship Contact: Rodney Tissue
Ship Address: 730 Frederick St.
City: Hagerstown
State: MD 21740
Phone: 301.739.8577 x 128
Email: rtissue@hagerstownmd.org

AQUACLIMB CLASSIC PRODUCT RANGE

QTY	MODEL	5 PANEL HIGH X 1 PANEL WIDE	Total Cost
1	AC-CP	Classic Plus: 3D contour polycarbonate panel, tint & color options TBD	11,793.00
1		Shipping & Handling	800.00
1		Shipping & Handling	-800.00
1		Installation, custom, duties & taxes	Not Included
TOTAL PRICE			\$11,793.00

50% of Total Price is required as deposit with the order. Balance is due upon product delivery.

Order is pending permit approval from MD Health Department; if permit approval is not granted, order may be cancelled for a full refund by April 1, 2017 by emailing leslie@aquaclimb.com to notify AquaClimb of request.

****All costs associated with local, county, and state permits is purchasers responsibility.**

*****Price does not include stamped engineer drawings. Electrical bonding is the responsibility of the customer.**

******All costs for modifications to standard AquaClimb is the responsibility of the customer.**

Pricing & Payment Terms

All prices are stated and payable in US Dollars. Payments originating outside the U.S.A. must be drawn from a USD bank account or remitted by wire transfer in USD funds. Unless otherwise stated in writing, 50% of the total Purchase Price is required as deposit with the order and the balance is due immediately upon product delivery. Invoices not paid within 30 days of issuance will be subject to a 1.5% interest fee compounding monthly. Prices as stated herein are only valid if this signed Purchase Agreement and Deposit are received by Pyramide USA Inc. by the date stated above.

Please make checks payable to: Pyramide USA Inc. P.O. Box 530 Frederick, MD 21705

Order Process & Shipping

Order processing does not begin until we have received the signed AquaClimb Purchase Agreement, the 50% deposit (or agreed upon amount) and all requested gutter information. Shipping times cannot be guaranteed due to seasonal fluctuations and other variables, but orders typically ship within 6-8 weeks after receipt of required items. Delays should be expected for unique gutter configurations, high volume orders and/or custom orders. We will make every effort to fulfill your order as quickly as possible. Your patience is appreciated.

I warrant that I have the authority to act on behalf of the Purchasing Company in entering into this Agreement with Pyramide USA Inc. I have read and understand all terms and conditions of this Purchase Agreement, including page 2 "Terms and Conditions of Sale", and hereby accept and agree to adhere to such terms.

Signature _____

Date _____

Printed

Name/Title _____

AquaClimb is a registered trademark of Pyramide USA Inc. - Copyright 2009

Aquatics Trends

By George Deines, AFO

According to the World Waterpark Association, the development of aquatic centers and municipal waterparks is one of the fastest growing segments in the water leisure industry within the United States. One industry report puts the number of U.S. waterparks at 858, up by 24 parks between March 2014 and March 2015, with the majority of them being outdoor, municipally owned waterparks. Aquatics professionals, in order to help their agencies plan for the future and stay relevant to their communities, need to stay on top of current industry trends. Following are some of the most prevalent nationwide trends in aquatics today.

Admission Prices

Over the years, as the features and amenities at aquatic centers have changed, the value of admission has steadily increased. While aging swimming pools built in the 1970s and 1980s still charge a modest \$1-\$2 for admission, the family aquatic centers of the '80s, '90s and 2000s, with their various amenities, can easily charge \$5-\$10. The more and varied the amenities an aquatic center offers, the more guests it attracts, the longer they stay and the higher the admission fee that can be charged. The primary driver is the length of stay of their guests.

Rising Construction Costs

As municipalities take these older facilities offline and replace them with new ones, the number of aquatic construction projects has increased over the past several years. This, coupled with the rising cost and short supply of materials for aquatic facility construction, has caused a dramatic increase in the price of aquatic construction, sometimes at a rate of 5 percent every six months. Entities looking to build a new aquatic center need to factor in this current inflation rate when developing capital budgets to avoid having to scale back on their design should the bids come in too high.

Spray Parks

Spray parks have made a big splash as a common replacement for aging swimming pools, particularly because they still provide the community with aquatic experiences without the high operating costs of traditional pools. Spray parks do not require high levels of staffing, require only minimal maintenance and offer a no-cost (or low-cost) alternative to a swimming pool. They typically appeal to kids 2-12 year olds and can be a stand-alone facility in a community park or incorporated inside a family aquatic center.

School District Competitive Natatoriums

Another trend seen across the country pertains to the planning, designing and building of competitive swim venues by



The Bob Fleming Aquatic Center in The Woodlands, Texas, is a resort-style, free-form pool with beach entry and an interactive play area.

program the facility. This model helps to keep the pool filled the majority of the day and allows the operating costs to be split three ways instead of just one way.

Sustainability

Whenever we talk about aquatic trends, sustainability — whether environmental or financial — usually rises to the top of the list. A variety of means exist for environmental sustainability, including LED lighting, variable frequency drives for energy efficiency and regenerative media filtration to save on

water usage. In terms of financial sustainability, facilities look at tiered pricing models for both memberships and programming in order to maximize revenue based on demand, as well as at marketing themselves against all entertainment venues, not only other aquatic centers. This, in addition to the latest software that allows for detailed tracking of personnel hours, facility expenses and revenues, provides aquatic centers with several options to set up their operation for financial success.

In addition to staying current about their growing and ever-changing industry, aquatic operators also need to stay tuned in to the needs and desires of their community in order to continue to offer quality aquatic programming and experiences. *NRPA Facility Market Reports*, which offer key data and insights about the market served within a 10-minute drive of an agency's facility, are a great tool for agencies seeking to gain a greater understanding of the residents they serve. Visit www.nrpa.org/FMR for more information or to request a report. Another great resource of industry information will be the 2017 NRPA Annual Conference, which will include a new aquatic-specific education track.

George Deines, AFO, is Project Director for Coudin-Huntaker (george@deines.com).



A child revels among the jets of water in a local spray park.

school districts. Over the past five to 10 years, school districts have taken the lead in building and operating competitive natatoriums primarily to provide space for their high school swim teams, but also as valuable lane space for local USA swim teams, water polo clubs, synchronized swimming and other community programs, such as swim lessons and water fitness. Several of these natatoriums also have a shallow, warm-water pool that the school district uses to start a water safety program for either second or third graders, since swimming is an integral skill for these students to learn.

Municipal Aquatics — Go Big or Go Home!

While school districts continue to build competitive venues, municipalities continue to build large outdoor recreational aquatic facilities that incorporate a greater number of aquatic features and attractions that were once reserved for the private waterpark sector. Features such as wave pools, large multilevel children's play structures and extreme multi-passenger thrill attractions have become more and more commonplace as municipal aquatic facilities continue to provide aquatic experiences similar to those at larger, private waterparks, just on a different scale and, typically, at a lower price point.

Partnerships

When it comes to the planning, design, construction and operation of an indoor aquatic facility, it makes sense to explore various partnership models in order to maximize the usage of an aquatic center, as well as to minimize the subsidy. A typical approach involves a school district teaming up with a local municipality to collaborate on the construction of a facility and then deciding which entity will be in charge of its operation, or if a third-party operator (such as a YMCA) will be brought in to manage and



The Bartlett Aquatic Center in Bartlett, Illinois, includes an array of amenities, including an eight-lane lap pool with a zero-depth entry section, a lazy river, zip line over the water, slides and a spray playground.

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

Topic:

Barrier Arms at Hagerstown Police Department Headquarters - Long Fence Company, Inc.
(Ijamsville, MD) \$40,670.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Complete_Consent_Form_-_Barrier_Arms_at_HPDPDF

Memo_-_Barrier_Arms.pdf

Consent_Agenda_-_Barrier_Arms.pdf

Description

Signed Purchase Form

Memo - Barrier Arms

Consent Agenda - Barrier
Arms

Do Not Complete This Section:

**APPROVED FOR:
CONSENT AGENDA
NEW BUSINESS**

Originating Department Police By Victor V. Brito

Account No. _____ Account/Project Name _____

Budget Amount \$ _____ Account Balance \$ _____ Year: 2017 / 2018 C.I.P. Control No. 0308

Unbudgeted * \$ 0 Source of Funds DHGR grant funded 100%
 *(See Department Manager's Comments)

QUANTITY

DESCRIPTION

VALUE

<u>1</u>	<u>Materials, labor, and installation of (2) barrier arms</u>	<u>\$ 38,940.00</u>
1	Additional Year Warranty	1,730.00

TOTAL VALUE	\$ 40,670.00
-------------	--------------

ABOVE TO BE USED FOR:

Barrier arms to increase safety and security to HPD building.

RECOMMENDED VENDOR:

BUSINESS NAME: Long Fence Company, Inc.

ADDRESS: 2520 Urbana Pike

CITY, STATE: Ijamsville, Maryland 21754

BID/PROPOSAL/QUOTE NO.: _____ **(Circle one)**

OTHER VENDORS:

<u>Firm</u>	<u>City/State</u>	<u>Total Amount</u>
-------------	-------------------	---------------------

Milton Stamper	\$ 43,550.00
-----------------------	---------------------

COMMENTS

(1) DEPARTMENT MANAGER:

[Signature] 3-14-17

Signature/Date

(2) PURCHASING AGENT:

Recommend Approval.

Jason L. Miller 3/17/2017

Signature/Date

(3) FINANCE MANAGER:

Recommend approval. This purchase will be funded 100% with DAG grant funding. This project was not included during FY17 budget submission but was subsequently approved as part of closing McPherson St. & securing our HPD property.

Michelle [Signature] 3/17/17

Signature/Date

(4) CITY ADMINISTRATOR'S RECOMMENDATION:

Approval

Valencia Men 3/17/17

Signature/Date




CITY OF HAGERSTOWN MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

Non-Emergency 301-790-3700
Emergency 301-739-6000
Fax 301-733-5513

March 13, 2017

To: Valerie Means,
City Administrator

From: Victor V. Brito, 
Chief of Police

Ref: Installation of Barrier Arm Access Control System

HPD is requesting Mayor & Council approval for the purchase of the installation of (2) barrier arms with access control and 16 protective bollards. We believe this would greatly increase safety and security for both the employees of Hagerstown Police Department as well as citizens who use McPherson Street as a thoroughfare.

Two vendors participated in the formal bid process with the lowest price of \$38,940.00 from Long Fence. There is an additional \$1,730.00 for 1 year warranty. The price of installation includes material and labor and funding will be provided by DAG funds through the Washington County Narcotics Task Force.



Do Not Complete This Section:
APPROVED FOR:
CONSENT AGENDA _____
NEW BUSINESS _____

Unbudgeted * \$ _____ Source of Funds _____
 *(See Department Manager's Comments)

[illegible]

COMMENTS

(1) DEPARTMENT MANAGER:

 3-14-17

Signature/Date

(2) PURCHASING AGENT:

Signature/Date

(3) FINANCE MANAGER:

Signature/Date

(4) CITY ADMINISTRATOR'S RECOMMENDATION:


Signature/Date

Commercial Proposal
(301) 428-9040
MHIC #9615-02



Order No. _____
Date: 12/9/2016

Long Fence Company, Inc.
2520 Urbana Pike, Ijamsville, Maryland 21754-8624
(301) 662-1600 (Frederick Area) * 1-800-222-9650 (Outside Local Area) * Fax (301-874-2564)
www.longfence.com

Buyer:	City of Hagerstown Police Department	Attn:		Tel:	
Address:	1 East Franklin St. Hagerstown, MD 21740			email:	
Job Name:	Barrier Arm Bid	Address:	Police Department Hagerstown, MD		
Long Fence Company, Inc., herein referred to as Seller proposes to furnish and install the following: Materials, labor, and installation of 2- Barrier arms with access control and 16- protective bollards.					
Materials to include the following:					
2- Liftmaster High-Performance Commercial Mega Tower Barrier Gate Operator with Battery Back Up 1/2hp, Single Phase, 110/220VAC *Includes: (2) batteries. Gate arms are separate. 2- 500 Watt Plug in Heater w/Thermostat ---Mega Tower 4- 12VDC 7ah Battery 2- 15' Round Aluminum Arm White with Yellow and Black Stripes. 2- Counterweight required for 15' Aluminum Arm 6- Reno BX 4 Dual Voltage, Two Channel Loop Detector For Safety Reverse and/ or Free Exit 6- Inground Loops Sawcut in Asphalt for Arm reset and Free Exit. 2-Concrete Pad for Gate Operators. 4-AK-11 Linear Standalone Access Keypad with 480 4 Digit Code Capability and 1-4 Digit Latch Code Capability -Surface or gooseneck mount 2-Black Dual Height Pedestal with one extension at 72" and the other at 42". Accommodates ADA-compliant specifications as well as car, SUV, and truck/bus applications. It's made with a larger, heavier gauge 8" x 8" baseplate but contains the same 4" x 4" universal faceplates as the 42-9C. Contains conduit access through its baseplate for electrical wiring up each post. 2-Concrete pads for card reader pedestals 2- All trenching and directional boring necessary including backfill using previously removed material 2- 1" Conduits from existing shed to one gate operator location, one for power and the other for low voltage controls. 1- 1" Conduit from existing street pole to new meter location. 1- Installation of customer supplied meter can, (1) 100amp, 120/240 Volt Panel. 1- 1" Conduit From New Panel to adjacent gate operator at North Entrance. 2- Connect to existing Electrical Panel and making all terminations. 2- All applicable permits and inspections. 16- 4"x7" SS40 powder coated safety yellow, installed through asphalt, domed and filled with concrete.					
NOTE- 8HR response time for warranty work ok during normal business week. Weekends may be longer. Gate has manual release to secure in the up position in case of emergency					
Total Price- \$ 38,940.00 ADD for additional 1yr warranty- \$ 1,730.00					
Exclusions - Layout, fine grading, seeding, sod replacement, clearing of fence line, permits, asbuilts, liability for damage to private utilities grounding, materials testing, padlocks on gates, any work not specifically described in quote.					
Wage determinations, fees for outside sourcing of payroll or insurance monitoring, fees for training classes, CCIP, OCIP.					
Damage to any geogrid products due to the installation of our products, any fees or charges associated with customer payment.					
**Terms: net 30 days					
**When Accepting this proposal, please return a signed copy along with your deposit in order to schedule your project.					
**This proposal valid for 14 days for purposes of acceptance.					
This Contract, which includes Page 1 hereof ("Commercial Proposal") plus Page 2 ("Terms & Conditions"), a copy of which I have received, together with any exhibits referenced on Page 1, sets forth the entire agreement between the parties. Any and all prior agreements, warranties, oral discussions, or representations made by either party are superseded by this contract.					
LONG FENCE COMPANY, INC. by				License No. _____	
Wes Jenkins					
Acceptance of Proposal					
The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.					
Signature: _____		Date: _____			
Print Name & Title: _____		Purchase Order No.: _____			

Over 50 Years of Excellence

**City of Hagerstown
Finance Department
Tabulation Report**

Title: HPD Barrier Arm Access Control System
No.: P1618.17
Deadline Date / Time: 12/9/16 @ 2:00 PM
Contact Person: Jeff Lear

Name	Base Proposal Amount	Additional One Year Warranty
Long Fence, Ijamsville, MD	\$ 38,940.00	\$ 1,730.00
Milton Stamper, Hagerstown, MD	\$ 40,200.00	\$ 3,350.00

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

Topic:

Concrete Planters at Hagerstown Police Department Headquarters - Petersen Manufacturing Co., Inc. (Denison, IO) \$6,005.68

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Complete_Consent_Form_-_Concrete_Planters_at_HPDPDF

Memo_-_Concrete_Planters.pdf

Consent_Agenda_-_Concrete_Planters.pdf

Description

Signed Purchase Form

Memo - Concrete Planters

Consent Agenda - Concrete Planters

Do Not Complete This Section:
APPROVED FOR: _____
CONSENT AGENDA _____
NEW BUSINESS _____

Unbudgeted * \$ 0 Source of Funds DAG funded K&S
 *(See Department Manager's Comments)

[illegible]

COMMENTS

(1) DEPARTMENT MANAGER:

[Signature] 3-14-17

Signature/Date

(2) PURCHASING AGENT:

Recommend Approval. Will need all vendor documents as vendor is not set up in MUNIS.

Jason T. Miller 3/17/2017

Signature/Date

(3) FINANCE MANAGER:

Recommend approval. This purchase will be funded 100% with DAG funding. This project was not included during FY17 budget submission but was later approved as part of closing McPherson Street's Michelle Kapan securing our MPD property.

Signature/Date

3/17/17

(4) CITY ADMINISTRATOR'S RECOMMENDATION:

approval

Valen A. Men 3/17/17

Signature/Date




CITY OF HAGERSTOWN MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

Non-Emergency 301-790-3700
Emergency 301-739-6000
Fax 301-733-5513

March 13, 2017

To: Valerie Means,
City Administrator

From: Victor V. Brito, 
Chief of Police

Ref: Purchase of Concrete Planters

HPD is requesting Mayor & Council approval for the purchase of 7 concrete planters that will be utilized as facility security measures. The planters are Department of Homeland Security approved and will not significantly impact the historical appearance of the police headquarters. These planters will be utilized with the gates and greatly increase safety and security for both the employees of Hagerstown Police Department as well as citizens who use McPherson Street as a thoroughfare.

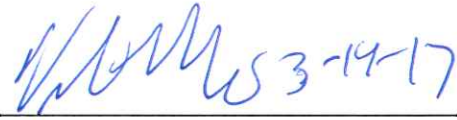
The price per unit is \$672.24 based on GSA Contract #GS-07F-0353Y. Funding will be provided by DAG funds through the Washington County Narcotics Task Force.



A Nationally Accredited Law Enforcement Agency

COMMENTS

(1) DEPARTMENT MANAGER:

 3-14-17

Signature/Date

(2) PURCHASING AGENT:

Signature/Date

(3) FINANCE MANAGER:

Signature/Date

(4) CITY ADMINISTRATOR'S RECOMMENDATION:

Signature/Date



PETERSEN MANUFACTURING CO., INC.
P.O. BOX 664 DENISON, IA 51442
800-832-7383 * 712-263-2442 * FAX 712-263-5090
www.petersenmfg.com * rick@petersenmfg.com

QUOTATION

Date: 2/14/2017

Job Number:

TO: GERRY KENDLE
Company Name HAGERSTOWN POLICE DEPARTMENT
Address (line 1) 50 N. BURHAN BLVD
Address (line 2)
City, State ZIP or Postal Code HAGERSTOWN, MD 21740
Phone Number 301-797-6408
Fax Number

TERMS	EARLIEST SHIP	FOB	SHIP VIA	SALESPERSON
NET 10		Denison, IA 51442		Rick Carstensen

ITEM NO.	QTY	DESCRIPTION	UNIT	UNIT PRICE	TOTAL
	7	A-60" X 36" X 42" CONCRETE PLANTERS		\$672.24	\$4,705.68
		FREIGHT WITHOUT OFFLOADING OR PLACEMENT SHIPPING TO ZIP CODE 21740			\$1,300.00
		GSA CONTRACT # GS-07F-0353Y			

Thank you Rick Carstensen	Subtotal	\$6,005.88
	SHIPPING	
	Tax	
	Total	\$6,005.88

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

Topic:

Wastewater: Oxygen Generation Skid Rehab - Yeager Supply, Inc. (Reading, PA) \$19,726.40

Mayor and City Council Action Required:

Approval of the Wastewater Division Consent Oxygen Skid Rehabilitation by Yeager Supply in the amount of \$19,726.40.

Discussion:

This is for the necessary equipment needed to rebuild the Oxygen Generation Skid that continuously supplies pure Oxygen to the OAB reactors and Oxygenation vault on the effluent line for the plant. Sole Source, Equipment Compatability

Financial Impact:

Acct 5485001-5830 has \$262,656.00 remaining in FY17

Recommendation:

Staff recommended approval

Motion:

Consent Agenda

Action Dates:

Regular Session 03-28-17

ATTACHMENTS:

File Name

Description

Complete_Consent_Form_-_Oxygen_Generation_Skid_Rehab.pdf

Signed
Purchase Form

Wastewater_Division_Consent_Oxygen_Skid_Rehab_032817.xls

Wastewater
Division
Consent
Oxygen Skid
Rehab 032817

Wastewater_Division_Yeager_Supply_Oxygen_Skid_Rehab_Quote_032817.pdf

Wastewater
Division Yeager
Supply Oxygen
Skid Rehab
Quote 032817

Approval For:	
Consent Agenda:	X
New Business:	

[illegible]

Comments

Department Manager (required on all unbudgeted items):

This is for the necessary equipment needed to rebuild the Oxygen Generation Skid that continuously supplies pure Oxygen to the OAB reactors and Oxygenation vault on the effluent line for the plant. Sole Source, Equipment Compatability



Signature

March 3, 2017

Date

Finance Department:

Recommend Approval.



Signature

3/17/2017

Date

Finance Manager:

Recommend approval.



Signature

3/17/17

Date

City Administrator's Recommendation:

Approval



Signature

3/17/17

Date

Approval For: _____
Consent Agenda: _____ **X** _____
New Business: _____

Quantity	Description	Value
See Quote	Valve Assemblies and Actuators	\$
See Quote	Miscellaneous Parts and Accessories	\$
	TOTAL	

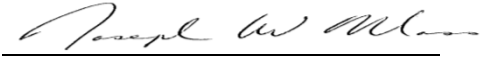
Amount

[illegible]

Comments

Department Manager (required on all unbudgeted items):

This is for the necessary equipment needed to rebuild the Oxygen Generation Skid that continuously supplies pure Oxygen to the OAB reactors and Oxygenation effluent line for the plant. Sole Source, Equipment Compatability



March 3, 20

Signature

Date

Finance Department:

Signature

Date

Finance Manager:

Signature

Date

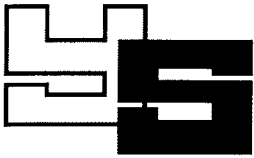
City Administrator's Recommendation:

Signature

Date

[illegible]

vault on the
017



YEAGER SUPPLY, INC.

Industrial Piping Supplies

TAKING CARE OF THE CUSTOMER SINCE "1967"

PLEASE REMIT TO:
P.O. BOX 1177, READING, PA 19603
610-376-8037
800-422-8140
610-376-3465 FAX

PRICE QUOTE

Page 1

Printed 03/06/17 KM

Quoted

CITY OF HAGERSTOWN UTILITIES
1 CLEAN WATER CIRCLE
HAGERSTOWN MD 21740

Ship To

SAME

Quote #	Quote Date	Exp Date	Customer #	Customer P/O #	Ship Via	Writer
Q037802	03/06/2017	04/05/2017	0006011		BEST WAY	KM
Job ID			Customer Terms		Salesman	
			NET 30 DAYS		KEITH McHUGH	
Product	Description	UM	Quant	Unit Price	Extension	

	* ROBBIE EYLER *					

	10" 815WO-11-2236XZ JAMESBURY VALVE ASSEMBLY		.....	.....	.....
SP*034338	815WO-11-2236XZ JAMESBURY 10" WAFFER BFV OXYGEN CLEANED	EA	1			
VVPVL450DA	VPVL450DABD JAMESBURY ACTUATOR	EA	1			
VLK1732	LK1732 JAMESBURY LINKAGE KIT	EA	1			
ASSEMBLE & TEST	*** ASSEMBLED & TESTED ***	EA	1			
Total:	10" 815WO-11-2236XZ JAMESBURY VALVE ASSEMBLY		1	3159.80	3,159.80	
	3" 815WO-11-2236XZ		.....	.....	.....
SP*034343	815WO-11-2236XZ JAMESBURY 3" WAFFER BFV OXYGEN CLEANED	EA	1			
VVPVL200DA	VPVL200DABD JAMESBURY ACTUATOR	EA	1			
VLK1719	LK1719 JAMESBURY LINKAGE KIT	EA	1			
ASSEMBLE & TEST	*** ASSEMBLED & TESTED ***	EA	1			
Total:	3" 815WO-11-2236XZ		1	828.60	828.60	
	4" 815WO-11-2236XZ		.....	.....	.....
SP*034341	815WO-11-2236XZ JAMESBURY 4" WAFFER BFV OXYGEN CLEANED	EA	1			
VVPVL250DA	VPVL250DABD JAMESBURY ACTUATOR	EA	1			
VLK1720	LK1720 JAMESBURY LINKAGE KIT	EA	1			
ASSEMBLE & TEST	*** ASSEMBLED & TESTED ***	EA	1			
Total:	4" 815WO-11-2236XZ		1	1052.40	1,052.40	
	8" 815WO-11-2236XZ		.....	.....	.....
SP*034340	815WO-11-2236XZ JAMESBURY 8"	EA	3			

Continue...



YEAGER SUPPLY, INC.

Industrial Piping Supplies

TAKING CARE OF THE CUSTOMER SINCE "1967"

PLEASE REMIT TO:
P.O. BOX 1177, READING, PA 19603
610-376-8037
800-422-8140
610-376-3465 FAX

PRICE QUOTE

Page 2

Printed 03/06/17 KM

Quoted

CITY OF HAGERSTOWN UTILITIES
1 CLEAN WATER CIRCLE
HAGERSTOWN MD 21740

Ship To

SAME

Quote #	Quote Date	Exp Date	Customer #	Customer P/O #	Ship Via	Writer
Q037802	03/06/2017	04/05/2017	0006011		BEST WAY	KM
Job ID	Customer Terms			Salesman		
	NET 30 DAYS			KEITH McHUGH		

Product	Description	UM	Quant	Unit Price	Extension
VVPVL400DA	WAFER BFV OXYGEN CLEANED				
VLK1726	VPVL400DABD JAMESBURY ACTUATOR	EA	3		
ASSEMBLE & TEST	LK1726 JAMESBURY LINKAGE KIT	EA	3		
	*** ASSEMBLED & TESTED ***	EA	3		
Total: 8" 815WO-11-2236XZ			1	6201.00	6,201.00

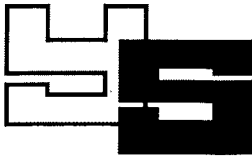
X: _____ (Accepted by)		Sub Total	\$11,241.80	T o t a l \$11,241.80
		Freight	\$0.00	
		Misc Charges	\$0.00	
		Tax Amount	\$0.00	

MESSAGE

Industrial products offered may contain > 0.25%
lead and are not suitable for potable water
service.

TERMS

Products offered are based on our interpretation
of requirements. Pricing and availability is
based on quantities listed and subject to prior
sale.



YEAGER SUPPLY, INC.

Industrial Piping Supplies

TAKING CARE OF THE CUSTOMER SINCE "1967"

PLEASE REMIT TO:
P.O. BOX 1177, READING, PA 19603
610-376-8037
800-422-8140
610-376-3465 FAX

PRICE QUOTE

Page 1

Printed 03/06/17 KM

Quoted

CITY OF HAGERSTOWN UTILITIES
1 CLEAN WATER CIRCLE
HAGERSTOWN MD 21740

Ship To

SAME

Quote #	Quote Date	Exp Date	Customer #	Customer P/O #	Ship Via	Writer
Q037810	03/06/2017	04/05/2017	0006011		OUR TRUCK	KM
Job ID	Customer Terms			Salesman		
	NET 30 DAYS			KEITH McHUGH		

Product	Description	UM	Quant	Unit Price	Extension

* ROBBIE EYLER *					

VMA0001060	MA0001060 JAMESBURY RKW-356XZ	EA	5	234.00	1170.00
VMA0127436	MA0127436 JAMESBURY RKP-269	EA	5	73.00	365.00
VVPVL450DA	VPVL450DABD JAMESBURY ACTUATOR	EA	1	644.00	644.00
SP*034340	815WO-11-2236XZ JAMESBURY 8"	EA	2	1248.80	2497.60
	WAFER BFV OXYGEN CLEANED				
VRKW355XZ	RKW355XZ JAMESBURY REPAIR KIT	EA	10	206.00	2060.00
VMA0127435	MA0127435 JAMESBURY RKP-268	EA	10	57.00	570.00
VMA0001074	MA0001074 JAMESBURY RKW-359XZ	EA	5	168.00	840.00
VMA0127431	MA0127431 JAMESBURY RKP-265	EA	5	34.00	170.00
VRKP264	RKP-264 JAMESBURY REPAIR KIT	EA	1	31.00	31.00
VRKW358XZ	RKW-358XZ JAMESBURY REPAIR KIT	EA	1	137.00	137.00

X: _____ (Accepted by)			Sub Total	\$8,484.60	T o t a l
			Freight	\$0.00	
			Misc Charges	\$0.00	
			Tax Amount	\$0.00	
				\$8,484.60	

MESSAGE

Industrial products offered may contain > 0.25%
lead and are not suitable for potable water
service.

TERMS

Products offered are based on our interpretation
of requirements. Pricing and availability is
based on quantities listed and subject to prior
sale.

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

Topic:

Wastewater: Grinder Pump Assemblies - Fluid Solutions, Inc. (Westminster, MD) \$16,940.00

Mayor and City Council Action Required:

Wastewater Division Consent Requested purchase of Grinder Pump Discharge Assemblies by Fluid Solutions in the amount of \$16,940.00. Sole Source Purchase

Discussion:

The valve assemblies are used to replace deteriorated original brass assemblies on our grinder pumps. (Sole Source purchase for compatible/proprietary equipment)

Financial Impact:

Acct 54-5485001-5881 has \$99,489 remaining in FY17

Recommendation:

Staff recommended approval

Motion:

Consent Agenda

Action Dates:

Regular Session 03-28-17

ATTACHMENTS:

File Name

Description

Complete_Consent_Form_-_Grinder_Pump_Assemblies.pdf

Signed
Purchase
Form

Wastewater_Division_Consent_Grinder_Pump_Discharge_Assemblies_Fluid_Solutions_032817.xls

Wastewater
Division
Consent
Grinder
Pump
Discharge
Assemblies
Fluid
Solutions
032817

Wastewater_Division_Consent_Fluid_Solutions_Discharge_Assembly_Quote_032817.pdf

Wastewater
Division
Consent
Fluid

Solutions
Discharge
Assembly
Quote
032817

Approval For:	
Consent Agenda:	X
New Business:	

Above To Be Used For:
These parts are used to replace deteriorated original brass assemblies on our grinder pumps. (Sole Source purchase for compatible/proprietary equipment)

[illegible]

Comments

Department Manager (required on all unbudgeted items):

(Sole Source purchase for compatible/proprietary equipment) These parts are used to replace deteriorated original brass assemblies on our grinder pumps.

Joseph W. Miller

Wastewater Operations Manager

March 3, 2017

Date

Finance Department:

Recommend Approval.

Jason T. Miller

Signature

3/17/2017

Date

Finance Manager:

Recommend approval.

Michelle H. La

Signature

3/17/17

Date

City Administrator's Recommendation:

Approval

Valen A. Mem

Signature

3/17/17

Date

Approval For:	
Consent Agenda:	X
New Business:	

Quantity	Description	Value
10	SS Simplex valve assembly	\$
15	SS Duplex valve assembly	\$
		\$

These parts are used to replace deteriorated original brass assemblies on our grinder pumps. (Sole Source purchase for compatible/proprietary equipment)

[illegible]

Comments

Department Manager (required on all unbudgeted items):

(Sole Source purchase for compatible/proprietary equipment) These parts are used to replace deteriorated original brass assemblies on our grinder pump



Wastewater Operations Manager

March 3, 20

Date

Finance Department:

Signature

Date

Finance Manager:

Signature

Date

City Administrator's Recommendation:

Signature

Date

[illegible]

mps.
017

Sole Source
Budget CKP
2-3-17

Fluid Solutions, Inc. / QUOTATION
1843 Old Taneytown Road, Westminster, Maryland 21787
(443)-250-7555

5485001-5881
C0767

To: City of Hagerstown
Attn: Brian Brandt

Date: January 31, 2017

Quote No: 170118MQ1REV2
Reference: GP tank SS Discharge
Terms: net 30 w/ approved credit

By: Mark P. Near
Page: 1
F.O.B. Ship point, FFA

Delivery: Will advise

Valid 30 days

Here is our quotation on the goods named, subject to the terms and conditions noted:

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Fluid Solutions Inc. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on cost and conditions existing on date of quotation and are subject to change by Fluid Solutions Inc. before final acceptance. Typographical errors are subject to correction. Purchaser assumes liability for patent and copyright infringement when goods are made to purchaser's specifications. Conditions not specifically stated herein shall be governed by established trade customs. Terms inconsistent with those stated herein which may appear on Purchaser's formal order will not be binding on Fluid Solutions Inc. Taxes are not included, Pricing does not reflect retainage. FSI reserves the right to adjust pricing if retainage is required. Should payment terms not be met, FSI reserves the right to collect interest and any other costs incurred to collect final payment amount, including, but not limited to, attorney, arbitration or court fees.

Environment one corporation part numbers are used for clarification and comparison purposes only.

We are pleased to quote the following parts for use with *Environment one* pumps.

QTY	DESCRIPTION	PRICE EA.	TOTAL
10	SS Simplex (retrofit) valve assembly	317.00	3,170.00
15	SS Duplex (retrofit) valve assembly	918.00	13,770.00

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

Topic:

Approval of an Ordinance: Authorizing the Purchase of Property Located at 11850 Indian Lane Hagerstown, MD

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Ordinance_-_Purchase_of_11850_Indian_Lane.pdf

Description

Motion and Ordinance

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 28, 2017

TOPIC: Approval of an Ordinance: Authorizing the Purchase of Property
Located at 11850 Indian Lane, Hagerstown, Maryland

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

MOTION:

I hereby move to approve an ordinance authorizing the purchase of property located at 11850 Indian Lane, Hagerstown, Maryland. The acquisition of 11850 Indian Lane is consistent with the Mayor and City Council's goals for long-term investments to benefit the citizens of Hagerstown.

The purchase price of \$ 465,000.00 would be funded from the General Fund reserves.

DATE OF INTRODUCTION: March 21, 2017

DATE OF PASSAGE: March 28, 2017

EFFECTIVE DATE: April 28, 2017

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO APPROVE THE
PURCHASE OF A PROPERTY KNOWN AS
11850 INDIAN LANE, HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, Marcia D. Watters and James C. Smith, II, own real property located at 11850 Indian Lane, Hagerstown, Maryland (hereinafter the "Property"); and

WHEREAS, the Property currently consists of a residence, a cellular phone tower which produces rental income, and contains approximately 11.9 acres; and

WHEREAS, the Mayor and Council believe that the acquisition of the Property would benefit the citizens; and

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to purchase the Property;

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 11850 Indian Lane, Hagerstown, Maryland be and is hereby approved.
3. That the Mayor be and is hereby authorized to execute and deliver the contract of sale for 11850 Indian Lane, a copy of which is attached hereto and incorporated herein by reference.
4. That City Staff be and are hereby authorized to execute and deliver any additional documentation and take any additional steps necessary to effectuate the purpose of this ordinance and satisfy the terms of the aforesaid contract of sale.

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

Robert E. Bruchey, II, Mayor

Date of Introduction: March 21, 2017
Date of Passage: March 28, 2017
Effective Date: April 28, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS



RESIDENTIAL CONTRACT OF SALE

This is a Legally Binding Contract; If Not Understood, Seek Competent Legal Advice.

THIS FORM IS DESIGNED AND INTENDED FOR THE SALE AND PURCHASE OF IMPROVED SINGLE FAMILY RESIDENTIAL REAL ESTATE LOCATED IN MARYLAND ONLY.

TIME IS OF THE ESSENCE. Time is of the essence of this Contract. The failure of Seller or Buyer to perform any act as provided in this Contract by a prescribed date or within a prescribed time period shall be a default under this Contract and the non-defaulting party, upon written notice to the defaulting party, may declare this Contract null and void and of no further legal force and effect. In such event, all Deposit(s) shall be disbursed in accordance with Paragraph 20 of this Contract.

1. DATE OF OFFER: 3/15/17

2. SELLER: Marcia D Watters, James C Smith II

3. BUYER: City of Hagerstown, a municipal corporation

4. PROPERTY: Seller does sell to Buyer and Buyer does purchase from Seller, all of the following described Property (hereinafter "Property") known as 11850 Indian Ln located in Hagerstown Washington City/County, Maryland, Zip Code 21742-4206, together with the improvements thereon, and all rights and appurtenances thereto belonging.

5. ESTATE: The Property is being conveyed: ☒ in fee simple or ☐ subject to an annual ground rent, now existing, in the amount of _____ Dollars (\$ _____) payable semi-annually, as now or to be recorded among the Land Records of _____ City/County, Maryland.

6. PURCHASE PRICE: The purchase price is four hundred sixty-five thousand dollars and 00/100 cents Dollars (\$ 465,000.00).

7. PAYMENT TERMS: The payment of the purchase price shall be made by Buyer as follows:

(a) An initial Deposit by way of check drawn on in the amount of ten thousand dollars and 00/100 cents testament of Buyer's attorney Dollars (\$ 10,000.00) at the time of this offer.

(b) An additional Deposit by way of _____ in the amount of _____ Dollars (\$ _____) to be paid _____

(c) All Deposits will be held in escrow by: RE/MAX Achievers

(If not a Maryland licensed real estate broker, the parties may execute a separate escrow deposit agreement.)

(d) The purchase price less any and all Deposits shall be paid in full by Buyer in cash, wired funds, bank check, certified check or other payment acceptable to the settlement officer at settlement.

(e) Buyer and Seller instruct broker named in paragraph (c) above to place the Deposits in: (Check One)

☒ A non-interest bearing account;

OR ☐ An interest bearing account, the interest on which, in absence of default by Buyer, shall accrue to the benefit of Buyer. Broker may charge a fee for establishing an interest bearing account.

8. SETTLEMENT: Date of Settlement 6/13/17 or sooner if agreed to in writing by the parties.

9. FINANCING: Buyer's obligation to purchase the Property is contingent upon Buyer obtaining a written commitment for a loan secured by the Property as follows:

☐ Conventional Financing Addendum ☐ USDA Financing Addendum ☐ Owner Financing Addendum
☐ FHA Financing Addendum ☐ Assumption Addendum ☒ No Financing Contingency
☐ VA Financing Addendum ☐ Gift of Funds Contingency Addendum ☐ OTHER: _____

10. FINANCING APPLICATION AND COMMITMENT: Buyer agrees to make a written application for the financing as herein described within _____ (_____) days from the Date of Contract Acceptance.



RE/MAX Achievers, 222 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Sherry Scire

Buyer RE/MAX

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Phone: 301-573-8302

Fax: (301)739-0853

Seller now



Produced with zipForm® by zipLogix 18070 Fillion Mto Road, Fraser, Michigan 48026 www.zipLogix.com

If a written financing commitment is not obtained by Buyer within _____ days from the Date of Contract Acceptance: (1) Seller, at Seller's election and upon written notice to Buyer, may declare this Contract null and void and of no further legal effect; or (2) Buyer, upon written notice to Seller, which shall include written evidence from the lender of Buyer's inability to obtain financing as provided in Paragraph 9 of this Contract, may declare this Contract null and void and of no further legal effect. In either case, the deposit shall be disbursed in accordance with the Deposit paragraph of this Contract. If Buyer has complied with all of Buyer's obligations under this Contract, including those with respect to applying for financing and seeking to obtain financing, then the Release of Deposit agreement shall provide that the deposit shall be returned to Buyer.

11. ALTERNATE FINANCING: Provided Buyer timely and diligently pursues the financing described in Paragraph 9 "Financing"; Paragraph 10 "Financing Application and Commitment"; and the provisions of Paragraph 28 "Buyer Responsibility", Buyer, at Buyer's election, may also apply for alternate financing. If Buyer, at Buyer's sole option, obtains a written commitment for financing in which the loan amount, term of note, amortization period, interest rate, down payment or loan program differ from the financing as described in Paragraph 9, or any addendum to this Contract, the provision of Paragraph 10 or any addendum to this Contract shall be deemed to have been fully satisfied. Such alternate financing may not increase costs to Seller or exceed the time allowed to secure the financing commitment as provided in Paragraph 10, or any addendum to this Contract.

12. HOME AND/OR ENVIRONMENTAL INSPECTION: Buyer acknowledges, subject to Seller acceptance, that Buyer is afforded the opportunity, at Buyer's sole cost and expense, to condition Buyer's purchase of the Property upon a Home Inspection and/or Environmental Inspection in order to ascertain the physical condition of the Property or the existence of environmental hazards. If Buyer desires a Home Inspection and/or Environmental Inspection contingency, such contingency must be included in an addendum to this Contract. Buyer and Seller acknowledge that Brokers, agents or subagents are not responsible for the existence or discovery of property defects.

Inspection(s) Addenda Attached _____ Buyer _____ Buyer _____ Inspection(s) Declined RECEIVED Buyer _____ Buyer _____

13. INCLUSIONS/EXCLUSIONS: Included in the purchase price are all permanently attached fixtures, including all smoke detectors. Certain other now existing items which may be considered personal property, whether installed or stored upon the property, are included if box below is checked.

INCLUDED

- ☐ Alarm System
- ☐ Built-in Microwave
- ☐ Ceiling Fan(s) # _____
- ☐ Central Vacuum
- ☐ Clothes Dryer
- ☐ Clothes Washer
- ☐ Cooktop
- ☐ Dishwasher
- ☐ Drapery/Curtain Rods
- ☐ Drapes/Curtains
- ☐ Electronic Air Filter

INCLUDED

- ☐ Exhaust Fan(s) # _____
- ☐ Exst. W/W Carpet
- ☐ Fireplace Screen Doors
- ☐ Freezer
- ☐ Furnace Humidifier
- ☐ Garage Opener(s) # _____
- ☐ w/remote(s) # _____
- ☐ Garbage Disposer
- ☐ Hot Tub, Equipment & Cover
- ☐ Intercom
- ☐ Playground Equipment

INCLUDED

- ☐ Pool, Equipment & Cover
- ☐ Refrigerator(s) # _____
- ☐ w/ice maker
- ☐ Satellite Dish
- ☐ Screens
- ☐ Shades/Blinds
- ☐ Storage Shed(s) # _____
- ☐ Storm Doors
- ☐ Storm Windows
- ☐ Stove or Range
- ☐ T.V. Antenna

INCLUDED

- ☐ Trash Compactor
- ☐ Wall Oven(s) # _____
- ☐ Water Filter
- ☐ Water Softener
- ☐ Window A/C Unit(s) # _____
- ☐ Window Fan(s) # _____
- ☐ Wood Stove

ADDITIONAL INCLUSIONS (SPECIFY) See Checklist of Items to Convey, attached hereto, and

ADDITIONAL EXCLUSIONS (SPECIFY) Inclusions/Exclusions and Utilities Addendum, attached hereto

14. AGRICULTURALLY ASSESSED PROPERTY: The Property, or any portion thereof, may be subject to an Agricultural Land Transfer Tax as imposed by Section 13-301 et seq. of the Tax-Property Article, Annotated Code of Maryland, by reason of the Property's having been assessed on the basis of agricultural use. Agricultural taxes assessed as a result of this transfer shall be paid by Buyer

15. FOREST CONSERVATION AND MANAGEMENT PROGRAM: Buyer is hereby notified that this transfer may be subject to the Forest Conservation and Management Program imposed by Section 8-211 of the Tax-Property Article, Annotated Code of Maryland. Forest Conservation and Management program taxes assessed as a result of this transfer shall be paid by Buyer

16. LEAD-BASED PAINT:

A. FEDERAL LEAD-BASED PAINT LAW: Title X, Section 1018, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the "Act"), requires the disclosure by Seller of information regarding lead-based paint and lead-based paint hazards in connection with the sale of any residential real property on which a residential dwelling was constructed prior to 1978. Unless otherwise exempt by the Act, the disclosure shall be made on the required federal Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards form. Seller and any agent involved in the transaction are required to retain a copy of the completed Lead-Based Paint Disclosure form for a period of three (3) years following the date of settlement. A Seller who fails to give the required Lead-Based Paint Disclosure form and EPA pamphlet may be liable under the Act for three times the amount of damages and may be subject to both civil and criminal penalties.

Buyer RECEIVED

Seller Walter
Walters

11/2/51 (BUYER)

A Seller who personally performs any Covered Work on a rental property is required to be certified by the EPA prior to performing such Covered Work. No certification is required for a Seller who personally performs Covered Work on the Seller's principal residence. However, Seller has the ultimate responsibility for the safety of Seller's family or children while performing such Covered Work. For detailed information regarding the RRP, Seller should visit <http://www2.epa.gov/lead/renovation-repair-and-painting-program>.

147511 (BUYER)

Buyer acknowledges by Buyer's Initials below that Buyer has read and understands Paragraph 16.C.

107-231-1 (BUYER)

(a) Prior to settlement, Buyer is entitled to rescind in writing the sales contract without penalty or liability. On rescission, Buyer is also entitled to the full return of any deposits made on account of the sales contract. If any deposits are held in trust by a licensed real estate broker, the return of the deposits to a Buyer under this law shall comply with the procedures under § 17-505 of the Business Occupations and Professions Article of the Annotated Code of Maryland. Buyer's right of rescission shall terminate five days after Seller provides to Buyer written notice in accordance with this requirement; and

This law does not apply in a county that has adopted a disclosure requirement that is substantially similar to this law. (If the Property is served by public water or wastewater facilities for which deferred water and sewer charges have been established by a recorded covenant or declaration; See Notice Regarding Deferred Water and Sewer Charges.)

1021 (BUYER)

☐ **Affiliated Business Disclosure Notice**

As is

☐ Cash Appraisal Contingency☒ Condominium Resale Notice

☒ Conservation Easement

☐ Disclosure of Licensee Status

☒ Disclosure of Leased Items Addendum

☒ Federal Lead-Based Paint and Lead-Based Hazards Disclosure of Information

☐ First-Time Maryland Home Buyer Transfer &

Recordation Tax

☐ MD Non-Resident Seller Transfer Withholding Tax

☒ Notice to Buyer and Seller – Maryland Residential

Real Property Disclosure/Disclaimer Act

☐ Notice & Disclosure of Deferred Water & Sewer Charges☐ On-Site Sewage Disposal System Inspection☐ Property Inspections☐ Property Subject to Ground Rent☐ Purchase Price Escalation☐ Sale, Financing, Settlement or Lease of Other Real Estate

☐ Seller Contribution

☐ Seller's Purchase of Another Property

Buyer W. J. P.

- ☐ Homeowners Association Notice
☐ Kickout
☐ Local City/County Certifications/Registrations
☒ Local City/County Notices/Disclosure Right to Repair
☐ Maryland Lead Poisoning Prevention Program Disclosure
☐ Short Sale
☐ Third Party Approval
☐ Water Quality


Other Addenda/Special Conditions:

VET's Purchase Agreement and
 General Addendum A


19. WOOD DESTROYING INSECT INSPECTION: Buyer, at Buyer's expense, (if VA, then at Seller's expense) is authorized to obtain a written report on the state regulated form from a Maryland licensed pest control company that, based on a careful visual inspection, there is no evidence of termite or other wood-destroying insect infestation in the residence or within three (3) feet of the residence; and damage due to previous infestation has been repaired. The provisions of this paragraph also shall apply to: (1) the garage or within three (3) feet of the garage (whether attached or detached); (2) any outbuildings located within three feet of the residence or garage; and (3) a maximum of ten (10) linear feet of the nearest portion of a fence on Seller's Property within three feet of the residence or garage. If there is evidence of present infestation as described above, or if damage caused by present or prior infestation is discovered, Seller, at Seller's expense, shall repair any damage caused by present or prior infestation and have the present infestation treated by a licensed pest control company. If the cost of treatment and repair of such damage exceeds 2% of the purchase price, Seller may, at Seller's option, cancel this Contract, unless Buyer, at Buyer's option should choose to pay for the cost of treatment and repairs exceeding 2% of the purchase price, then this Contract shall remain in full force and effect. If such report reveals damage for which the cost of treatment and repair exceeds 2% of the purchase price, Seller's decision regarding treatment and repair of damage shall be communicated in writing to Buyer within five (5) days from receipt of the report, after which Buyer shall respond to Seller in writing with Buyer's decision within three (3) days from receipt of Seller's notification of Seller's decision. If Seller does not notify Buyer in writing of Seller's decision within five (5) days from receipt of report, Buyer may, at Buyer's option, pay for the cost of treatment and repairs exceeding 2% of the purchase price. If Buyer does not want to pay for the cost of treatment and repairs exceeding 2% of the purchase price, Buyer may terminate this Contract upon written notice delivered to Seller. In the event this Contract is terminated under the terms of this paragraph, the Deposit(s) shall be disbursed in accordance with the Deposit paragraph of this Contract.

20. DEPOSIT: If the Deposit is held by a Broker as specified in Paragraph 7(c) of this Contract, Buyer hereby authorizes and directs Broker to hold the Deposit instrument without negotiation or deposit until the parties have executed and accepted this Contract. Upon acceptance, the initial Deposit and additional Deposits (the "Deposit"), if any, shall be placed in escrow as provided in Paragraph 7(e) of this Contract and in accordance with the requirements of Section 17-602(b)(1) of the Business Occupations and Professions Article, Annotated Code of Maryland. If Seller does not execute and accept this Contract, the initial Deposit instrument shall be promptly returned to Buyer. The Deposit shall be disbursed at settlement. In the event this Contract shall be terminated or settlement does not occur, Buyer and Seller agree that the Deposit shall be disbursed by Broker only in accordance with a Release of Deposit agreement executed by Buyer and Seller. In the event Buyer and/or Seller fail to complete the real estate transaction in accordance with the terms and conditions of this Contract, and either Buyer or Seller shall be unable or unwilling to execute a Release of Deposit agreement, Buyer and Seller hereby acknowledge and agree that Broker may distribute the Deposit in accordance with the provisions of Section 17-605(b) of the Business Occupations and Professions Article, Annotated Code of Maryland.

21. DEED AND TITLE: Upon payment of the purchase price, a deed for the Property containing covenants of special warranty and further assurances (except in the case of transfer by personal representative of an estate), shall be executed by Seller and shall convey the Property to Buyer. Title to the Property, including all chattels included in the purchase, shall be good and merchantable, free of liens and encumbrances except as specified herein; except for use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property is located and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the Property. Buyer expressly assumes the risk that restrictive covenants, zoning laws or other recorded documents may restrict or prohibit the use of the Property for the purpose(s) intended by Buyer. In the event Seller is unable to give good and merchantable title or such as can be insured by a Maryland licensed title insurer, with Buyer paying not more than the standard rate as filed with the Maryland Insurance Commissioner, Seller, at Seller's expense, shall have the option of curing any defect so as to enable Seller to give good and merchantable title or, if Buyer is willing to accept title without said defect being cured, paying any special premium on behalf of Buyer to obtain title insurance on the Property to the benefit of Buyer. In the event Seller elects to cure any defects in title, this Contract shall continue to remain in full force and effect; and the date of settlement shall be extended for a period not to exceed fourteen (14) additional days. If Seller is unable to cure such title defect(s) and is unable to obtain a policy of title insurance on the Property to the benefit of Buyer from a Maryland licensed title insurer, Buyer shall have the option of taking such title as Seller can give, or terminating this Contract and being reimbursed by Seller for cost of searching title as may have been incurred not to exceed 1/2 of 1% of the purchase price. In the latter event, there shall be no further liability or obligation on either of the parties hereto; and this Contract shall become null and void; and all Deposit(s) shall be disbursed in accordance with the Deposit paragraph of this Contract. In no event shall Broker(s) or their agent(s) have any liability for any defect in Seller's title.

Buyer: 

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Seller: 
Walters

22. **CONDITION OF PROPERTY AND POSSESSION:** At settlement, Seller shall deliver possession of the Property and shall deliver the Property vacant, clear of trash and debris, broom clean and in substantially the same condition as existed on the Date of Contract Acceptance. Buyer reserves the right to inspect the Property within five (5) days prior to settlement. **EXCEPT AS OTHERWISE SPECIFIED IN THIS CONTRACT, INCLUDING THIS PARAGRAPH, THE PROPERTY IS SOLD "AS IS."** The obligations of Seller as provided in this paragraph shall be in addition to any Disclosure and Disclaimer Statement as required by Section 10-702, Real Property Article, Annotated Code of Maryland and any provision of any inspection contingency addendum made a part of this Contract (See Property Inspections Notice). *Woods, hay, straw and other items in barns convey with property.*

23. **ADJUSTMENTS:** Ground rent, homeowner's association fees, rent and water rent shall be adjusted and apportioned as of date of settlement; and all taxes, general or special, and all other public or governmental charges or assessments against the Property which are or may be payable on a periodic basis, including Metropolitan District Sanitary Commission, Washington Suburban Sanitary Commission, or other benefit charges, assessments, liens or encumbrances for sewer, water, drainage, paving, or other public improvements completed or commenced on or prior to the date hereof, or subsequent thereto, are to be adjusted and apportioned as of the date of settlement and are to be assumed and paid thereafter by Buyer, whether assessments have been levied or not as of date of settlement if applicable by local law. Any heating or cooking fuels remaining in supply tank(s) at time of settlement shall become the property of Buyer.

24. **SETTLEMENT COSTS:** Buyer agrees to pay all settlement costs and charges including, but not limited to, all Lender's fees in connection herewith, including title examination and title insurance fees, loan insurance premiums, all document preparation and recording fees, notary fees, survey fees where required, and all recording charges, except those incident to clearing existing encumbrances or title defects, except if Buyer is a Veteran obtaining VA financing, those prohibited to be paid by a Veteran obtaining VA financing, which prohibited charges shall be paid by Seller.

25. **TRANSFER CHARGES:**

A. **IN GENERAL.** Section 14-104(b) of the Real Property Article, Annotated Code of Maryland provides that, unless otherwise negotiated in the contract or provided by State or local law, the cost of any recordation tax or any State or local Transfer Tax shall be shared equally between the Buyer and Seller.

B. **FIRST-TIME BUYER.** Under Section 14-104(c) of the Real Property Article, the entire amount of recordation and local transfer tax shall be paid by the Seller of property that is sold to a first-time Maryland homebuyer, unless there is an express agreement that the recordation tax or any state or local transfer tax will not be paid entirely by the Seller. **RECORDATION AND LOCAL TRANSFER TAX.** If the Buyer is a first-time Maryland homebuyer, Buyer and Seller expressly agree, in accordance with Section 14-104(c) of the Real Property Article, Annotated Code of Maryland, that payment of recordation tax and local transfer tax shall be shared equally between the Buyer and Seller unless a "First-time Maryland Homebuyer Transfer and Recordation Tax Addendum" is attached, which contains a different express agreement.

STATE TRANSFER TAX: Under Section 13-203(b) of the Tax-Property Article, Annotated Code of Maryland, the amount of state transfer tax due on the sale of property to a first-time Maryland homebuyer is reduced from 0.50% to 0.25% and shall be paid entirely by the Seller. Buyer is hereby notified that to ensure receipt of the above reduction, Buyer should so indicate on Page 10 of this Contract and complete the required affidavit at settlement indicating that the Buyer is a first-time Maryland homebuyer.

26. **BROKER LIABILITY:** Brokers, their agents, subagents and employees do not assume any responsibility for the condition of the Property or for the performance of this Contract by any or all parties hereto. By signing this Contract, Buyer and Seller acknowledge that they have not relied on any representations made by Brokers, or any agents, subagents or employees of Brokers, except those representations expressly set forth in this Contract.

27. **BROKER'S FEE:** All parties irrevocably instruct the settlement officer to collect the fee or compensation and disburse same according to the terms and conditions provided in the listing agreement and/or agency representation agreement. Settlement shall not be a condition precedent to payment of compensation.

28. **SELLER RESPONSIBILITY:** Seller agrees to keep existing mortgages free of default until settlement. All violation notices or requirements noted or issued by any governmental authority (including without limitation, any permit violation notices), or actions in any court on account thereof, against or affecting the Property at the date of settlement of this Contract, shall be complied with by Seller and the Property conveyed free thereof. The Property is to be held at the risk of Seller until legal title has passed or possession has been given to Buyer. If, prior to the time legal title has passed or possession has been given to Buyer, whichever shall occur first, all or a substantial part of the Property is destroyed or damaged, without fault of Buyer, then this Contract, at the option of Buyer, upon written notice to Seller, shall be null and void and of no further effect, and the deposits shall be disbursed in accordance with the Deposit paragraph of this Contract.

29. **BUYER RESPONSIBILITY:** If Buyer has misrepresented Buyer's financial ability to consummate the purchase of the Property, or if this Contract is contingent upon Buyer securing a written commitment for financing and Buyer fails to apply for such financing within the time period herein specified, or fails to pursue financing diligently and in good faith, or if Buyer makes any misrepresentations in any document relating to financing, or takes (or fails to take) any action which causes

Buyer *[Signature]*

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Seller *[Signature]*

Buyer's disqualification for financing, then Buyer shall be in default; and Seller may elect by written notice to Buyer, to terminate this Contract and/or pursue the remedies set forth under the Default paragraph of this Contract.

30. HOMEOWNER'S ASSOCIATION: The Property is not part of a development subject to the imposition of mandatory fees as defined by the Maryland Homeowner's Association Act, unless acknowledged by attached addendum.

31. GROUND RENT: If the Property is subject to ground rent and the ground rent is not timely paid, the ground lease holder (i.e., the person to whom the ground rent is payable) may bring an action under Section 8-402.3 of the Real Property Article, Annotated Code of Maryland. As a result of this action, a lien may be placed upon the property. If the Property is subject to ground rent, Sections 14-116 and 14-116.1 of the Real Property Article provide the purchaser, upon obtaining ownership of the Property, with certain rights and responsibilities relative to the ground rent. (If the Property is subject to ground rent: See Property Subject to Ground Rent Addendum.)

32. SALE/SETTLEMENT OR LEASE OF OTHER REAL ESTATE: Neither this Contract nor the granting of Buyer's loan referred to herein is to be conditioned or contingent in any manner upon the sale, settlement and/or lease of any other real estate unless a contingency for the sale, settlement and/or lease of other real estate is contained in an addendum to this Contract. Unless this Contract is expressly contingent upon the sale, settlement and/or lease of any other real estate, Buyer shall neither apply for nor accept a financing loan commitment which is contingent upon or requires as a pre-condition to funding that any other real estate be sold, settled and/or leased.

33. LEASES: Seller may neither negotiate new leases nor renew existing leases for the Property which extend beyond settlement or possession date without Buyer's written consent.

34. DEFAULT: Buyer and Seller are required and agree to make full settlement in accordance with the terms of this Contract and acknowledge that failure to do so constitutes a breach hereof. If Buyer fails to make full settlement or is in default due to Buyer's failure to comply with the terms, covenants and conditions of this Contract, the Initial Deposit and additional Deposits (the "Deposit") may be retained by Seller as long as a Release of Deposit Agreement is signed and executed by all parties, expressing that said Deposit may be retained by Seller. In the event the parties do not agree to execute a Release of Deposit Agreement, Buyer and Seller shall have all legal and equitable remedies. If Seller fails to make full settlement or is in default due to Seller's failure to comply with the terms, covenants and conditions of this Contract, Buyer shall be entitled to pursue such rights and remedies as may be available, at law or in equity, including, without limitation, an action for specific performance of this Contract and/or monetary damages. In the event of any litigation or dispute between Buyer and Seller concerning the release of the Deposit, Broker's sole responsibility may be met, at Broker's option, by paying the Deposit into the court in which such litigation is pending, or by paying the Deposit into the court of proper jurisdiction by an action of interpleader. Buyer and Seller agree that, upon Broker's payment of the Deposit into the court, neither Buyer nor Seller shall have any further right, claim, demand or action against Broker regarding the release of the Deposit; and Buyer and Seller, jointly and severally, shall indemnify and hold Broker harmless from any and all such rights, claims, demands or actions. In the event of such dispute and election by Broker to file an action of interpleader as herein provided, Buyer and Seller further agree and hereby expressly and irrevocably authorize Broker to deduct from the Deposit all costs incurred by Broker in the filing and maintenance of such action of interpleader including but not limited to filing fees, court costs, service of process fees and attorneys' fees, provided that the amount deducted shall not exceed the lesser of \$500 or the amount of the Deposit held by Broker. All such fees and costs authorized herein to be deducted may be deducted by Broker from the Deposit prior to paying the balance of the Deposit to the court. Buyer and Seller further agree and expressly declare that all such fees and costs so deducted shall be the exclusive property of Broker. If the amount deducted by Broker is less than the total of all of the costs incurred by Broker in filing and maintaining the interpleader action, then Buyer and Seller jointly, and severally, agree to reimburse Broker for all such excess costs upon the conclusion of the interpleader action.

35. MEDIATION OF DISPUTES: Mediation is a process by which the parties attempt to resolve a dispute or claim with the assistance of a neutral mediator who is authorized to facilitate the resolution of the dispute. The mediator has no authority to make an award, to impose a resolution of the dispute or claim upon the parties or to require the parties to continue mediation if the parties do not desire to do so. Buyer and Seller agree that any dispute or claim arising out of or from this Contract or the transaction which is the subject of this Contract shall be mediated through the Maryland Association of REALTORS®, Inc. or its member local boards/associations in accordance with the established Mediation Rules and Guidelines of the Association or through such other mediator or mediation service as mutually agreed upon by Buyer and Seller, in writing. Unless otherwise agreed in writing by the parties, mediation fees, costs and expenses shall be divided and paid equally by the parties to the mediation. If either party elects to have an attorney present that party shall pay his or her own attorney's fees.

Buyer and Seller further agree that the obligation of Buyer and Seller to mediate as herein provided shall apply to all disputes or claims arising whether prior to, during or within one (1) year following the actual contract settlement date or when settlement should have occurred. Buyer and Seller agree that neither party shall commence any action in any court regarding

Buyer [Signature]

Seller [Signature]
Walters

a dispute or claim arising out of or from this Contract or the transaction which is the subject of this Contract, without first mediating the dispute or claim, unless the right to pursue such action or the ability to protect an interest or pursue a remedy as provided in this Contract, would be precluded by the delay of the mediation. In the event the right to pursue such action, or the ability to protect an interest or pursue a remedy would be precluded by the delay, Buyer or Seller may commence the action only if the initial pleading or document commencing such action is accompanied by a request to stay the proceeding pending the conclusion of the mediation. If a party initiates or commences an action in violation of this provision, the party agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the other party to enforce the obligation as provided herein. The provisions of this paragraph shall survive closing and shall not be deemed to have been extinguished by merger with the deed.

36. ATTORNEY'S FEES: In any action or proceeding between Buyer and Seller based, in whole or in part, upon the performance or non-performance of the terms and conditions of this Contract, including, but not limited to, breach of contract, negligence, misrepresentation or fraud, the prevailing party in such action or proceeding shall be entitled to receive reasonable attorney's fees from the other party as determined by the court or arbitrator. In any action or proceeding between Buyer and Seller and/or between Buyer and Broker(s) and/or Seller and Broker(s) resulting in Broker(s) being made a party to such action or proceeding, including, but not limited to, any litigation, arbitration, or complaint and claim before the Maryland Real Estate Commission, whether as defendant, cross-defendant, third-party defendant or respondent, Buyer and Seller jointly and severally, agree to indemnify and hold Broker(s) harmless from and against any and all liability, loss, cost, damages or expenses (including filing fees, court costs, service of process fees, transcript fees and attorneys' fees) incurred by Broker(s) in such action or proceeding, providing that such action or proceeding does not result in a judgment against Broker(s).

As used in this Contract, the term "Broker(s)" shall mean: (a) the two (2) Brokers as identified on Pages 10 and 11 of this Contract; (b) the two (2) named Sales Associates identified on Pages 10 and 11 of the Contract; and (c) any agent, subagent, salesperson, independent contractor and/or employees of Broker(s). The term "Broker(s)" shall also mean, in the singular, any or either of the named Broker(s) and/or Sales Associate(s) as identified or, in the plural, both of the named Brokers and/or Sales Associates as identified.

This Paragraph shall apply to any and all such action(s) or proceeding(s) against Broker(s) including those action(s) or proceeding(s) based, in whole or in part, upon any alleged act(s) or omission(s) by Broker(s), including, but not limited to, any alleged act of misrepresentation, fraud, non-disclosure, negligence, violation of any statutory or common law duty, or breach of fiduciary duty by Broker(s). The provision of this Paragraph shall survive closing and shall not be deemed to have been extinguished by merger with the deed.

37. NOTICE OF BUYER'S RIGHT TO SELECT SETTLEMENT SERVICE PROVIDERS: Buyer has the right to select Buyer's own title insurance company, title lawyer, settlement company, escrow company, mortgage lender or financial institution as defined in the Financial Institutions Article, Annotated Code of Maryland. Buyer acknowledges that Seller may not be prohibited from offering owner financing as a condition of settlement.

38. PROPERTY OWNER'S TITLE INSURANCE: Buyer, at Buyer's expense, may purchase owner's title insurance at either "standard" or "enhanced" coverage and rates. The coverage afforded by such title insurance would be governed by the terms and conditions thereof, and the premium for obtaining such title insurance coverage would be determined by the extent of its coverage. For purposes of owner's title insurance policy premium rate disclosures by Buyer's lender, Buyer and Seller agree that enhanced rates (if available) shall be quoted by Buyer's lender. Buyer understands that nothing herein obligates Buyer to obtain any owner's title insurance coverage at any time, including at settlement, and that the availability of owner's title insurance coverage is subject to the underwriting criteria of the title insurer.

39. AUTHORIZATION TO PROVIDE TILA-RESPA INTEGRATED DISCLOSURES: Buyer and Seller hereby authorize the lender, title company, escrow agent, and/or their representatives to disclose and provide copies of the closing disclosure(s) and/or other settlement statement to the real estate licensees involved in the transaction at the time these documents are provided to Buyer and Seller.

40. LIMITED WARRANTY: NOTICE TO BUYER: IF A WARRANTY PLAN IS BEING OFFERED WITH THE PURCHASE OF THE PROPERTY, IT MAY BE A LIMITED WARRANTY. SINCE SUCH WARRANTY PLANS DO NOT COVER STRUCTURAL DEFECTS AND MAY NOT COVER PRE-EXISTING DEFECTS, BUYER SHOULD REQUEST THE REAL ESTATE AGENT TO PROVIDE BUYER WITH ANY BROCHURE WHICH DESCRIBES THE PLAN IN ORDER TO DETERMINE THE EXTENT OF COVERAGE PROVIDED BY THE WARRANTY.

41. PROPERTY INSURANCE BROCHURE: An informational brochure published by the Maryland Association of REALTORS®, Inc. titled "The New Reality of Property Insurance - What You Should Know" is available to explain current issues relative to obtaining insurance coverage for the Property to be purchased.

42. FLOOD DISCLOSURE NOTICE:

A. FLOOD INSURANCE PREMIUMS: The Property or part of the Property may be located in an area established by the government as a "flood plain" or otherwise in an area where flood insurance could be required by Buyer's mortgage lender as

Buyer [Signature]

Seller [Signature]
Walters

a condition of granting a mortgage. In addition, construction on the Property could be prohibited or restricted. The National Flood Insurance Program ("NFIP") provides for the availability of flood insurance but also establishes flood insurance policy premiums based on the risk of flooding in the area where properties are located. Due to amendments to federal law governing the NFIP those premiums are increasing, and in some cases will rise by a substantial amount over the premiums previously charged for flood insurance. As a result, Buyer should not rely on the premiums paid for flood insurance on the Property as an indication of the premiums that will apply after Buyer completes the purchase. In considering the purchase of this Property, Buyer should consult with one or more carriers of flood insurance for better understanding of flood insurance coverage, the premiums that are likely to be required to purchase such insurance and any available information about how those premiums may increase in the future. Detailed information regarding flood insurance coverage may be obtained at: <http://www.fema.gov/flood-insurance-reform-act-2012>.

B. FLOOD INSURANCE RATE MAPS: The State of Maryland in conjunction with the Federal Emergency Management Agency has been systematically updating flood insurance rate maps. The Property may be affected. Buyer is advised to contact the Maryland Department of the Environment and consult a flood insurance carrier to inquire about the status of the Property. Detailed information regarding updated maps may be obtained at: <http://www.mdfloodmaps.net/home.html>.

43. GUARANTY FUND: NOTICE TO BUYER: BUYER IS PROTECTED BY THE REAL ESTATE GUARANTY FUND OF THE MARYLAND REAL ESTATE COMMISSION, UNDER SECTION 17-404 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OF THE ANNOTATED CODE OF MARYLAND, FOR LOSSES IN AN AMOUNT NOT EXCEEDING \$50,000 FOR ANY CLAIM.

44. SINGLE FAMILY RESIDENTIAL REAL PROPERTY DISCLOSURE NOTICE: Buyer is advised of the right to receive a "Disclosure and Disclaimer Statement" from Seller (Section 10-702 Real Property Article, Annotated Code of Maryland).

45. MARYLAND NON-RESIDENT SELLER: If the Property is not the Seller's principal residence and the Seller is a non-resident individual of the State of Maryland or is a non-resident entity which is not formed under the laws of the State of Maryland or qualified to do business in the State of Maryland, a withholding tax from the proceeds of sale may be withheld at the time of settlement except as otherwise provided by Maryland law. (See Maryland Non-Resident Seller Transfer Withholding Tax Addendum.)

46. INTERNAL REVENUE SERVICE FILING: Buyer and Seller each agree to cooperate with the settlement officer by providing all necessary information so that a report can be filed with the Internal Revenue Service, as required by Section 6045 of the IRS Code. To the extent permitted by law, any fees incurred as a result of such filing will be paid by the Seller.

47. NOTICE TO BUYER CONCERNING THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA: Buyer is advised that all or a portion of the property may be located in the "Critical Area" of the Chesapeake and Atlantic Coastal Bays, and that additional zoning, land use, and resource protection regulations apply in this area. The "Critical Area" generally consists of all land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands, the Chesapeake Bay, the Atlantic Coastal Bays, and all of their tidal tributaries. The "Critical Area" also includes the waters of and lands under the Chesapeake Bay, the Atlantic Coastal Bays and all of their tidal tributaries to the head of tide. For information as to whether the property is located within the Critical Area, Buyer may contact the local Department of Planning and Zoning, which maintains maps showing the extent of the Critical Area in the jurisdiction. Allegany, Carroll, Frederick, Garrett, Howard, Montgomery and Washington Counties do not include land located in the Critical Area.

48. WETLANDS NOTICE: Buyer is advised that if the Property being purchased contains waters of the United States, or if the Property contains land and/or waters regulated by the State, including, but not limited to, wetlands, approval from the U.S. Army Corps of Engineers (Corps) and/or the Maryland Department of the Environment (MDE) will be necessary before starting any work, including construction. If the work includes the discharge of dredged or fill material into a regulated area, or certain other activities conducted in a regulated area, The Corps has adopted a broad definition of waters of the United States, which occur throughout the Chesapeake Bay Region, as well as other portions of the State. The land and waters regulated by the State include tidal wetlands, nontidal wetlands and their buffers, and streams and their 100-year non tidal floodplain. For information as to whether the Property includes waters of the United States or land and/or waters regulated by the State, Buyer may contact the Baltimore District of the Corps and/or MDE. Buyer may also elect, at Buyer's expense, to engage the services of a qualified specialist to inspect the Property for the presence of Corps- or MDE-regulated areas, including wetlands, prior to submitting a written offer to purchase the Property; or Buyer may include in Buyer's written offer a clause making Buyer's purchase of the Property contingent upon a satisfactory wetlands inspection.

49. FOREST CONSERVATION ACT NOTICE: If the Property is a tract of land 40,000 square feet or more in size, Buyer is notified that, unless exempted by applicable law, as a prerequisite to any subdivision plan or grading or sediment control permit for the Property, Buyer will be required to comply with the provisions of the Maryland Forest Conservation Act

Buyer REBTH

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Seller [Signature]

Witness

Imposed by Section 5-1601, et seq. of the Natural Resources Article, Annotated Code of Maryland, including, among other things, the submission and acceptance of a Forest Stand Delineation and a Forest Conservation Plan for the Property in accordance with applicable laws and regulations. Unless otherwise expressly set forth in an addendum to this Contract, Seller represents and warrants that the Property is not currently subject to a Forest Conservation Plan, Management Agreement or any other pending obligation binding the owner of the Property under said Act; further, Seller represents and warrants that no activities have been undertaken on the Property by Seller in violation of the Forest Conservation Act.

50. NOTICE CONCERNING CONSERVATION EASEMENTS: If the Property is encumbered by a Conservation Easement as defined in Section 10-705 of the Real Property Article, Annotated Code of Maryland, the contract must contain a notice concerning the easement, which is contained in an attached addendum. This Paragraph does not apply to the sale of property in an action to foreclose a mortgage or deed of trust. (If the Property is encumbered by a Conservation Easement: See Conservation Easement Addendum.)

51. FOREIGN INVESTMENT TAXES-FIRPTA: Section 1445 of the United States Internal Revenue Code of 1986 provides that a Buyer of residential real property located in the United States must withhold federal income taxes from the payment of the purchase price if (a) the purchase price exceeds Three Hundred Thousand Dollars (\$300,000.00) and (b) the seller is a foreign person. Unless otherwise stated in an addendum attached hereto, if the purchase price is in excess of Three Hundred Thousand Dollars (\$300,000.00), Seller represents that Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined by the Internal Revenue Code and applicable regulations) and agrees to execute an affidavit to this effect at the time of settlement.

52. CRIMINAL ACTIVITY AND SEXUAL OFFENDERS: Buyer may contact the state, county or municipal police departments in which the Property is located or check the "Sex Offender Registry" at the Maryland Department of Public Safety and Correctional Services website in order to ascertain criminal activity in the vicinity of the Property or the presence of registered sexual offenders who live or work within the vicinity of the Property. Buyer acknowledges that Buyer is solely responsible to inquire of such matters before signing this Contract. Buyer shall have no right to cancel this Contract based upon criminal activity or the presence of registered sexual offenders in the vicinity of the Property. Buyer further acknowledges that no real estate licensee involved in the sale or purchase of the Property, whether acting as the agent for Seller or Buyer, has any duty nor assumes any duty or responsibility to ascertain criminal activity or the presence of registered sexual offenders in the vicinity of the Property.

53. MILITARY INSTALLATIONS: This Section does not apply in Allegany, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties. Buyer is advised that the Property may be located near a military installation that conducts flight operations, munitions testing, or military operations that may result in high noise levels.

54. NOTICE TO THE PARTIES:

(A) **NO REPRESENTATIONS:** Brokers, their agents, subagents and employees, make no representations with respect to:

- (1) Water quantity, quality, color, or taste or operating conditions of public and/or private water systems;
- (2) Location, size or operating condition of on-site sewage disposal systems;
- (3) The extensions of public utilities by local municipal authorities, existence or availability of public utilities, and any assessments, fees or costs for public utilities which might be imposed by local municipal authorities or private entities, should public utilities be extended or available to the subject Property. (Buyer should consult the Department of Public Works to determine the availability of proposed future extensions of utilities.);
- (4) Lot size, exact location. If the subject Property is part of a recorded subdivision, Buyer can review the plat upon request at the Record Office. If the subject Property is not part of a recorded subdivision, Buyer may verify exact size and location through a survey by a licensed engineer or land surveyor, at Buyer's expense;
- (5) Existing zoning or permitted uses of the Property, including, without limitation, whether any improvements to the Property required permit(s) and, if so, whether such improvements, were completed pursuant to permit(s) issued and/or whether any permit(s) issued were complied with. Buyer should contact the appropriate local government agency and/or a licensed engineer to verify zoning, permit issuance/status, and permitted uses; or
- (6) Whether properly licensed contractors have been used to make repairs, renovations and improvements to the Property.

(B) **NO ADVISING:** Brokers/agents are not advising the parties as to certain other issues, including without limitation: soil conditions; flood hazard areas; possible restrictions of the use of property due to restrictive covenants, subdivision, environmental laws, easements or other documents; airport or aircraft noise; planned land use, roads or highways; and construction materials and/or hazardous materials, including without limitation flame retardant treated plywood (FRT), radon, radium, mold spores, urea formaldehyde foam insulation (UFFI), synthetic stucco (EIFS), asbestos, polybutylene piping and lead-based paint. Information relating to these issues may be available from appropriate governmental authorities. This disclosure is not intended to provide an inspection contingency.

(C) **COMPENSATION OF VENDORS:** Buyer and Seller each assume full responsibility for selecting and compensating their respective vendors.

Buyer R. E. B. T.

Seller W. J. S.
Walters

(D) PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT NOTICE: BUYER AND SELLER ACKNOWLEDGE THAT, UNDER SECTION 7-310 OF THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND, IF THE MORTGAGE ON THE PROPERTY IS AT LEAST 60 DAYS IN DEFAULT ON THE DATE OF CONTRACT ACCEPTANCE, SELLER HAS THE RIGHT TO RESCIND THE CONTRACT WITHIN 5 DAYS AFTER THE DATE OF CONTRACT ACCEPTANCE. ANY PROVISION IN THIS CONTRACT OR OTHER AGREEMENT THAT ATTEMPTS OR PURPORTS TO WAIVE ANY OF THE SELLER'S RIGHTS UNDER SECTION 7-310 IS VOID.

55. PROPERTY TAX NOTICE - 60 DAY APPEAL: If any real property is transferred after January 1 and before the beginning of the next taxable year to a new owner, the new owner may submit a written appeal as to a value or classification on or before 60 days after the date of the transfer.

56. NON-ASSIGNABILITY: This Contract may not be assigned without the written consent of Buyer and Seller. If Buyer and Seller agree in writing to an assignment of this Contract, the original parties to this Contract remain obligated hereunder until settlement.

57. PARAGRAPH HEADINGS: The Paragraph headings of this Contract are for convenience and reference only, and in no way define or limit the intent, rights or obligations of the parties.

58. COMPUTATION OF DAYS: As used in this Contract, and in any addendum or addenda to this Contract, the term "days" shall mean consecutive calendar days, including Saturdays, Sundays, and holidays, whether federal, state, local or religious. A day shall be measured from 12:00:00 a.m. to and including 11:59:59 p.m. in the Eastern Time Zone. For the purposes of calculating days, the count of "days" shall begin on the day following the day upon which any act or notice as provided in this Contract, or any addendum or addenda to this Contract, was required to be performed or made.

59. ENTIRE AGREEMENT: This Contract and any addenda thereto contain the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained. The parties to this Contract mutually agree that it is binding upon them, their heirs, executors, administrators, personal representatives, successors and, if permitted as herein provided, assigns. Once signed, the terms of this Contract can only be changed by a document executed by all parties. This Contract shall be interpreted and construed in accordance with the laws of the State of Maryland. It is further agreed that this Contract may be executed in counterparts, each of which when considered together shall constitute the original Contract.

60. ELECTRONIC DELIVERY: The parties agree that this Contract offer shall be deemed validly executed and delivered by a party if a party executes this Contract and delivers a copy of the executed Contract to the other party by telefax or telecopier transmittal, or delivers a digital image of the executed document by email transmittal.

2174 OF HAGERSTOWN
By: Robert E. Bruckley, II Mayor
Buyer's Signature _____ Date 3/16/17

Seller's Signature _____ Date 3/16/17
Marcia D Watters

Buyer's Signature _____ Date

Seller's Signature _____ Date 3/16/17
James C Smith II

DATE OF CONTRACT ACCEPTANCE: April 28, 2017

☐ Check if First-Time Maryland Homebuyer

Contact Information:

BUYER / NAME(S): _____
MAILING ADDRESS: _____

SELLER / NAME(S): Marcia D Watters, James C Smith II
MAILING ADDRESS: 12719 Ailanthus Dr
Hagerstown, MD 21742-4870

Buyer Robert E. Bruckley, II

Seller Marcia D Watters, James C Smith II
Watters

Information provided for reference only:

LISTING BROKERAGE COMPANY NAME: RE/MAX Achievers / Sherry Scire
BROKER OF RECORD NAME: Andy Lapkoff LICENSE NUMBER: 502994
SALES ASSOCIATE NAME: Sherry Scire LICENSE NUMBER: 636353
OFFICE ADDRESS: 222 E. Oak Ridge Drive Suite 2000, Hagerstown, MD 21740
OFFICE PHONE: (301) 739-4800 BROKER/SALES ASSOCIATE MLS ID: 3017822
SALES ASSOCIATE PHONE: (240) 420-5516 SALES ASSOCIATE E-MAIL: sherry@remaxagnet.org

ACTING AS: ☒ LISTING BROKER AND SELLER AGENT; OR
☐ INTRA - COMPANY AGENT WITH BROKER AS DUAL AGENT

SELLING BROKERAGE COMPANY NAME: _____
BROKER OF RECORD NAME: _____ LICENSE NUMBER: _____
SALES ASSOCIATE NAME: _____ LICENSE NUMBER: _____
OFFICE ADDRESS: _____
OFFICE PHONE: _____ BROKER/SALES ASSOCIATE MLS ID: _____
SALES ASSOCIATE PHONE: _____ SALES ASSOCIATE E-MAIL: _____

ACTING AS: ☐ SELLER AGENT; OR
☐ SUBAGENT; OR
☐ BUYER AGENT; OR
☐ INTRA - COMPANY AGENT WITH BROKER AS DUAL AGENT



AS IS ADDENDUM

ADDENDUM # _____ dated _____ to Contract of Sale
between Buyer City of Hagerstown, a municipal corporation
and Seller Marola D Watters, James C. Smith
for Property known as 11850 Indian Ln, Hagerstown, MD 21742-4206

The following provisions are included in and supersede any conflicting language in the Contract.

The Property is sold in "AS IS" condition as of the Date of Contract Acceptance. Seller makes no warranty, express or implied, as to the condition of the Property or any equipment or system contained therein. Seller agrees to comply with Section 10-702 of the Real Property Article of the Annotated Code of Maryland if applicable (*Residential Property Disclosure and Disclaimer*). The parties agree that all paragraphs in the Contract pertaining to property condition (Paragraph 21) and wood destroying insects (Paragraph 18) are hereby deleted from the Contract except that Buyer retains the right to walk through the Property within five (5) days prior to settlement.

Buyer and Seller agree to Initial only one of the following:

was A. "AS IS" WITHOUT INSPECTION(S)
The Property is sold in "AS IS" condition as of the Date of Contract Acceptance without any inspection(s) or contingencies regarding the condition of the Property.

was B. "AS IS" WITH INSPECTION(S) AND RIGHT TO TERMINATE
The Property is sold in "AS IS" condition as of the Date of Contract Acceptance. Buyer, at Buyer's expense, may have the Property inspected. In the event Buyer is dissatisfied with the results of any inspection(s), Buyer, upon written notice to Seller given within 10 Days from the Date of Contract Acceptance, shall have the unconditional right to terminate the Contract. If Buyer elects to terminate the Contract, the Contract shall become null and void, and Deposit(s) shall be disbursed in accordance with the Deposit paragraph of the Contract. If Buyer fails to have inspection(s) performed or fails to submit written notice of termination within the time period specified, Buyer shall have no right thereafter to terminate the Contract and the Contract shall remain in full force and effect.

Seller shall make the Property accessible for such inspection(s) and shall have utilities in service at the time of the inspection. Neither Buyer, nor any agent or contractor(s) of Buyer, shall in any way excavate, penetrate or otherwise damage any part of the Property without the prior written consent of Seller nor shall any furnishings, boxes, or personal property belonging to Seller be moved or relocated unless absolutely necessary in connection with the inspection(s). If the Property is part of a condominium, Buyer will be given access to the common areas to perform the inspection(s). Buyer and Seller shall have the right to be present during the inspection(s), and Buyer shall give Seller reasonable advance notice of the date and time of any inspection(s).

If Buyer or Buyer's agents or contractors damage the Property during any inspection(s), Buyer shall be responsible for all costs incurred in correcting such damage. Buyer's responsibility for all costs incurred in correcting any damage shall survive termination of the Contract.

All other terms and conditions of the Contract of Sale remain in full force and effect.

Robert E. Bue 3/15/17
Buyer Signature Date

Marola D Watters 8/9/16
Seller Signature Date
Marola D Watters

Buyer Signature Date

James C. Smith 8/19/16
Seller Signature Date
James C. Smith

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RE/MAX Achievers, 222 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Phone: 301-573-8302 Fax: (301) 739-0855 Sherry Kelle

10/10



Watters



Checklist of Items to Convey RE/MAX Achievers



The Real Estate
Leaders

Property Address: 11850 Indian Ln, Hag MD 21742

Addendum # _____
(If made part of Contract of Sale)

Please mark each of the items below with a "X" or "0". Note: These items must be identified later in "Contract of Sale"

None	Yes	No	As Is	Item	None	Yes	No	As Is	Item
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stove/Range, <input checked="" type="checkbox"/> Electric, <input type="checkbox"/> Gas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water Filter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cooktop, <input checked="" type="checkbox"/> Electric, <input checked="" type="checkbox"/> Gas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Water Softener
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wall Oven(s), # _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Drapery/Curtains
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Refrigerator(s), # <u>1</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Drapery/Curtain Rods
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	w/ice maker	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shades /Blinds
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Built-in Microwave	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alarm System
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash Compactor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Intercom
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exist W/W Carpet	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Buildings & permanent Storage Sheds & structures
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disposal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Garage Opener(s), # _____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exhaust Fan(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	w/remote(s), # _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dishwasher	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Playground Equipment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Freezer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wood Stove
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Window Fan(s), # _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	T.V. Antenna, _____ Rotor
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fireplace Screen/Doors, _____ Tools	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Satellite Dish
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pool, Equip. & Cover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Central Vacuum & Accessories
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hot Tub, Equip. & Cover	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wall Mirrors
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Screens	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Work Bench
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Storm Windows	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mail Box
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Storm Doors	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Exterior-Ground-Lighting
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Window A/C Unit(s), # <u>3</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bar
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ceiling Fan(s), # <u>10</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bar Stool(s), # _____
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clothes Washer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Removable Plumbing Fixture(s)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Clothes Dryer	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Awnings
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Furnace Humidifier	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Book Cases or Shelving
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Electronic Air Filter	Leased <input type="checkbox"/>	Owned <input type="checkbox"/>	Propane Tank owned or leased		

Wood Piles Fences, hay, straw, any and all farm equipment in and
Additional Inclusions: around barn & buildings. Water tanks. Large Chicken
Additional Exclusions: Small Chicken Coop. Coop.

** Average Monthly Costs for Prior Year - (Disclaimer- Utilities costs vary with familial status & individual usage) **

Electric: \$varies, Water: \$0, Sewer: \$0, Fuel Oil: \$0 when using wood burner, Gas \$0, Other: \$0

HOA: \$0, Condo: \$0, HOA/Condo Fee Includes: ☒ Electric, ☒ Water, ☒ Sewer, ☒ Trash, ☒ Heat

Owner/Seller
Robert E. Blue Jr.
Date 8-19-16
Date 3/15/17

Owner/Seller
Mark D. White
Date 8-19-16
Date 0059

Buyer
Refused to sign



**INCLUSIONS/EXCLUSIONS AND UTILITIES ADDENDUM TO
EXCLUSIVE RIGHT TO SELL RESIDENTIAL BROKERAGE AGREEMENT**

For the sole purpose of assisting the agent in preparing an offer and
is not to be part of the Contract of Sale

ADDENDUM # _____ dated August 19, 2016 to Exclusive Right to Sell Brokerage Agreement
between Seller(s) Marcia D Watters, James C. Smith
and Broker RE/MAX Achievers / Sherry Spira Sherry Spira
for Property known as 11850 Indian Ln
Hagerstown, MD 21742-4206

INCLUSIONS/EXCLUSIONS: Seller intends for these items marked below to be included in the sale of the property unless otherwise negotiated:

INCLUDED	INCLUDED	INCLUDED	INCLUDED
<input checked="" type="checkbox"/> Alarm System	<input type="checkbox"/> Exhaust Fan(s) # _____	<input type="checkbox"/> Pool, Equip. & Cover	<input type="checkbox"/> Trash Compactor
<input type="checkbox"/> Built-In Microwave	<input type="checkbox"/> Exter. W/W Carpet	<input checked="" type="checkbox"/> Refrigerator(s) # <u>1</u>	<input type="checkbox"/> Wall Oven(s) # _____
<input checked="" type="checkbox"/> Ceiling Fan(s) # <u>10</u>	<input checked="" type="checkbox"/> Fireplace Screen/Door <u>Heat</u>	<input checked="" type="checkbox"/> w/co maker	<input type="checkbox"/> Water Filter
<input type="checkbox"/> Central Vacuum	<input type="checkbox"/> Freezer	<input checked="" type="checkbox"/> Satellite Dish	<input checked="" type="checkbox"/> Water Softener
<input type="checkbox"/> Clothes Dryer	<input checked="" type="checkbox"/> Furnace Humidifier	<input type="checkbox"/> Screens	<input checked="" type="checkbox"/> Window A/C Unit(s)
<input type="checkbox"/> Clothes Washer	<input type="checkbox"/> Garage Opener(s) # _____	<input checked="" type="checkbox"/> Shades/Blinds <u>All outer</u>	<input type="checkbox"/> Window Fan(s)
<input checked="" type="checkbox"/> Cooktop	<input type="checkbox"/> w/remote(s) # _____	<input checked="" type="checkbox"/> Storage Shed(s) <u>butane</u>	<input type="checkbox"/> # _____
<input checked="" type="checkbox"/> Dishwasher	<input type="checkbox"/> Garbage Disposer	<input type="checkbox"/> Storm Doors	<input checked="" type="checkbox"/> Wood Stove
<input checked="" type="checkbox"/> Drapery/Curtain Rods	<input type="checkbox"/> Hot Tub, Equip. & Cover	<input type="checkbox"/> Storm Windows	
<input type="checkbox"/> Draperies/Curtains	<input type="checkbox"/> Intercom	<input checked="" type="checkbox"/> Stove or Range	
<input checked="" type="checkbox"/> Electronic Air Filter	<input type="checkbox"/> Playground Equipment	<input type="checkbox"/> T.V. Antenna	

ADDITIONAL INCLUSIONS (Specify): _____

EXCLUSIONS (Specify): smaller chicken coop

UTILITIES: WATER, SEWAGE, HEATING AND CENTRAL AIR CONDITIONING: (Check all that apply)

Water Supply: <input type="checkbox"/> Public	<input checked="" type="checkbox"/> Well	
Sewage Disposal: <input type="checkbox"/> Public	<input checked="" type="checkbox"/> Septic	<u>- Brand new field/tanks new 2007</u>
Heating: <input checked="" type="checkbox"/> Oil	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Elec. <input type="checkbox"/> Heat Pump <u>Other whole house wood</u>
Hot Water: <input type="checkbox"/> Oil	<input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Elec. <input type="checkbox"/> Other <u>- thermostat</u>
Air Conditioning: <input type="checkbox"/> Gas	<input checked="" type="checkbox"/> Elec.	<input type="checkbox"/> Other <u>In addition area controlled.</u>

Marcia D Watters 8/19/16 James C Smith 8/19/16
Seller Date Seller Date

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10/13



RE/MAX Achievers, 222 E Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Phone (301) 571-8302 Fax: (301) 739-0353 Sherry Spira

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Watters



CONSERVATION EASEMENT ADDENDUM

ADDENDUM # _____ dated _____ to Contract of Sale
between Buyer City of Hagerstown, a municipal corporation and
Seller Marcia D. Watters, James C. Smith Property known
as 11850 Indian Ln, Hagerstown, MD 21742-4206

THE PROPERTY IS ENCUMBERED BY ONE OR MORE CONSERVATION EASEMENTS OR OTHER RESTRICTIONS LIMITING OR AFFECTING USES OF THE PROPERTY. MARYLAND LAW REQUIRES THAT THE VENDOR DELIVER TO THE BUYER COPIES OF ALL CONSERVATION EASEMENTS ON OR BEFORE THE DAY THE CONTRACT IS ENTERED INTO. THE BUYER SHOULD REVIEW ALL CONSERVATION EASEMENTS CAREFULLY TO ASCERTAIN THE BUYER'S RIGHTS, RESPONSIBILITIES AND OBLIGATIONS UNDER THE CONSERVATION EASEMENTS, INCLUDING ANY REQUIREMENT THAT AFTER THE SALE THE BUYER MUST INFORM THE OWNER OF THE CONSERVATION EASEMENT OF THE SALE OF THE PROPERTY.

A Buyer who receives this notice and copies of the easements on or before entering into a contract of sale for the Property does not have a right to rescind the contract of sale based on the information received from the Seller.

A Buyer who does not receive this notice and copies of the easements on or before entering into a contract of sale for the Property, on written notice to the Seller or Seller's Agent:

1. Has the unconditional right to rescind the contract at any time before, or within 5 days after, receipt of the notice and copies of the easement; and
2. Is entitled to the immediate return of any deposits made in accordance with the contract.

Within 30 calendar days after settlement, the Buyer shall notify the owner of a Conservation Easement of the sale of the Property. The notification shall include, to the extent reasonably available:

1. The name and address of the Buyer;
2. The name of the Seller;
3. The address of the Property; and
4. The date of the sale of the Property.

Seller and Buyer shall be entitled to rely upon the conservation easement recorded in the Land Records of the County where the Property is located in satisfaction of the requirements of this Addendum.

All other terms and conditions of the Contract of Sale remain in full force and effect.

Robert E. Brubaker 3/15/17
Buyer Signature Date

Marcia D. Watters 8/19/16
Seller Signature Date
Marcia D. Watters

Buyer Signature Date

James C. Smith 8/19/16
Seller Signature Date

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RE/MAX Achievers, 222 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Phone: 301-573-8302 Fax: (301) 739-0853 Sherry Selre

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Watters



DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS

11850 Indian Ln

Property Address: Hagerstown, MD 21742-4206

SELLER/LANDLORD REPRESENTS AND WARRANTS, INTENDING THAT SUCH BE RELIED UPON REGARDING THE ABOVE PROPERTY, THAT (SELLER/LANDLORD TO INITIAL APPLICABLE LINE): now / yes housing was constructed prior to 1978 OR / date of construction is uncertain.

FEDERAL LEAD WARNING STATEMENT: A buyer/tenant of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may contain lead-based paint and that exposure to lead from lead-based paint, paint chips or lead paint dust may place young children at risk of developing lead poisoning if not managed properly. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller/landlord of any interest in residential real property is required to disclose to the buyer/tenant the presence of known lead-based paint hazards and to provide the buyer/tenant with any information on lead-based paint hazards from risk assessments or inspections in the seller's/landlord's possession. A tenant must receive a federally approved pamphlet on lead poisoning prevention. It is recommended that a buyer conduct a risk assessment or inspection for possible lead-based paint hazards prior to purchase.

Seller's/Landlord's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (initial (i) or (ii) below):

(i) / Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) now / yes Seller/Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (initial (i) or (ii) below):

(i) / Seller/Landlord has provided the purchaser/tenant with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) now / yes Seller/Landlord has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Buyer's/Tenant's Acknowledgment (Initial)

(c) yes Buyer/Tenant has received copies of all information listed in section (b)(i) above, if any.

(d) yes Buyer/Tenant has received the pamphlet Protect Your Family from Lead in Your Home.

(e) Buyer has (initial (i) or (ii) below):

(i) / received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) yes / waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (Initial)

(f) yes Agent has informed the Seller/Landlord of the Seller's/Landlord's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Marcia D Watters 8/19/16
Seller/Landlord Date

Robert E Brucy Jr 3/15/17
Buyer/Tenant Date

James C. Sargent II 8/19/16
Seller/Landlord Date

Buyer/Tenant Date

Sherry Seira 8/19/16
Seller's/Landlord's Agent Date

Buyer's/Tenant's Agent Date



1/16





MARYLAND LEAD POISONING PREVENTION PROGRAM DISCLOSURE

11850 Indian Ln

Properly Address: Hagerstown, MD 21742-4206

MARYLAND LEAD POISONING PREVENTION PROGRAM DISCLOSURE: Under the Maryland Lead Poisoning Prevention Program (the "Maryland Program"), any leased residential dwelling constructed prior to 1978 is required to be registered with the Maryland Department of the Environment (MDE). Detailed information regarding compliance requirements may be obtained at: <http://www.mde.state.md.us/programs/Land/LeadPoisoningPrevention/Pages/index.aspx>.

1. Seller hereby discloses that the Property was constructed prior to 1978;

AND

The Property is or is not registered in the Maryland Program (Seller to initial applicable line).

2. If the Property was constructed prior to 1978 and Buyer intends to lease the Property effective immediately following settlement or in the future, Buyer is required to register the Property with the Maryland Department of the Environment within thirty (30) days following the date of settlement or within thirty (30) days following the conversion of the Property to rental property as required by the Maryland Program. Buyer is responsible for full compliance under the Maryland Program, including but not limited to, registration; inspections; lead-paint risk reduction and abatement procedures; payment of all fees, costs and expenses; and the notice requirements to tenants.

3. If the Property is registered under the Maryland Program as indicated above, Seller further discloses to Buyer that an event as defined under the Maryland Program (including, but not limited to, notice of the existence of lead-based paint hazards or notice of elevated blood lead levels from a tenant or state, local or municipal health agency) (Seller to initial applicable line) has or has not occurred, which obligates Seller to perform either the modified or full risk reduction treatment of the Property as required under the Maryland Program. If an event has occurred that obligates Seller to perform either the modified or full risk reduction treatment of the Property, Seller hereby discloses the scope of such treatment as follows:

If such event has occurred, Seller (Seller to initial applicable line) will or will not perform the required treatment prior to transfer of title of the Property to Buyer.

ACKNOWLEDGEMENT: Buyer acknowledges by Buyer's initials that Buyer has read and understands the above Paragraphs. REB (BUYER)

CERTIFICATION OF ACCURACY: The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller: Maria D Wattors 8/19/16 Date Buyer: REB 3/15/17 Date

Seller: [Signature] 8/19/16 Date Buyer: _____ Date

Seller's Agent: [Signature] 8/19/16 Date Buyer's Agent: _____ Date



1/15



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REALTAX Advisors, 211 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740

Phone: 301-373-5102

Fax: (301) 739-6353

Website

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MARYLAND RESIDENTIAL PROPERTY DISCLOSURE AND DISCLAIMER STATEMENT

Property Address: 11050 Indian Ln, Hagerstown, MD 21742-4206

Legal Description: _____

NOTICE TO SELLER AND PURCHASER

Section 10-702 of the Real Property Article, *Annotated Code of Maryland*, requires the owner of certain residential real property to furnish to the purchaser either (a) a RESIDENTIAL PROPERTY DISCLAIMER STATEMENT stating that the owner is selling the property "as is" and makes no representations or warranties as to the condition of the property or any improvements on the real property, except as otherwise provided in the contract of sale, or in a listing of latent defects; or (b) a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT disclosing defects or other information about the condition of the real property actually known by the owner. Certain transfers of residential property are excluded from this requirement (see the exemptions listed below).

10-702. EXEMPTIONS. The following are specifically excluded from the provisions of §10-702:

1. The initial sale of single family residential real property:
 - A. that has never been occupied; or
 - B. for which a certificate of occupancy has been issued within 1 year before the seller and buyer enter into a contract of sale;
2. A transfer that is exempt from the transfer tax under §13-207 of the Tax-Property Article, except land installment contracts of sales under §13-207(a)(11) of the Tax-Property Article and options to purchase real property under §13-207(a)(12) of the Tax-Property Article;
3. A sale by a lender or an affiliate or subsidiary of a lender that acquired the real property by foreclosure or deed in lieu of foreclosure;
4. A sheriff's sale, tax sale, or sale by foreclosure, partition, or by court appointed trustee;
5. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
6. A transfer of single family residential real property to be converted by the buyer into use other than residential use or to be demolished; or
7. A sale of unimproved real property.

Section 10-702 also requires the owner to disclose information about latent defects in the property that the owner has actual knowledge of. The owner must provide this information even if selling the property "as is." "Latent defects" are defined as: Material defects in real property or an improvement to real property that:

- (1) A purchaser would not reasonably be expected to ascertain or observe by a careful visual inspection of the real property; and
- (2) Would pose a direct threat to the health or safety of:
 - (i) the purchaser; or
 - (ii) an occupant of the real property, including a tenant or invitee of the purchaser.

MARYLAND RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

NOTICE TO OWNERS: Complete and sign this statement only if you elect to disclose defects, including latent defects, or other information about the condition of the property actually known by you; otherwise, sign the Residential Property Disclaimer Statement. You may wish to obtain professional advice or inspections of the property; however, you are not required to undertake or provide any independent investigation or inspection of the property in order to make the disclosure set forth below. The disclosure is based on your personal knowledge of the condition of the property at the time of the signing of this statement.

NOTICE TO PURCHASERS: The information provided is the representation of the Owners and is based upon the actual knowledge of Owners as of the date noted. Disclosure by the Owners is not a substitute for an inspection by an independent home inspection company, and you may wish to obtain such an inspection. The information contained in this statement is not a warranty by the Owners as to the condition of the property or of which the Owners have no knowledge or other conditions of which the Owners have no actual knowledge.

How long have you owned the property? 36 years

Property Systems: Water, Sewage, Heating & Air Conditioning (Answer all that apply)

Water Supply	<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Well	<input type="checkbox"/> Other _____
Sewage Disposal	<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Septic System approved for <u>5</u> (if bedrooms) Other Type _____	
Garbage Disposal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Dishwasher	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Heating	<input checked="" type="checkbox"/> Oil	<input type="checkbox"/> Natural Gas	<input checked="" type="checkbox"/> Electric
Air Conditioning	<input checked="" type="checkbox"/> Oil	<input type="checkbox"/> Natural Gas	<input type="checkbox"/> Heat Pump Age <u>9 yrs</u>
Hot Water	<input checked="" type="checkbox"/> Oil	<input type="checkbox"/> Natural Gas	<input type="checkbox"/> Heat Pump Age <u>9 yrs</u>
		<input checked="" type="checkbox"/> Electric Capacity <u>7</u> Age <u>2 yrs</u>	<input type="checkbox"/> Other _____

thermos of control
☒ Other wood heat
☐ Other _____
☐ Other _____

Please indicate your actual knowledge with respect to the following:

1. Foundation: Any settlement or other problems? ☐ Yes ☐ No ☐ Unknown
Comments: _____

2. Basement: Any leaks or evidence of moisture? ☐ Yes ☐ No ☐ Unknown ☐ Does Not Apply
Comments: _____

3. Roof: Any leaks or evidence of moisture? ☐ Yes ☐ No ☐ Unknown
Type of Roof: _____ Age: _____
Comments: _____
Is there any existing fire retardant treated plywood? ☐ Yes ☐ No ☐ Unknown
Comments: _____

4. Other Structural Systems, including exterior walls and floors:
Comments: _____
Any defects (structural or otherwise)? ☐ Yes ☐ No ☐ Unknown
Comments: _____

5. Plumbing System: Is the system in operating condition? ☐ Yes ☐ No ☐ Unknown
Comments: _____

6. Heating Systems: Is heat supplied to all finished rooms? ☐ Yes ☐ No ☐ Unknown
Comments: _____
Is the system in operating condition? ☐ Yes ☐ No ☐ Unknown
Comments: _____

7. Air Conditioning System: Is cooling supplied to all finished rooms? ☐ Yes ☐ No ☐ Unknown ☐ Does Not Apply
Comments: _____
Is the system in operating condition? ☐ Yes ☐ No ☐ Unknown ☐ Does Not Apply
Comments: _____

8. Electric Systems: Are there any problems with electrical fuses, circuit breakers, outlets or wiring?
☐ Yes ☐ No ☐ Unknown
Comments: _____

9A. Will the smoke alarms provide an alarm in the event of a power outage? ☐ Yes ☐ No
Are the smoke alarms over 10 years old? ☐ Yes ☐ No
If the smoke alarms are battery operated, are they sealed, tamper resistant units incorporating a silence/hush button, which use long-life batteries as required in all Maryland Homes by 2018? ☐ Yes ☐ No
Comments: _____

9. Sepsis Systems: Is the septic system functioning properly? ☐ Yes ☐ No ☐ Unknown ☐ Does Not Apply
When was the system last pumped? Date: _____
Comments: _____

10. Water Supply: Any problem with water supply? ☐ Yes ☐ No ☐ Unknown
Comments: _____
Home water treatment system: ☐ Yes ☐ No ☐ Unknown
Comments: _____
Fire sprinkler system: ☐ Yes ☐ No ☐ Unknown ☐ Does Not Apply
Comments: _____
Are the systems in operating condition? ☐ Yes ☐ No ☐ Unknown
Comments: _____

11. Insulation:
In exterior walls? ☐ Yes ☐ No ☐ Unknown
In ceiling/attic? ☐ Yes ☐ No ☐ Unknown
In any other areas? ☐ Yes ☐ No ☐ Unknown
Where? _____
Comments: _____

12. Exterior Drainage: Does water stand on the property for more than 24 hours after a heavy rain?
☐ Yes ☐ No ☐ Unknown
Comments: _____
Are gutters and downspouts in good repair? ☐ Yes ☐ No ☐ Unknown
Comments: _____

13. Wood-destroying insects: Any infestation and/or prior damage? ☐ Yes ☐ No ☐ Unknown

Comments: _____

Any treatments or repairs? ☐ Yes ☐ No ☐ Unknown
Any warranties? ☐ Yes ☐ No ☐ Unknown

Comments: _____

14. Are there any hazardous or regulated materials (including, but not limited to, licensed landfills, asbestos, radon gas, lead-based paint, underground storage tanks, or other contamination) on the property? ☐ Yes ☐ No ☐ Unknown
If yes, specify below

Comments: _____

15. If the property relies on the combustion of a fossil fuel for heat, ventilation, hot water, or clothes dryer operation, is a carbon monoxide alarm installed in the property?

☐ Yes ☐ No ☐ Unknown

Comments: _____

16. Are there any zoning violations, nonconforming uses, violation of building restrictions or setback requirements or any recorded or unrecorded easement, except for utilities, on or affecting the property? ☐ Yes ☐ No ☐ Unknown
If yes, specify below

Comments: _____

16A. If you or a contractor have made improvements to the property, were the required permits pulled from the county or local permitting office? ☐ Yes ☐ No ☐ Does Not Apply ☐ Unknown

Comments: _____

17. Is the property located in a flood zone, conservation area, wetland area, Chesapeake Bay critical area or Designated Historic District? ☐ Yes ☐ No ☐ Unknown If yes, specify below

Comments: _____

18. Is the property subject to any restriction imposed by a Home Owners Association or any other type of community association? ☐ Yes ☐ No ☐ Unknown If yes, specify below

Comments: _____

19. Are there any other material defects, including latent defects, affecting the physical condition of the property?

☐ Yes ☐ No ☐ Unknown

Comments: _____

NOTE: Owner(s) may wish to disclose the condition of other buildings on the property on a separate RESIDENTIAL PROPERTY DISCLOSURE STATEMENT.

The owner(s) acknowledge having carefully examined this statement, including any comments, and verify that it is complete and accurate as of the date signed. The owner(s) further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

Owner Marcia D Watters Date _____

Owner James C. Smith Date _____

The purchaser(s) acknowledge receipt of a copy of this disclosure statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

Purchaser Robert E. Bantley Date 3/15/12

Purchaser _____ Date _____

MARYLAND RESIDENTIAL PROPERTY DISCLAIMER STATEMENT

NOTICE TO OWNER(S): Sign this statement only if you elect to sell the property without representations and warranties as to its condition, except as otherwise provided in the contract of sale and in the listing of latent defects set forth below; otherwise, complete and sign the RESIDENTIAL PROPERTY DISCLOSURE STATEMENT.

Except for the latent defects listed below, the undersigned owner(s) of the real property make no representations or warranties as to the condition of the real property or any improvements thereon, and the purchaser will be receiving the real property "as is" with all defects, including latent defects, which may exist, except as otherwise provided in the real estate contract of sale. The owner(s) acknowledge having carefully examined this statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

The owner(s) has actual knowledge of the following latent defects: _____

Owner *[Signature]* Date 8/19/16

Owner *[Signature]* Date 8/19/16

The purchaser(s) acknowledge receipt of a copy of this disclaimer statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

Purchaser *[Signature]* Date 3/15/17

Purchaser _____ Date _____



NOTICE TO BUYER AND SELLER OF BUYER'S RIGHTS AND SELLER'S OBLIGATIONS UNDER MARYLAND'S SINGLE FAMILY RESIDENTIAL PROPERTY CONDITION DISCLOSURE LAW

ADDENDUM # _____ dated _____ to the Contract of Sale
between Buyer _____
and Seller Marcia D Watters James C Smith for Property
known as 11050 Indian Ln, Hagerstown, MD 21742-4206

NOTE: This notice does not apply to: (1) the initial sale of single family residential property which has never been occupied, or for which a certificate of occupancy has been issued within one year prior to the date of the Contract; (2) a transfer that is exempt from the transfer tax under Subsection 13-207 of the Tax-Property Article, except land installment contracts of sale under Subsection 13-207(a)(1) of the Tax-Property Article and options to purchase real property under Subsection 13-207(a)(12) of the Tax-Property Article; (3) a sale by a lender or an affiliate or subsidiary of a lender that acquired the real property by foreclosure or deed in lieu of foreclosure; (4) a sheriff's sale, tax sale, or sale by foreclosure, partition or by court appointed trustee; (5) a transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust; (6) a transfer of single family residential real property to be converted by the buyer into a use other than residential use or to be demolished; or (7) a sale of unimproved real property.

Section 10-702 of the Real Property Article of the Annotated Code of Maryland ("Section 10-702") requires that a seller of a single family residential property ("the property") deliver to each buyer, on or before entering into a contract of sale, on a form published and prepared by the Maryland Real Estate Commission, EITHER:

- (A) A written property condition disclosure statement listing all defects including latent defects, or information of which the seller has actual knowledge in relation to the following:
- (i) Water and sewer systems, including the source of household water, water treatment systems, and sprinkler systems;
 - (ii) Insulation;
 - (iii) Structural systems, including the roof, walls, floors, foundation and any basement;
 - (iv) Plumbing, electrical, heating, and air conditioning systems;
 - (v) Infestation of wood-destroying insects;
 - (vi) Land use matters;
 - (vii) Hazardous or regulated materials, including asbestos, lead-based paint, radon, underground storage tanks, and licensed landfills;
 - (viii) Any other material defects, including latent defects, of which the seller has actual knowledge;
 - (ix) Whether the required permits were obtained for any improvements made to the property;
 - (x) Whether the smoke alarms:
 - 1. will provide an alarm in the event of a power outage;
 - 2. are over 10 years old; and
 - 3. If battery operated, are sealed, tamper resistant units incorporating a silence/hush button and use long-life batteries as required in all Maryland homes by 2018; and
 - (xi) If the property relies on the combustion of a fossil fuel for heat, ventilation, hot water, or clothes dryer operation, whether a carbon monoxide alarm is installed on the property.

"Latent defects" under Section 10-702 means material defects in real property or an improvement to real property that:

- (i) A buyer would not reasonably be expected to ascertain or observe by a careful visual inspection, and
- (ii) Would pose a threat to the health or safety of the buyer or an occupant of the property, including a tenant or invitee of the buyer;

OR

- (B) A written disclaimer statement providing that:

- (i) Except for latent defects of which the seller has actual knowledge, the seller makes no representations or warranties as to the condition of the real property or any improvements on the real property; and
- (ii) The buyer will be receiving the real property "as is," with all defects, including latent defects, that may exist, except as otherwise provided in the contract of sale of the property.



Buyer [Signature]

Seller [Signature]



At the time the disclosure or disclaimer statement is delivered to you ("the buyer"), you are required to date and sign a written acknowledgement of receipt on the disclosure or disclaimer statement which shall be included in or attached to the contract of sale.

Section 10-702 further provides that a buyer who receives the disclosure or disclaimer statement on or before entering into a contract of sale does not have the right to rescind the contract based upon the information contained in the disclosure or disclaimer statement.

You are hereby notified that, in certain circumstances, you have the right to rescind your contract with the seller if the seller fails to deliver to you the written property condition disclosure or disclaimer statement. Section 10-702 provides that a buyer who does not receive the disclosure or disclaimer statement on or before entering into the contract has the unconditional right, upon written notice to the seller or seller's agent:

- (i) To rescind the contract at any time before the receipt of the disclosure or disclaimer statement or within 5 days following receipt of the disclosure or disclaimer statement; and
- (ii) To the immediate return of any deposits made on account of the contract.

Your right to rescind the contract under Section 10-702 terminates if not exercised before making a written application to a lender for a mortgage loan, if the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application or within 5 days following receipt of a written disclosure from a lender who has received your application for a mortgage loan, if the lender's disclosure states that your right to rescind terminates at the end of that 5 day period.

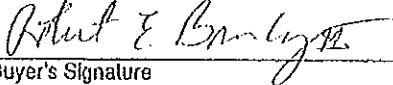
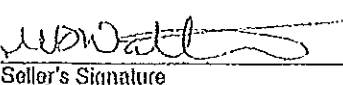
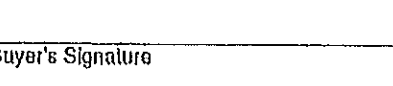
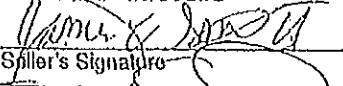


Your rights as a buyer under Section 10-702 may not be waived in the contract and any attempted waiver is void. Your rights as the buyer to terminate the contract under Section 10-702 are waived conclusively if not exercised before:

- (i) Closing or occupancy by you, whichever occurs first, in the event of a sale; or
- (ii) Occupancy, in the event of a lease with option to purchase.

The information contained in the property condition disclosure statement is the representation of the seller and not the representation of the real estate broker or sales person, if any. A disclosure by the seller is not a substitute for an inspection by an independent professional home inspection company. You should consider obtaining such an inspection. The information contained in a disclosure statement by the seller is not a warranty by the seller as to the condition of the property of which condition the seller has no actual knowledge or other condition, including latent defects, of which the seller has no actual knowledge. The seller is not required to undertake or provide an independent investigation or inspection of the property in order to make the disclosures required by Section 10-702. The seller is not liable for an error, inaccuracy or omission in the disclosure statement if the error, inaccuracy or omission was based upon information that was not within the actual knowledge of the seller or was provided to the seller by a third party as specified in Section 10-702(i) or (j).

You may wish to obtain professional advice about the property or obtain an inspection of the property.

The undersigned buyer(s) and seller(s) acknowledge receipt of this notice on the date indicated below and acknowledge that the real estate licensee(s) named below have informed the buyer(s) and the seller(s) of the buyer(s)' rights and the seller(s)' obligations under Section 10-702.

 Buyer's Signature	<u>3/15/17</u> Date	 Seller's Signature Barbara D. Watters	<u>8/19/16</u> Date
 Buyer's Signature	<u> </u> Date	 Seller's Signature	<u>8/19/16</u> Date
 Agent's Signature	<u> </u> Date	 Agent's Signature	<u>8/19/16</u> Date

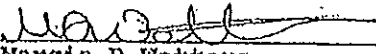
Copyright 2014 Maryland Association of REALTORS®, Inc. For use by REALTOR® members of the Maryland Association of REALTORS® only. Except as negotiated by the parties to the Contract, this form may not be altered or modified in any form without the prior expressed written consent of the Maryland Association of REALTORS®, Inc.

APPENDIX B
REAL ESTATE TRANSFER DISCLOSURE STATEMENT

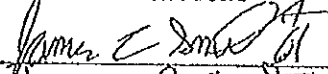
THIS REAL ESTATE TRANSFER DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY LOCATED IN WASHINGTON COUNTY, STATE OF MARYLAND, DESCRIBED AS 11850 Indian Ln. THIS STATEMENT IS A DISCLOSURE OF THE EXISTENCE OF THE RIGHT TO FARM ORDINANCE FOR WASHINGTON COUNTY ("THE ORDINANCE") AS REQUIRED BY THE ORDINANCE.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

WASHINGTON COUNTY ALLOWS AGRICULTURAL OPERATIONS (as defined in the Ordinance) WITHIN THE COUNTY. You may be subject to inconveniences or discomfort arising from such operations, including but not limited to noise, odors, fumes, dust, flies, the operation of machinery of any kind during any 24-hours period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. Washington County has determined that inconveniences or discomforts associated with such agricultural operations, shall not be considered to be an interference with the reasonable use and enjoyment of land, if such operations are conducted in accordance with Generally Accepted Agricultural Management Practices. Washington County has established a reconciliation board to assist in the resolution of disputes that might arise between persons in this County regarding whether agricultural operations conducted on Agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with Generally Accepted Agricultural Practices. If you have any question concerning this policy or the reconciliation board, please contact the Washington County Planning Department for additional information.

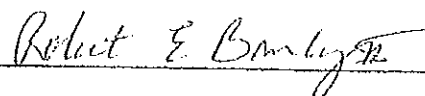
Seller: 
Marcia D. Watters

Date: 8/19/16

Seller: 
James C. Smith II

Date: 8/19/16

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT:

Buyer: 

Date: 3/15/17

Buyer: _____

Date: _____

IF YOU DESIRE LEGAL ADVICE CONCERNING THE EFFECT OF THIS DISCLOSURE, PLEASE CONSULT YOUR ATTORNEY.



Authorization and Agreement to Negotiate Contract/Lease
And Conduct Transaction Electronically



The Contract of Sale/Lease dated _____, Address 11850 Indian Ln,
City Hagerstown, State MD Zip 21742-4206
Between Seller/Landlord Marcia D Watters

And Buyer/Tenant _____ is
hereby amended by the incorporation of this Addendum, which shall supersede any provisions to the contrary in the Contract or Lease.

In accordance with the Uniform Electronic Transactions Act ("UETA") and the Electronic Signatures in Global and National Commerce Act, or "E-Sign" ("The Act"), and other applicable state or local legislation regarding Electronic Signatures and Transactions, the undersigned do hereby expressly authorize and agree to the use of electronic signatures ("E-Sigs") as an additional method of signing and/or initialing this Contract/Lease.


In the event a third party to the transaction completed by this Contract or Lease (Lender, Title, Insurer, Hazard Insurance Company, etc.) requires that the Agreement be executed with handwritten signature(s), the parties mutually agree to re-execute the documents comprising the Contract or Lease with handwritten signatures in a timely manner. The Buyer and Seller are advised to confirm the acceptance of the use of E-Sigs with third parties in advance.

In order to assure the authenticity of their electronic signatures, to demonstrate the parties intent, and to provide for auditable proof of the signature(s) to assure non-repudiation, the parties hereby agree that either party may sign electronically by utilizing the following Digital Signature Service:

Doc U Sign


Seller's Signature/Date
Marcia D Watters

 3/13/17
Buyer's Signature/Date

 8-14-16
Seller's Signature/Date
James C. Smith II

Buyer's Signature/Date



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RE/MAX Achievers, 222 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Phone: 301-573-8302 Fax: (301)739-0853 Sherry Seire

Produced with the Form by eLogic 16070 Eileen M. Road, Flossie, Michigan 48026 www.eLogic.com

Watters

GENERAL ADDENDUM A

Special provisions attached to and hereby made a part thereof, the Contract dated ____

on Lot _____, Block _____, Subdivision _____

11850 Indian Ln, Hagerstown, MP 21742-4206

located in _____, Washington _____ County, Maryland between

(Purchasers) _____

and (Sellers) Marcia D Watters, James C Smith II _____.

TITLE DEFECTS

If Seller shall be unable to convey and assign a good and merchantable title to the real property because of some title defect, or shall be unable to convey said real property free and clear of all liens and encumbrances at the time of settlement, the sole obligation of the Seller shall be to refund to Buyer any sums paid as a deposit, and this Contract shall cease and terminate. Seller shall not be required to take any action to render title merchantable. Buyer may, nevertheless, accept such title as Seller may be able to transfer or convey, without reduction of the purchase price or any allowance against the same and without any other liability on Seller. The acceptance of a deed to the real property by Buyer shall be deemed full performance by Seller of all obligations hereunder.

RISK OF LOSS/INSURANCE

The property is to be held at the risk of the Seller until possession has been given to Buyer; it is also understood and agreed that the Seller shall immediately have all of the insurance policies on the property so endorsed as to continue said insurance in force in accordance with this Contract. "Possession" shall be defined as acceptance of deed by Buyer at settlement.

LAND LEASE AGREEMENT

A portion of the real property is subject to a Land Lease Agreement dated March 16, 2011, by and between the Seller and Celco Partnership d/b/a Verizon Wireless. Upon settlement, all of Seller's rights and obligations under the terms of the Land Lease Agreement shall inure to the benefit of Buyer. Seller shall take any and all steps necessary to assign its rights under the Land Lease Agreement to Buyer. Seller shall assist Buyer in any questions regarding the Agreement and/or procedures and practices relating to it. Buyer recognizes that Celco has a right of first refusal under the Land Lease Agreement.

EFFECTIVE DATE

This Agreement is contingent upon approval of the same by the Buyer's Board and said approval becoming legally effective.

To the extent that there is a conflict between these General Addendum provisions and any other provision of the Contract, the General Addendum provision(s) shall control.


Seller Marcia D Watters

 3/16/17

Seller James C Smith II

 3/16/17

Purchaser City of Hagerstown

 3/15/17

BY: Robert E. Bruchey, II, Mayor

Date

Date FORM #1320

7/05

RE/MAX Achievers, 222 E. Oak Ridge Drive, Suite 2000 Hagerstown, MD 21740
Phone: 301-573-8302

Fax: (301) 739-0853

Sherry Seire

Produced with ZiplForm® by zipl.ogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipl.ogix.com

Walters

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

Topic:

Approval of a Resolution: 2017 Summer Play Camp Robert W. Johnson Community Center, Inc.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Summer_Play_Camp_Resolutions.pdf

Summer_Camp_Robert_W__Johnson_Center_2017.pdf

Description

Motion and Resolution
Agreement - Robert W.
Johnson Community Center,
Inc.

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 28, 2017

TOPIC: 2017 Summer Play Camp Operations

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

MOTION: I hereby move for the approval of Resolutions to authorize the execution of contracts with the Robert W. Johnson Community Center, Inc., Hagerstown YMCA, and Girls, Inc. of Washington County to operate summer play camps for the 2017 season from June 19th through August 11th. Each camp will serve approximately 60-80 youths per day. Funding is from the Parks & Recreation operating budget.

DATE OF PASSAGE: 3/28/2017

City of
Hagerstown

SUMMER DAY CAMPS

The free summer camps are funded by the City of Hagerstown Recreation Division.girls
inc.®

626 Washington Ave.

Scholarships
Available

REGISTRATION OPENS MAY 1

Ages 6-18 | Activities include swimming three days a week, sports, arts and crafts, recreational games, hands on gooey science experiments, weekly field trips including National Zoo, Turkey Hill Experience and so much more. Program offers a variety of age-appropriate activities where girls have fun, make new friends, develop new skills, experience new things; all in a safe, nurturing environment.

HOURS: M-F, 8:30am-3:30pm. Early drop off and late pick up are available for a nominal fee.

DATES: Camp runs weekly June 19-August 11. *Closed the week of July 10-14.*

WEEKLY COST: \$90 for non-members; \$60 for members. *Registration for week one must be completed by June 14.* Contact Amy Hiet 301.733.5430 or Amyh@girlsinc-md.org.

ROBERT W. JOHNSON
COMMUNITY
CENTERRobert W. Johnson
Community Center, Inc.
109 W. North Avenue

REGISTRATION OPENS APRIL 14

Ages 6-12 | Activities include: sports, games, arts and crafts, STEM curriculum and swimming at RWJCC pool Monday, Wednesday and Friday. Breakfast and lunch provided.

HOURS: 9am-3pm. Early drop off and late pick up are available upon request for a nominal fee.

DATES: Camp runs weekly June 19 - August 11. First come first served basis. Applications are available at RWJCC or call 301-790-0203.

FREE



1100 Eastern Boulevard

REGISTRATION OPENS MARCH 19

Hellane Park (Ages 6-12) | Activities include sports, games, arts and crafts, math and reading enrichment, science and nature. Swimming at Potterfield Pool on Wednesday and Friday. Breakfast and lunch provided.

HOURS: 9:30am-2:30pm

Pangborn Park (Ages 6-12) | Activities include sports, games, arts and crafts, math and reading enrichment, science and nature. Swimming at Potterfield Pool on Wednesday and Friday. Breakfast and lunch provided.

HOURS: 9:30am-2:30pm

DATES: Camp runs from June 19-August 11. A form needs to be filled out at the Front Desk of the YMCA. Visit www.ymcahagerstown.org or call 301.739.3990.

FREE

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND ROBERT W. JOHNSON COMMUNITY
CENTER, INC.**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, the Robert W. Johnson Community Center, Inc. has previously conducted summer play camp operations; and

WHEREAS, the Robert W. Johnson Community Center, Inc. has requested the opportunity to conduct summer play camp operations during the 2017 summer season at Wheaton Park; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and the Robert W. Johnson Community Center, Inc., a copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017

PREPARED BY:

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND THE HAGERSTOWN YMCA**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, The Hagerstown YMCA has previously conducted summer play camp operations at two City park locations; and

WHEREAS, The Hagerstown YMCA has requested the opportunity to conduct summer play camp operations during the 2017 summer season at Hellane Park and Pangborn Park; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and the Hagerstown YMCA, a copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
Salvatore & Morton, LLC, City Attorney

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND GIRLS, INC. OF WASHINGTON COUNTY**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, Girls, Incorporated of Washington County (Girls, Inc.) has previously conducted summer play camp operations; and

WHEREAS, Girls, Inc. has requested the opportunity to conduct summer play camp operations during the 2017 summer season at the Girls, Inc. Center; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and Girls, Inc. of Washington County, copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
Salvatore & Morton, LLC, City Attorney

**CONTRACT
FOR THE PROVISION OF
Summer Camp Programming**

Between

THE CITY OF HAGERSTOWN

AND

THE ROBERT W. JOHNSON COMMUNITY CENTER, INC.

THIS AGREEMENT is made as of this _____ day of _____, 2017, by and between the City of Hagerstown, and The Robert W. Johnson Community Center, Inc. hereinafter "Contractor".

1. **Work Effort.** Contractor hereby agrees to provide the services described and defined in the program proposal submitted by Contractor which is attached hereto and incorporated herein by reference.
2. **Purpose of Contract.** The purpose of this Contract is to provide summer camp for eighty (80) participants at Wheaton Park. The program will be conducted Monday-Friday, **June 19 – August 11, 2017**. The programs will be free of charge to the children (ages 5 – 13) and their families.
3. **Contract Period.** This Contract shall commence as of **June 19, 2017, and shall terminate on August 11, 2017**. Any renewal of this Contract is subject to available funding and performance by Contractor satisfactory to the City of Hagerstown.
4. **Compensation and Invoicing.**
 - A. For the provision of services described above, Contractor shall be compensated monthly as specified under Section 5.
 - B. Contractor shall invoice the City of Hagerstown on a monthly basis for work satisfactorily completed and costs actually incurred. Each invoice must include a description of the number of participants receiving services, and the services performed and costs incurred on a daily or "fee for service" type basis, for the period covered by the invoice. Contractor's invoices shall be sent to: City of Hagerstown, Parks & Recreation Division, 351 N. Cleveland Ave., Hagerstown, MD 21740, will be reviewed and verified for work accomplished as set forth in the statement of work and when certified as acceptable, will be forwarded to the Accounting Department for payment.
 - C. In the event of dispute, the City of Hagerstown reserves the right to withhold payment of the disputed amount until such time as the dispute is

resolved, the deficient work corrected, or settlement is achieved through other means.

5. **Consideration, Payment, and Performance:**

- A. **Billing.** Contractor shall bill monthly based upon the actual expenditures incurred during the preceding month in accordance with the approved expenditures set forth in the Budget. All Summer Camp programming forms prepared by the City of Hagerstown must be completed by the Contractor in accordance with the required information and accompany the monthly invoices. Monthly invoices must be received by the City of Hagerstown, Parks & Recreation Division, by the 10th of the month following the month for which the invoice is submitted. The Contractor may receive, upon request, an initial drawdown in an amount not to exceed 5% of the funding award, which shall be applied against monthly invoices. Once invoices of actual expenditures exceed the initial drawdown, payments will be made. The maximum sum which Contractor may receive under this Contract is **\$27,900.00**, the total sum of the funding award.
- B. **Payment to Contractor.** Payment to the Contractor pursuant to this Contract in excess of any drawdown shall be due and payable within thirty (30) days after receipt by the City of Hagerstown of a proper invoice from the Contractor.
- C. **Unauthorized Expenditures.** Contractor's unauthorized expenditures shall be the sole and exclusive responsibility of the Contractor. Unauthorized expenditures include but are not necessarily limited to:
 - 1) those which cause total expenditures to exceed the amount of the approved budget;
 - 2) unbudgeted expenditures;
 - 3) those which differ from the approved budgeted amount; and
 - 4) those which are at variance with an explicit provision of this Contract.
- D. **Reconciliation.** Reconciliation is a fiscal resolution of the Contract pending audit, usually conducted at the termination of the Contract period and at the end of the City of Hagerstown's fiscal year. Reconciliation is based upon reported expenditures and income, subject to correction by the City of Hagerstown. Reconciliation will be conducted in accordance with the terms of the Contract. Based on the review of the final report, any funds due to the City of Hagerstown or the Contractor are due at the conclusion of the reconciliation. Any funds not expended or appropriately retained within the fiscal year must be refunded to the City of Hagerstown.

It is understood and agreed that the City of Hagerstown, its officials, agents, servants, and employees, shall not be responsible for the financial records of the Contractor and shall not be liable for any acts or omissions of the Contractor, its subcontractors, agents, or assignees committed in connection therewith.

- E. **Audit.** The Contractor agrees that the City of Hagerstown and/or its authorized representatives for a period of five (5) years after complete performance or earlier termination of this Contract shall have access to and the right to audit all documents pertaining to the operation of the Contractor's Summer Camp Program.
6. **Budget Modification.** The Contractor may request a budget modification to reallocate the existing budget at any time prior to the expiration of the Contract. A modification does not affect the amount of the award but may affect the amount available for other services. The Contractor must submit a request to the City of Hagerstown Parks & Recreation Division for budget modification:
- 1) Whenever a change would affect any of the following controlled line items reported on the approved budget:
 - a) total salaries, consultant, and/or fringe costs increased by 5% of the budgeted amount
 - b) equipment increases over the budgeted amount; and
 - c) purchase of service increases over the budgeted amount and/or renovation or remodeling increases over the budgeted amount;
 - 2) Whenever a new estimate of third-party income (including fee collections) is over or under the previous estimate of incomes by 5%; or
 - 3) To purchase additional items or substitute items that were not included in the approved budget.

A request for budget modification must be submitted for approval to the Parks & Recreation Division in writing with supporting documentation.

7. **Program Modifications.** No program changes will be authorized without the written approval of the City of Hagerstown and the Contractor. Properly authorized program modifications will become an addendum to this Contract. The City of Hagerstown hereby designates the Parks Superintendent to approve or disapprove any program modifications pertaining to a change to a personnel position listed on the approved budget, including a salary reduction or increase, a change which affects the project scope such as a change in target population or services to be provided, or a change in the dates of the program duration.
8. **Equipment.** All equipment having an acquisition cost of Five Hundred Dollars (\$500.00) or more per unit and a useful life of more than two (2) years which is purchased with funds received under this Contract ("Capital Equipment"), shall be the property of the City of Hagerstown and shall be conspicuously labeled by Contractor immediately after its purchase as "Property of the City of Hagerstown, Maryland." Within ten (10) days of the termination or expiration of this Contract, including any renewal period, Contractor shall furnish the City of Hagerstown with a written inventory of all Capital Equipment acquired under this Contract. If the City of Hagerstown does not take physical possession of an item of Capital

Equipment after the date of termination or expiration of this Contract, including any renewal period, that item of Capital Equipment shall automatically become the property of Contractor at the end of that twelve-month period.

9. **Program Evaluation Contract and Reporting.** The Contractor will be evaluated bi-monthly by the Parks Superintendent. Bi-monthly program reports submitted by the Contractor will be included in the bi-monthly evaluation. Both the Contractor and the Parks & Recreation Division will maintain copies of the evaluation reports.
10. **Meetings.** When requested by the Parks Superintendent, selected Contractor personnel shall attend meetings, conferences and presentations with the City of Hagerstown staff, public agencies, private organizations and others concerned with this project.
11. **Personnel.** Contractor represents that it has or will secure, at its own expense, all personnel needed to perform the services required to be performed by it under this Contract.
12. **Conflict of Interest.**
 - A. No official or employee of the City of Hagerstown, who exercises any functions or responsibilities in reviewing or approving the award or performance of this Contract during his/her tenure or one year thereafter shall have any personal interest, direct or indirect, apart from official duties, in this Contract or the proceeds thereof.
 - B. Contractor covenants that neither it nor any of its employees has any interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
13. **Execution of Contract.** This Contract may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.
14. **Ownership and Dissemination of Information.** During the term of this Contract and thereafter, Contractor shall not release any information related to the services or performance of the services under this Contract or publish any final reports or documents without the prior written approval of the City of Hagerstown, except as such release is mandated by federal or state law. Any reports, data, studies, or other materials in any form generated by or created in any way from or by the use of funds provided under this Contract shall be the sole and exclusive property of the City of Hagerstown.
15. **Sanctions upon Improper Acts.** If Contractor, or any of its officers, partners, principals, or agents, or if any employee of Contractor acting with Contractor's acquiescence, is convicted of a crime arising out of or in connection with the procurement of this Contract or the services or any payment under it, the Contract

may be terminated at the option of the City of Hagerstown. In the event of a conviction occurring after the expiration or termination of this Contract, Contractor shall be liable for the refund of all fees or profit paid under the Contract which is directly related to the criminal conduct.

16. **Miscellaneous Provisions.**

- A. **Applicable law.** The interpretation, performance, and enforcement of this Contract shall be governed by the law of the State of Maryland.
- B. **Amendments and Waivers.** This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract is superseded by this Contract. Any amendment, Program Modifications, or Budget Modifications to this Contract must be made in writing and signed by both parties, subject to any additional approvals required by State law.

No term or conditional provision of this Contract shall be deemed waived and no breach shall be excused by the action or inaction of a party.

- C. **Non-Discrimination in Employment.** Contractor affirms and agrees that in relation to employment and personnel practices, it does not and shall not discriminate on the basis of race, age, religion, color, national origin, gender, marital status, or physical or mental disability (except for such disability which reasonably precludes the performance of such employment). Contractor will take affirmative action to ensure that employees are hired and treated during employment without regard to said factors.

In addition, Contractor further certifies that it now complies and will continue to comply with all federal, state and local laws and regulations pertaining to equal employment opportunity and equal employment practices.

- D. **Contingent Fee Prohibition.** Contractor warrants that it has not employed or retained any person, or entity, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, or entity, any fee or any other consideration contingent on the making of this Contract.
- E. **Non-Availability of Funding.** If the City of Hagerstown fails to provide funds or if funds are not otherwise made available for the performance of this Contract, this Contract shall be cancelled/terminated automatically as of the beginning of the period for which funds are not so provided. The effect of cancellation/termination of this Contract will be to discharge both Contractor and the City of Hagerstown from future performance of the Contract, but not from their rights and obligations existing at the date of termination. Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The City of Hagerstown shall notify Contractor as soon as it has

knowledge that funds may not be available for the continuation of this Contract.

- F. Termination for Cause. If Contractor fails to perform any of its obligation under this Contract, including timely performance, or otherwise breaches any provision of this Contract, the City of Hagerstown may terminate this Contract upon thirty (30) days prior written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. The City of Hagerstown shall pay Contractor fair and equitable compensation for satisfactory performance prior to receipt of such a termination notice.
- G. Retention of Records. Contractor shall retain and maintain all records and documents relating to this contract for five (5) years after final payment by the City of Hagerstown hereunder and shall make them available for inspection at all reasonable times. In addition, where applicable and pursuant to 42 Code of Federal Regulations (CFR), Part 420, Contractor shall retain until the expiration of five (5) years after the services are furnished under this Contract such books, documents, and records as required by those regulations. This provision shall survive the termination of this Contract, by expiration or otherwise.
- H. Compliance with Laws. Contractor hereby represents and warrants that it shall comply with all federal, state and local laws, regulations, policies and ordinances applicable to its activities and obligations under this Contract, including the Americans with Disabilities Act of 1990, Public Law 101-336, as amended; and that it shall obtain all licenses, permits, insurance, and government approvals, if any, necessary to the performance of its obligations under this Contract.

Contractor further agrees to comply with all federal, state, and local laws, regulations, policies and ordinances as are applicable subsequent to the termination of this Contract, by expiration or otherwise, including those specifically related to confidentiality of records and information and to retention of records. Contractor understands, acknowledges and agrees that this provision shall survive the termination of this Contract, by expiration and otherwise.

- I. Liability for Lost Data. In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of Contractor, the Contractor shall be solely responsible for recreating such lost data or records.
- J. Subcontracting/Assignment. Contractor may not subcontract or assign any portion of its services to be provided under this Contract without prior written approval of the City of Hagerstown.
- K. Indemnification/Non-Liability. Contractor shall save and hold harmless and indemnify the City of Hagerstown against any liability and shall pay all judgments rendered against it for any and all loss or damage of whatever kind and nature, and for any suits, actions, or claims of any character arising from or as a consequence of the performance of

Contractor under this Contract, up to the amount for which the City of Hagerstown is found liable under the Local Government Tort Claims Act, MD Courts and Judicial Proceedings Code Ann., Sections 5-301, *et. seq.* Contractor shall notify the City of Hagerstown within five (5) days of any claim or suit made or filed against Contractor regarding any matter resulting from or relating to Contractor's obligations or performance under the Contract and, in addition to the other obligations set out in this Article, shall cooperate, assist, and consult with the City of Hagerstown in the defense or investigation of any claim, suit, or action made or filed against the City of Hagerstown as a result of or relating to Contractor's performance under this Contract.

Contractor shall maintain general liability insurance in a minimum amount of one million dollars per occurrence, two million dollars in the aggregate, naming the City of Hagerstown as an additional insured. Contractor shall also keep in place a commercially reasonable policy of Worker's Compensation Insurance. Contractor shall provide certificates of said insurance to the City of Hagerstown prior to the commencement of this Contract.

- L. Criminal Background Investigation. Contractor shall be responsible for completing criminal background investigations of all staff and volunteers providing service under this Contract, as mandated by law. Contractor shall maintain approved copies of reports of these background investigations in its personnel files and will also be responsible for complying with Family Law Article, 5-560 through 5-568, Annotated Code of Maryland.

In any case where a criminal record is reported, Contractor shall (1) notify the City of Hagerstown by the next work day and (2) take immediate and appropriate action to protect the safety and welfare of the children served hereunder.

- M. Independent Contractor Status. Contractor is an independent contractor and neither Contractor nor its employees, agents, or representatives shall be considered employees, agents or representatives of the City of Hagerstown. Nothing contained in the Contract is intended or should be construed as creating the relationship of co-partners or joint ventures, or an association of the City of Hagerstown and Contractor. From any amount due Contractor, there will be no deductions for federal income tax or FICA payments, nor for any State income tax, nor for any other purposes that are associated with any employer-employee relationship. Payment of federal income tax, FICA, and any State income tax shall be the responsibility of Contractor.
- N. Administration. The Parks Superintendent for the Parks & Recreation Division will serve as Contract Monitor. The Contractor agrees to permit the Contract Monitor to inspect any and all records of children and families pertaining to this Contract.

- O. Data. The Contractor agrees to observe all state and federal laws and regulations as to the disclosure of information and records on children being served. Written permission must be obtained from the City of Hagerstown prior to use or disclosure of such information.
- P. Word Forms. The use of any gender, tense or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.
- Q. Paragraph Headings. Any heading utilized is so used for reference and convenience only and is not intended to define or limit the scope of any provision of this Contract nor affect the interpretation thereof.
- R. Party's Authority. The individual(s) executing this Contract on behalf of Contractor hereby covenant and warrant that they are duly authorized to execute and deliver this Contract on behalf of the Contractor. Parks & Recreation is a Division of the City of Hagerstown and serves as its' agent for all purposes under this Contract.
- S. Recognition of Funding from City. Contractor shall acknowledge funding from the City of Hagerstown in all advertising, promotional materials, and signage.

IN WITNESS THEREOF, the parties have caused this Contract to be executed by affixing hereon their respective seals and signatures of the proper officers. It is recognized by and between the parties that it is necessary for the City to pass a Resolution approving the execution of this Agreement and the provisions hereof. In the event that said Resolution should not pass or should not become effective by virtue of a referendum or some other methodology or by operation of law, then in said event, this Agreement is null and void and of no effect. Otherwise, this Agreement shall be effective on the date on which it is passed and becomes legally effective

Witness

City of Hagerstown

Witness

Mayor Date

Organization Name (User)

Officer Signature Date

Officer Name (Printed)

Title

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

Topic:

Approval of a Resolution: 2017 Summer Play Camp - Hagerstown YMCA

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

contracts_for_summer_camps.2017.pdf

Summer_Camp_YMCA_2017.pdf

Description

Contracts for Summer Camp
Program

Agreement - YMCA



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

March 21, 2017

TO: Valerie Means, City Administrator
FROM: Rodney Tissue, City Engineer *Rev*
RE: Contracts for Summer Camp Program

1. Background

For at least the past 20 years, the City has funded local agencies to provide recreation services for children of our community by providing summer play camps. This year, the Hagerstown YMCA, the Robert W Johnson Community Center, and Girls, Inc. have all expressed continued interest in operating camps.

2. Mayor & Council Action Requested

Approve the funding amounts to be offered to the agencies and approve contracts with each agency at the March 28th Regular Session.

3. Proposals

In January, staff requested the agencies provide proposals for the camps they wish to run and the table below summarizes their requests:

Organization	Location	# Served Per Day	Time Frame Of Programs	Ages of Children	Date of Programs	2016 Requested Fee	2017 Requested Fee	Cost Per Day/Per Child Served
Hagerstown YMCA	Hellane Park	60	9:30am-2:30pm	6-12	6/19-8/11 M-F	\$16,171.50	\$16,787.00	\$6.99
Hagerstown YMCA	Pangborn Park	60	9:30am-2:30pm	6-12	6/19-8/11 M-F	\$16,171.50	\$16,787.00	\$6.99
R W Johnson Community Center	Wheaton Park	80	9:00am-3:00pm	5-13	6/19-8/11 M-F	\$25,600.00	\$27,900.00	\$8.72
Girls, Inc.	Girls, Inc.	70-100	7:45am-5:00pm	6-16	6/19-8/11 M-F	\$15,000.00	\$15,000.00	\$5.35*
TOTAL REQUEST						\$72,943.00	\$76,474.00	

* Girls, Inc. charges for their camp, but City funds provide financial aid to eligible campers to partially fund their fee.

The funding request increases are due to the minimum wage increase and additional regulatory costs for camps. Due to our funding constraints, we denied their request to have additional weeks due to the increase length of summer vacation. We attempt to assist the camp programs by encouraging them to use the Potterfield Pool and we attempt to assist with other programs.

4. Funding

Funding for the camps is provided in the operating budget of the Recreation Division of our department. In the FY17 budget and the proposed FY18 budget, \$75,000 is earmarked for camps. This is a significant part of the Recreation Division budget and this program represents about 24% of all recreation dollars spent by the City.

The City Attorney will develop contracts with the agencies. A sample of one from last summer is attached for your review.

Attachments: * Proposal from YMCA, RW Johnson Community Center, Girls, Inc.
 * Sample contract

RAT;jj

c: Mark Haddock
Amy Riley
Cathy Beach

**Hagerstown YMCA Summer Camp Funding Request
2017**

\$ Amount Requested	# of Campers to be Served	Typical Camp Hours	Weekly Staff Time	HOW ARE FUNDS USED?	Training
\$33,574	120	9:30 am - 2:30 pm		Supplies	
			1- Camp Director: \$16.50/hr x 30 hrs/wk (9 wks) = \$495.00 2- Site Director: \$10.25/hr & \$10.00/hr x 30 hrs/wk (9 wks) = \$607.50/wk	Staff Shirts/ Supplies/ Last Day Lunch: \$2,300 Telephone: \$180 Camp License: \$1,500 Bus Transportation: \$4,000	Employee Travel: \$220
Dates of Program	June 19- August 11 Monday - Friday		8- Camp Counselors: \$9.25/hr x 25 hrs/wk (8 wks) = \$1850/wk	Registration Processing: \$94 Printing/Publications: \$208	Staff Meeting/Training, Fingerprinting, Background checks, CPR and First Aid: \$350
Totals:			\$24,722	\$8,282	\$570

Additional Weeks of Camp (Per Week):	
Weekly Staff Time	Supplies
\$1,727.50	\$150

The YMCA provides various activities to the children who attend the Summer Park Programs. These activities include sports such as volleyball, kickball and flag football, educational games that encourage math and reading skills, and science and nature enrichment. The children participate in board games, arts and crafts and nature walks. The children also enjoy a trip to Potterfield pool twice a week. Last summer, the YMCA, through a grant from the United Way, provided another staff member to supplement summer learning loss. This additional staff member enriched our Summer Park Program by adding activities relating to reading and writing. The addition was well received by the attendees. We have applied for this grant again this year.

RWJCC

SUMMER CAMP FUNDING REQUEST

\$ Amount Requested List amount you requested for entire camp season	# Campers to be Served Estimated number of campers you will serve	Typical Camp Hours Hours of camp, # of hours campers are at camp in a typical week; and weeks of camp to be held	Programs Offered	HOW ARE FUNDS USED		
				Weekly Staff Time List staff positions and rates: example: Counselor - \$10/hr X 20 hrs/wk = \$200	Supplies List supplies to be purchased by the program	Training List training costs proposed to be covered
\$27,900	80	9a-3p	Breakfast Lunch	Executive Director (1) \$12/hr x 15/hr/wk = \$1440 Registration \$500	summer camp First Aid Kits	First Aid/CPR @ \$50 per person
		Monday-Friday	Swimming	Program Director (1) \$11/hr x 40/hr/wk = \$3,520		
		June 19-August 11	Art	Staff (8) \$9.25/hr x 30/hr/wk = \$17,100	Pool Permit	
				Lifeguards (2) \$9.50/hr x 15/hr/wk = \$2,280	Food Permit	
				CPO's (2) \$10/hr x 15/hr/wk = \$2,400		

Executive Director (1)
\$12/hr x 15 hr/wk = \$180

Program Director (1)
\$11/hr x 40/hr/wk = \$440

Staff (8)
\$9.25/hr x 30/hr/wk = \$2,220

Lifeguards (2)
\$9.50/hr x 15/hr/wk = \$285

CPO's (2)
\$10/hr x 15/hr/wk = \$300

* For an additional week of
RWJCC/Wheaton Park Summer

Camp:

Additional
\$3,425
requested for
nine (9) weeks
June 19-August 18, 201

GIRLS INC - SUMMER CAMP FUNDING REQUEST

\$ Amount Requested <i>List amount you request for the entire summer camp season</i>	# Campers to be Served <i>Estimated number of campers you will serve entire summer camp season</i>	Typical Camp Hours <i>Hours of camp, # of hours campers are at camp in a typical week; and weeks of camp to be held</i>	Programs Offered	HOW ARE FUNDS USED?		
				Weekly Staff Time <i>List staff positions and rates: example: Counselor: \$10/hr X 20 hrs/wk = \$200 /wk</i>	Supplies <i>List supplies to be purchased by the program</i>	Training <i>List training costs proposed to be covered</i>
\$ 15,000	2400 100 girls per day for 7 weeks	7:45 am - 5:00 pm	Literacy, Science, Math, Technology, Arts/Crafts, Educational Field Trips, Educational Guest Speakers	1 counselor: \$11/hr x 40 hrs/wk = \$440 wk (for 8 wks = \$3,520)	STEAM- supplies & materials for Science, Technology, Engineering, Arts and Math (1,100)	
		Each child can be at camp for 46.25 hours per/wk		1 counselor: \$10/hr x 40 hrs/wk = \$400 wk (for 8 wks = \$3,200)	Field Trip: A Turkey Hill Experience (\$775)	
		1 wk of planning & 7 weeks of camp		1 counselor: \$10/hr x 40 hrs/wk = \$400 wk (for 8 wks = \$3,200)	Field Trip: Lake Tobias Safari and Wildlife Park (\$850)	
					Field Trip Transportation (2 field trips w/2 buses each = \$2,355)	

**CONTRACT
FOR THE PROVISION OF
Summer Camp Programming**

Between

THE CITY OF HAGERSTOWN

AND

GIRLS INCORPORATED OF WASHINGTON COUNTY

THIS AGREEMENT is made as of this 22nd day of March, 2016, by and between the City of Hagerstown, and Girls Incorporated of Washington County hereinafter "Contractor".

1. **Work Effort.** Contractor hereby agrees to provide the services described and defined in the program proposal submitted by Contractor which is attached hereto and incorporated herein by reference.
2. **Purpose of Contract.** The purpose of this Contract is to provide summer camp for (80) – (100) participants at Girls Incorporated of Washington County. The program will be conducted Monday-Friday, **June 13 – August 5, 2016**. The program will be free of charge to the children (ages 6 – 16) and their families.
3. **Contract Period.** This Contract shall commence as of **June 13, 2016**, and shall terminate on **August 5, 2016**. Any renewal of this Contract is subject to available funding and performance by Contractor satisfactory to the City of Hagerstown.
4. **Compensation and Invoicing.**
 - A. For the provision of services described above; Contractor shall be compensated monthly as specified under Section 5.
 - B. Contractor shall invoice the City of Hagerstown on a monthly basis for work satisfactorily completed and costs actually incurred. Each invoice must include a description of the number of participants receiving services, and the services performed and costs incurred on a daily or "fee for service" type basis, for the period covered by the invoice. Contractor's invoices shall be sent to: City of Hagerstown, Parks & Recreation Division, 351 N. Cleveland Ave., Hagerstown, MD 21740, will be reviewed and verified for work accomplished as set forth in the statement of work and when certified as acceptable, will be forwarded to the Accounting Department for payment.
 - C. In the event of dispute, the City of Hagerstown reserves the right to withhold payment of the disputed amount until such time as the dispute is

resolved, the deficient work corrected, or settlement is achieved through other means.

5. Consideration, Payment, and Performance:

A. Billing. Contractor shall bill monthly based upon the actual expenditures incurred during the preceding month in accordance with the approved expenditures set forth in the Budget. All Summer Camp programming forms prepared by the City of Hagerstown must be completed by the Contractor in accordance with the required information and accompany the monthly invoices. Monthly invoices must be received by the City of Hagerstown, Parks & Recreation Division, by the 10th of the month following the month for which the invoice is submitted. The Contractor may receive, upon request, an initial drawdown in an amount not to exceed 5% of the funding award, which shall be applied against monthly invoices. Once invoices of actual expenditures exceed the initial drawdown, payments will be made. The maximum sum which Contractor may receive under this Contract is \$15,000, the total sum of the funding award.

B. Payment to Contractor. Payment to the Contractor pursuant to this Contract in excess of any drawdown shall be due and payable within thirty (30) days after receipt by the City of Hagerstown of a proper invoice from the Contractor.

C. Unauthorized Expenditures. Contractor's unauthorized expenditures shall be the sole and exclusive responsibility of the Contractor. Unauthorized expenditures include but are not necessarily limited to:

- 1) those which cause total expenditures to exceed the amount of the approved budget;
- 2) unbudgeted expenditures;
- 3) those which differ from the approved budgeted amount; and
- 4) those which are at variance with an explicit provision of this Contract.

D. Reconciliation. Reconciliation is a fiscal resolution of the Contract pending audit, usually conducted at the termination of the Contract period and at the end of the City of Hagerstown's fiscal year. Reconciliation is based upon reported expenditures and income, subject to correction by the City of Hagerstown. Reconciliation will be conducted in accordance with the terms of the Contract. Based on the review of the final report, any funds due to the City of Hagerstown or the Contractor are due at the conclusion of the reconciliation. Any funds not expended or appropriately retained within the fiscal year must be refunded to the City of Hagerstown.

It is understood and agreed that the City of Hagerstown, its officials, agents, servants, and employees, shall not be responsible for the financial records of the Contractor and shall not be liable for any acts or omissions of the Contractor, its subcontractors, agents, or assignees committed in connection therewith.

- E. Audit. The Contractor agrees that the City of Hagerstown and/or its authorized representatives for a period of five (5) years after complete performance or earlier termination of this Contract shall have access to and the right to audit all documents pertaining to the operation of the Contractor's Summer Camp Program.
6. Budget Modification. The Contractor may request a budget modification to reallocate the existing budget at any time prior to the expiration of the Contract. A modification does not affect the amount of the award but may affect the amount available for other services. The Contractor must submit a request to the City of Hagerstown Parks & Recreation Division for budget modification:
- 1) Whenever a change would affect any of the following controlled line items reported on the approved budget:
 - a) total salaries, consultant, and/or fringe costs increased by 5% of the budgeted amount
 - b) equipment increases over the budgeted amount; and
 - c) purchase of service increases over the budgeted amount and/or renovation or remodeling increases over the budgeted amount;
 - 2) Whenever a new estimate of third-party income (including fee collections) is over or under the previous estimate of incomes by 5%; or
 - 3) To purchase additional items or substitute items that were not included in the approved budget.

A request for budget modification must be submitted for approval to the Parks & Recreation Division in writing with supporting documentation.

7. Program Modifications. No program changes will be authorized without the written approval of the City of Hagerstown and the Contractor. Properly authorized program modifications will become an addendum to this Contract. The City of Hagerstown hereby designates the Parks Superintendent to approve or disapprove any program modifications pertaining to a change to a personnel position listed on the approved budget, including a salary reduction or increase, a change which affects the project scope such as a change in target population or services to be provided, or a change in the dates of the program duration.
8. Equipment. All equipment having an acquisition cost of Five Hundred Dollars (\$500.00) or more per unit and a useful life of more than two (2) years which is purchased with funds received under this Contract ("Capital Equipment"), shall be the property of the City of Hagerstown and shall be conspicuously labeled by Contractor immediately after its purchase as "Property of the City of Hagerstown, Maryland." Within ten (10) days of the termination or expiration of this Contract, including any renewal period, Contractor shall furnish the City of Hagerstown with a written inventory of all Capital Equipment acquired under this Contract. If the City of Hagerstown does not take physical possession of an item of Capital

Equipment after the date of termination or expiration of this Contract, including any renewal period, that item of Capital Equipment shall automatically become the property of Contractor at the end of that twelve-month period.

9. **Program Evaluation Contract and Reporting.** The Contractor will be evaluated bi-monthly by the Parks Superintendent. Bi-monthly program reports submitted by the Contractor will be included in the bi-monthly evaluation. Both the Contractor and the Parks & Recreation Division will maintain copies of the evaluation reports.
10. **Meetings.** When requested by the Parks Superintendent, selected Contractor personnel shall attend meetings, conferences and presentations with the City of Hagerstown staff, public agencies, private organizations and others concerned with this project.
11. **Personnel.** Contractor represents that it has or will secure, at its own expense, all personnel needed to perform the services required to be performed by it under this Contract.
12. **Conflict of Interest.**
 - A. No official or employee of the City of Hagerstown, who exercises any functions or responsibilities in reviewing or approving the award or performance of this Contract during his/her tenure or one year thereafter shall have any personal interest, direct or indirect, apart from official duties, in this Contract or the proceeds thereof.
 - B. Contractor covenants that neither it nor any of its employees has any interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
13. **Execution of Contract.** This Contract may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.
14. **Ownership and Dissemination of Information.** During the term of this Contract and thereafter, Contractor shall not release any information related to the services or performance of the services under this Contract or publish any final reports or documents without the prior written approval of the City of Hagerstown, except as such release is mandated by federal or state law. Any reports, data, studies, or other materials in any form generated by or created in any way from or by the use of funds provided under this Contract shall be the sole and exclusive property of the City of Hagerstown.
15. **Sanctions upon Improper Acts.** If Contractor, or any of its officers, partners, principals, or agents, or if any employee of Contractor acting with Contractor's acquiescence, is convicted of a crime arising out of or in connection with the procurement of this Contract or the services or any payment under it, the Contract

may be terminated at the option of the City of Hagerstown. In the event of a conviction occurring after the expiration or termination of this Contract, Contractor shall be liable for the refund of all fees or profit paid under the Contract which is directly related to the criminal conduct.

16. Miscellaneous Provisions.

- A. Applicable law. The interpretation, performance, and enforcement of this Contract shall be governed by the law of the State of Maryland.
- B. Amendments and Waivers. This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract is superseded by this Contract. Any amendment, Program Modifications, or Budget Modifications to this Contract must be made in writing and signed by both parties, subject to any additional approvals required by State law.

No term or conditional provision of this Contract shall be deemed waived and no breach shall be excused by the action or inaction of a party.

- C. Non-Discrimination in Employment. Contractor affirms and agrees that in relation to employment and personnel practices, it does not and shall not discriminate on the basis of race, age, religion, color, national origin, gender, marital status, or physical or mental disability (except for such disability which reasonably precludes the performance of such employment). Contractor will take affirmative action to ensure that employees are hired and treated during employment without regard to said factors.

In addition, Contractor further certifies that it now complies and will continue to comply with all federal, state and local laws and regulations pertaining to equal employment opportunity and equal employment practices.

- D. Contingent Fee Prohibition. Contractor warrants that it has not employed or retained any person, or entity, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, or entity, any fee or any other consideration contingent on the making of this Contract.
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knowledge that funds may not be available for the continuation of this Contract.

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- G. Retention of Records. Contractor shall retain and maintain all records and documents relating to this contract for five (5) years after final payment by the City of Hagerstown hereunder and shall make them available for inspection at all reasonable times. In addition, where applicable and pursuant to 42 Code of Federal Regulations (CFR), Part 420, Contractor shall retain until the expiration of five (5) years after the services are furnished under this Contract such books, documents, and records as required by those regulations. This provision shall survive the termination of this Contract, by expiration or otherwise.
- H. Compliance with Laws. Contractor hereby represents and warrants that it shall comply with all federal, state and local laws, regulations, policies and ordinances applicable to its activities and obligations under this Contract, including the Americans with Disabilities Act of 1990, Public Law 101-336, as amended; and that it shall obtain all licenses, permits, insurance, and government approvals, if any, necessary to the performance of its obligations under this Contract.

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Contractor under this Contract, up to the amount for which the City of Hagerstown is found liable under the Local Government Tort Claims Act, MD Courts and Judicial Proceedings Code Ann., Sections 5-301, *et. seq.* Contractor shall notify the City of Hagerstown within five (5) days of any claim or suit made or filed against Contractor regarding any matter resulting from or relating to Contractor's obligations or performance under the Contract and, in addition to the other obligations set out in this Article, shall cooperate, assist, and consult with the City of Hagerstown in the defense or investigation of any claim, suit, or action made or filed against the City of Hagerstown as a result of or relating to Contractor's performance under this Contract.

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- L. Criminal Background Investigation. Contractor shall be responsible for completing criminal background investigations of all staff and volunteers providing service under this Contract, as mandated by law. Contractor shall maintain approved copies of reports of these background investigations in its personnel files and will also be responsible for complying with Family Law Article, 5-560 through 5-568, Annotated Code of Maryland.

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- N. Administration. The Parks Superintendent for the Parks & Recreation Division will serve as Contract Monitor. The Contractor agrees to permit the Contract Monitor to inspect any and all records of children and families pertaining to this Contract.

- O. Data. The Contractor agrees to observe all state and federal laws and regulations as to the disclosure of information and records on children being served. Written permission must be obtained from the City of Hagerstown prior to use or disclosure of such information.
- P. Word Forms. The use of any gender, tense or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.
- Q. Paragraph Headings. Any heading utilized is so used for reference and convenience only and is not intended to define or limit the scope of any provision of this Contract nor affect the interpretation thereof.
- R. Party's Authority. The individual(s) executing this Contract on behalf of Contractor hereby covenant and warrant that they are duly authorized to execute and deliver this Contract on behalf of the Contractor. Parks & Recreation is a Division of the City of Hagerstown and serves as its' agent for all purposes under this Contract.

IN WITNESS THEREOF, the parties have caused this Contract to be executed by affixing hereon their respective seals and signatures of the proper officers. This Contract is effective as of the day and year first above written.

Witness

City of Hagerstown

Dona H. Spicker

David S. Herbert 3/22/16
Mayor Date

Witness

Girls Incorporated
Organization Name (User)

[Signature]
Officer Signature

3/29/16
Date

Maureen Grove

Officer Name (Printed)

Executive Director

Title

**CONTRACT
FOR THE PROVISION OF
Summer Camp Programming**

Between

THE CITY OF HAGERSTOWN

AND

THE HAGERSTOWN YMCA

THIS AGREEMENT is made as of this _____ day of _____, 2017, by and between the City of Hagerstown, and The Hagerstown YMCA hereinafter "Contractor".

1. **Work Effort.** Contractor hereby agrees to provide the services described and defined in the program proposal submitted by Contractor which is attached hereto and incorporated herein by reference.
2. **Purpose of Contract.** The purpose of this Contract is to provide two (2) summer play camp sites at Hellane Park and Pangborn Park. The programs will be conducted Monday-Friday, **June 19 – August 11, 2017**. It is proposed that sixty (60) children will be served at each site on a daily basis. The programs will be free of charge to the children (ages 6 – 12) and their families.
3. **Contract Period.** This Contract shall commence as of **June 19, 2017, and shall terminate on August 11, 2017**. Any renewal of this Contract is subject to available funding and performance by Contractor satisfactory to the City of Hagerstown.
4. **Compensation and Invoicing.**
 - A. For the provision of services described above, Contractor shall be compensated monthly as specified under Section 5.
 - B. Contractor shall invoice the City of Hagerstown on a monthly basis for work satisfactorily completed and costs actually incurred. Each invoice must include a description of the number of participants receiving services, and the services performed and costs incurred on a daily or "fee for service" type basis, for the period covered by the invoice. Contractor's invoices shall be sent to: City of Hagerstown, Parks & Recreation Division, 351 N. Cleveland Ave., Hagerstown, MD 21740, will be reviewed and verified for work accomplished as set forth in the statement of work and when certified as acceptable, will be forwarded to the Accounting Department for payment.
 - C. In the event of dispute, the City of Hagerstown reserves the right to withhold payment of the disputed amount until such time as the dispute is

resolved, the deficient work corrected, or settlement is achieved through other means.

5. **Consideration, Payment, and Performance:**

- A. **Billing.** Contractor shall bill monthly based upon the actual expenditures incurred during the preceding month in accordance with the approved expenditures set forth in the Budget. All Summer Camp programming forms prepared by the City of Hagerstown must be completed by the Contractor in accordance with the required information and accompany the monthly invoices. Monthly invoices must be received by the City of Hagerstown, Parks & Recreation Division, by the 10th of the month following the month for which the invoice is submitted. The Contractor may receive, upon request, an initial drawdown in an amount not to exceed 5% of the funding award, which shall be applied against monthly invoices. Once invoices of actual expenditures exceed the initial drawdown, payments will be made. The maximum sum which Contractor may receive under this Contract is **\$33,574.00**, the total sum of the funding award.
- B. **Payment to Contractor.** Payment to the Contractor pursuant to this Contract in excess of any drawdown shall be due and payable within thirty (30) days after receipt by the City of Hagerstown of a proper invoice from the Contractor.
- C. **Unauthorized Expenditures.** Contractor's unauthorized expenditures shall be the sole and exclusive responsibility of the Contractor. Unauthorized expenditures include but are not necessarily limited to:
 - 1) those which cause total expenditures to exceed the amount of the approved budget;
 - 2) unbudgeted expenditures;
 - 3) those which differ from the approved budgeted amount; and
 - 4) those which are at variance with an explicit provision of this Contract.
- D. **Reconciliation.** Reconciliation is a fiscal resolution of the Contract pending audit, usually conducted at the termination of the Contract period and at the end of the City of Hagerstown's fiscal year. Reconciliation is based upon reported expenditures and income, subject to correction by the City of Hagerstown. Reconciliation will be conducted in accordance with the terms of the Contract. Based on the review of the final report, any funds due to the City of Hagerstown or the Contractor are due at the conclusion of the reconciliation. Any funds not expended or appropriately retained within the fiscal year must be refunded to the City of Hagerstown.

It is understood and agreed that the City of Hagerstown, its officials, agents, servants, and employees, shall not be responsible for the financial records of the Contractor and shall not be liable for any acts or omissions of the Contractor, its subcontractors, agents, or assignees committed in connection therewith.

- E. **Audit.** The Contractor agrees that the City of Hagerstown and/or its authorized representatives for a period of five (5) years after complete performance or earlier termination of this Contract shall have access to and the right to audit all documents pertaining to the operation of the Contractor's Summer Camp Program.
6. **Budget Modification.** The Contractor may request a budget modification to reallocate the existing budget at any time prior to the expiration of the Contract. A modification does not affect the amount of the award but may affect the amount available for other services. The Contractor must submit a request to the City of Hagerstown Parks & Recreation Division for budget modification:
- 1) Whenever a change would affect any of the following controlled line items reported on the approved budget:
 - a) total salaries, consultant, and/or fringe costs increased by 5% of the budgeted amount
 - b) equipment increases over the budgeted amount; and
 - c) purchase of service increases over the budgeted amount and/or renovation or remodeling increases over the budgeted amount;
 - 2) Whenever a new estimate of third-party income (including fee collections) is over or under the previous estimate of incomes by 5%; or
 - 3) To purchase additional items or substitute items that were not included in the approved budget.

A request for budget modification must be submitted for approval to the Parks & Recreation Division in writing with supporting documentation.

7. **Program Modifications.** No program changes will be authorized without the written approval of the City of Hagerstown and the Contractor. Properly authorized program modifications will become an addendum to this Contract. The City of Hagerstown hereby designates the Parks Superintendent to approve or disapprove any program modifications pertaining to a change to a personnel position listed on the approved budget, including a salary reduction or increase, a change which affects the project scope such as a change in target population or services to be provided, or a change in the dates of the program duration.
8. **Equipment.** All equipment having an acquisition cost of Five Hundred Dollars (\$500.00) or more per unit and a useful life of more than two (2) years which is purchased with funds received under this Contract ("Capital Equipment"), shall be the property of the City of Hagerstown and shall be conspicuously labeled by Contractor immediately after its purchase as "Property of the City of Hagerstown, Maryland." Within ten (10) days of the termination or expiration of this Contract, including any renewal period, Contractor shall furnish the City of Hagerstown with a written inventory of all Capital Equipment acquired under this Contract. If the City of Hagerstown does not take physical possession of an item of Capital

Equipment after the date of termination or expiration of this Contract, including any renewal period, that item of Capital Equipment shall automatically become the property of Contractor at the end of that twelve-month period.

9. **Program Evaluation Contract and Reporting.** The Contractor will be evaluated bi-monthly by the Parks Superintendent. Bi-monthly program reports submitted by the Contractor will be included in the bi-monthly evaluation. Both the Contractor and the Parks & Recreation Division will maintain copies of the evaluation reports.
10. **Meetings.** When requested by the Parks Superintendent, selected Contractor personnel shall attend meetings, conferences and presentations with the City of Hagerstown staff, public agencies, private organizations and others concerned with this project.
11. **Personnel.** Contractor represents that it has or will secure, at its own expense, all personnel needed to perform the services required to be performed by it under this Contract.
12. **Conflict of Interest.**
 - A. No official or employee of the City of Hagerstown, who exercises any functions or responsibilities in reviewing or approving the award or performance of this Contract during his/her tenure or one year thereafter shall have any personal interest, direct or indirect, apart from official duties, in this Contract or the proceeds thereof.
 - B. Contractor covenants that neither it nor any of its employees has any interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
13. **Execution of Contract.** This Contract may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.
14. **Ownership and Dissemination of Information.** During the term of this Contract and thereafter, Contractor shall not release any information related to the services or performance of the services under this Contract or publish any final reports or documents without the prior written approval of the City of Hagerstown, except as such release is mandated by federal or state law. Any reports, data, studies, or other materials in any form generated by or created in any way from or by the use of funds provided under this Contract shall be the sole and exclusive property of the City of Hagerstown.
15. **Sanctions upon Improper Acts.** If Contractor, or any of its officers, partners, principals, or agents, or if any employee of Contractor acting with Contractor's acquiescence, is convicted of a crime arising out of or in connection with the procurement of this Contract or the services or any payment under it, the Contract

may be terminated at the option of the City of Hagerstown. In the event of a conviction occurring after the expiration or termination of this Contract, Contractor shall be liable for the refund of all fees or profit paid under the Contract which is directly related to the criminal conduct.

16. **Miscellaneous Provisions.**

- A. **Applicable law.** The interpretation, performance, and enforcement of this Contract shall be governed by the law of the State of Maryland.
- B. **Amendments and Waivers.** This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract is superseded by this Contract. Any amendment, Program Modifications, or Budget Modifications to this Contract must be made in writing and signed by both parties, subject to any additional approvals required by State law.

No term or conditional provision of this Contract shall be deemed waived and no breach shall be excused by the action or inaction of a party.

- C. **Non-Discrimination in Employment.** Contractor affirms and agrees that in relation to employment and personnel practices, it does not and shall not discriminate on the basis of race, age, religion, color, national origin, gender, marital status, or physical or mental disability (except for such disability which reasonably precludes the performance of such employment). Contractor will take affirmative action to ensure that employees are hired and treated during employment without regard to said factors.

In addition, Contractor further certifies that it now complies and will continue to comply with all federal, state and local laws and regulations pertaining to equal employment opportunity and equal employment practices.

- D. **Contingent Fee Prohibition.** Contractor warrants that it has not employed or retained any person, or entity, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, or entity, any fee or any other consideration contingent on the making of this Contract.
- E. **Non-Availability of Funding.** If the City of Hagerstown fails to provide funds or if funds are not otherwise made available for the performance of this Contract, this Contract shall be cancelled/terminated automatically as of the beginning of the period for which funds are not so provided. The effect of cancellation/termination of this Contract will be to discharge both Contractor and the City of Hagerstown from future performance of the Contract, but not from their rights and obligations existing at the date of termination. Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The City of Hagerstown shall notify Contractor as soon as it has

knowledge that funds may not be available for the continuation of this Contract.

- F. Termination for Cause. If Contractor fails to perform any of its obligation under this Contract, including timely performance, or otherwise breaches any provision of this Contract, the City of Hagerstown may terminate this Contract upon thirty (30) days prior written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. The City of Hagerstown shall pay Contractor fair and equitable compensation for satisfactory performance prior to receipt of such a termination notice.
- G. Retention of Records. Contractor shall retain and maintain all records and documents relating to this contract for five (5) years after final payment by the City of Hagerstown hereunder and shall make them available for inspection at all reasonable times. In addition, where applicable and pursuant to 42 Code of Federal Regulations (CFR), Part 420, Contractor shall retain until the expiration of five (5) years after the services are furnished under this Contract such books, documents, and records as required by those regulations. This provision shall survive the termination of this Contract, by expiration or otherwise.
- H. Compliance with Laws. Contractor hereby represents and warrants that it shall comply with all federal, state and local laws, regulations, policies and ordinances applicable to its activities and obligations under this Contract, including the Americans with Disabilities Act of 1990, Public Law 101-336, as amended; and that it shall obtain all licenses, permits, insurance, and government approvals, if any, necessary to the performance of its obligations under this Contract.

Contractor further agrees to comply with all federal, state, and local laws, regulations, policies and ordinances as are applicable subsequent to the termination of this Contract, by expiration or otherwise, including those specifically related to confidentiality of records and information and to retention of records. Contractor understands, acknowledges and agrees that this provision shall survive the termination of this Contract, by expiration and otherwise.

- I. Liability for Lost Data. In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of Contractor, the Contractor shall be solely responsible for recreating such lost data or records.
- J. Subcontracting/Assignment. Contractor may not subcontract or assign any portion of its services to be provided under this Contract without prior written approval of the City of Hagerstown.
- K. Indemnification/Non-Liability. Contractor shall save and hold harmless and indemnify the City of Hagerstown against any liability and shall pay all judgments rendered against it for any and all loss or damage of whatever kind and nature, and for any suits, actions, or claims of any character arising from or as a consequence of the performance of

Contractor under this Contract, up to the amount for which the City of Hagerstown is found liable under the Local Government Tort Claims Act, MD Courts and Judicial Proceedings Code Ann., Sections 5-301, *et. seq.* Contractor shall notify the City of Hagerstown within five (5) days of any claim or suit made or filed against Contractor regarding any matter resulting from or relating to Contractor's obligations or performance under the Contract and, in addition to the other obligations set out in this Article, shall cooperate, assist, and consult with the City of Hagerstown in the defense or investigation of any claim, suit, or action made or filed against the City of Hagerstown as a result of or relating to Contractor's performance under this Contract.

Contractor shall maintain general liability insurance in a minimum amount of one million dollars per occurrence, two million dollars in the aggregate, naming the City of Hagerstown as an additional insured. Contractor shall also keep in place a commercially reasonable policy of Worker's Compensation Insurance. Contractor shall provide certificates of said insurance to the City of Hagerstown prior to the commencement of this Contract.

- L. Criminal Background Investigation. Contractor shall be responsible for completing criminal background investigations of all staff and volunteers providing service under this Contract, as mandated by law. Contractor shall maintain approved copies of reports of these background investigations in its personnel files and will also be responsible for complying with Family Law Article, 5-560 through 5-568, Annotated Code of Maryland.

In any case where a criminal record is reported, Contractor shall (1) notify the City of Hagerstown by the next work day and (2) take immediate and appropriate action to protect the safety and welfare of the children served hereunder.

- M. Independent Contractor Status. Contractor is an independent contractor and neither Contractor nor its employees, agents, or representatives shall be considered employees, agents or representatives of the City of Hagerstown. Nothing contained in the Contract is intended or should be construed as creating the relationship of co-partners or joint ventures, or an association of the City of Hagerstown and Contractor. From any amount due Contractor, there will be no deductions for federal income tax or FICA payments, nor for any State income tax, nor for any other purposes that are associated with any employer-employee relationship. Payment of federal income tax, FICA, and any State income tax shall be the responsibility of Contractor.
- N. Administration. The Parks Superintendent for the Parks & Recreation Division will serve as Contract Monitor. The Contractor agrees to permit the Contract Monitor to inspect any and all records of children and families pertaining to this Contract.

- O. Data. The Contractor agrees to observe all state and federal laws and regulations as to the disclosure of information and records on children being served. Written permission must be obtained from the City of Hagerstown prior to use or disclosure of such information.
- P. Word Forms. The use of any gender, tense or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.
- Q. Paragraph Headings. Any heading utilized is so used for reference and convenience only and is not intended to define or limit the scope of any provision of this Contract nor affect the interpretation thereof.
- R. Party's Authority. The individual(s) executing this Contract on behalf of Contractor hereby covenant and warrant that they are duly authorized to execute and deliver this Contract on behalf of the Contractor. Parks & Recreation is a Division of the City of Hagerstown and serves as its' agent for all purposes under this Contract.
- S. Recognition of Funding from City. Contractor shall acknowledge funding from the City of Hagerstown in all advertising, promotional materials, and signage.

IN WITNESS THEREOF, the parties have caused this Contract to be executed by affixing hereon their respective seals and signatures of the proper officers. It is recognized by and between the parties that it is necessary for the City to pass a Resolution approving the execution of this Agreement and the provisions hereof. In the event that said Resolution should not pass or should not become effective by virtue of a referendum or some other methodology or by operation of law, then in said event, this Agreement is null and void and of no effect. Otherwise, this Agreement shall be effective on the date on which it is passed and becomes legally effective

Witness

City of Hagerstown

Witness

Mayor Date

Organization Name (User)

Officer Signature Date

Officer Name (Printed)

Title

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

Topic:

Approval of a Resolution: 2017 Summer Play Camp - Girls, Inc. of Washington County

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Summer_Play_Camp_Resolutions.pdf

Summer_Camp_Girls_Inc_2017.pdf

Description

Memo, Motion and
Resolution

Agreement - Girls Inc

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 28, 2017

TOPIC: 2017 Summer Play Camp Operations

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

MOTION: I hereby move for the approval of Resolutions to authorize the execution of contracts with the Robert W. Johnson Community Center, Inc., Hagerstown YMCA, and Girls, Inc. of Washington County to operate summer play camps for the 2017 season from June 19th through August 11th. Each camp will serve approximately 60-80 youths per day. Funding is from the Parks & Recreation operating budget.

DATE OF PASSAGE: 3/28/2017

City of
Hagerstown

SUMMER DAY CAMPS

The free summer camps are funded by the City of Hagerstown Recreation Division.girls
inc.®

626 Washington Ave.

Scholarships
Available

REGISTRATION OPENS MAY 1

Ages 6-18 | Activities include swimming three days a week, sports, arts and crafts, recreational games, hands on gooey science experiments, weekly field trips including National Zoo, Turkey Hill Experience and so much more. Program offers a variety of age-appropriate activities where girls have fun, make new friends, develop new skills, experience new things; all in a safe, nurturing environment.

HOURS: M-F, 8:30am-3:30pm. Early drop off and late pick up are available for a nominal fee.

DATES: Camp runs weekly June 19-August 11. *Closed the week of July 10-14.*

WEEKLY COST: \$90 for non-members; \$60 for members. *Registration for week one must be completed by June 14.* Contact Amy Hiet 301.733.5430 or Amyh@girlsinc-md.org.

ROBERT W. JOHNSON
COMMUNITY
CENTERRobert W. Johnson
Community Center, Inc.
109 W. North Avenue

REGISTRATION OPENS APRIL 14

Ages 6-12 | Activities include: sports, games, arts and crafts, STEM curriculum and swimming at RWJCC pool Monday, Wednesday and Friday. Breakfast and lunch provided.

HOURS: 9am-3pm. Early drop off and late pick up are available upon request for a nominal fee.

DATES: Camp runs weekly June 19 - August 11. First come first served basis. Applications are available at RWJCC or call 301-790-0203.

FREE



1100 Eastern Boulevard

REGISTRATION OPENS MARCH 19

Hellane Park (Ages 6-12) | Activities include sports, games, arts and crafts, math and reading enrichment, science and nature. Swimming at Potterfield Pool on Wednesday and Friday. Breakfast and lunch provided.
HOURS: 9:30am-2:30pm

Pangborn Park (Ages 6-12) | Activities include sports, games, arts and crafts, math and reading enrichment, science and nature. Swimming at Potterfield Pool on Wednesday and Friday. Breakfast and lunch provided.
HOURS: 9:30am-2:30pm

DATES: Camp runs from June 19-August 11. A form needs to be filled out at the Front Desk of the YMCA. Visit www.ymcahagerstown.org or call 301.739.3990.

FREE

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND ROBERT W. JOHNSON COMMUNITY
CENTER, INC.**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, the Robert W. Johnson Community Center, Inc. has previously conducted summer play camp operations; and

WHEREAS, the Robert W. Johnson Community Center, Inc. has requested the opportunity to conduct summer play camp operations during the 2017 summer season at Wheaton Park; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and the Robert W. Johnson Community Center, Inc., a copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017

PREPARED BY:

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND THE HAGERSTOWN YMCA**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, The Hagerstown YMCA has previously conducted summer play camp operations at two City park locations; and

WHEREAS, The Hagerstown YMCA has requested the opportunity to conduct summer play camp operations during the 2017 summer season at Hellane Park and Pangborn Park; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and the Hagerstown YMCA, a copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
Salvatore & Morton, LLC, City Attorney

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE
PROVISION OF SUMMER CAMP PROGRAMMING BETWEEN
THE CITY OF HAGERSTOWN AND GIRLS, INC. OF WASHINGTON COUNTY**

RECITALS

WHEREAS, The City of Hagerstown, Maryland has previously provided funding for certain summer play camp activities held within the corporate limits of the City of Hagerstown; and

WHEREAS, Girls, Incorporated of Washington County (Girls, Inc.) has previously conducted summer play camp operations; and

WHEREAS, Girls, Inc. has requested the opportunity to conduct summer play camp operations during the 2017 summer season at the Girls, Inc. Center; and

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

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

1. That the aforementioned recitals are incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Contract For The Provision Of Summer Camp Programming Between the City of Hagerstown and Girls, Inc. of Washington County, copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
Salvatore & Morton, LLC, City Attorney

**CONTRACT
FOR THE PROVISION OF
Summer Camp Programming**

Between

THE CITY OF HAGERSTOWN

AND

GIRLS INCORPORATED OF WASHINGTON COUNTY

THIS AGREEMENT is made as of this _____ day of _____, 2017, by and between the City of Hagerstown, and Girls Incorporated of Washington County hereinafter "Contractor".

1. **Work Effort.** Contractor hereby agrees to provide the services described and defined in the program proposal submitted by Contractor which is attached hereto and incorporated herein by reference.
2. **Purpose of Contract.** The purpose of this Contract is to provide summer camp for (70) – (100) participants at Girls Incorporated of Washington County. The program will be conducted Monday-Friday, **June 13 – August 5, 2017**. The program will be free of charge to the children (ages 6 – 16) and their families.
3. **Contract Period.** This Contract shall commence as of **June 13, 2017, and shall terminate on August 5, 2017**. Any renewal of this Contract is subject to available funding and performance by Contractor satisfactory to the City of Hagerstown.
4. **Compensation and Invoicing.**
 - A. For the provision of services described above, Contractor shall be compensated monthly as specified under Section 5.
 - B. Contractor shall invoice the City of Hagerstown on a monthly basis for work satisfactorily completed and costs actually incurred. Each invoice must include a description of the number of participants receiving services, and the services performed and costs incurred on a daily or "fee for service" type basis, for the period covered by the invoice. Contractor's invoices shall be sent to: City of Hagerstown, Parks & Recreation Division, 351 N. Cleveland Ave., Hagerstown, MD 21740, will be reviewed and verified for work accomplished as set forth in the statement of work and when certified as acceptable, will be forwarded to the Accounting Department for payment.
 - C. In the event of dispute, the City of Hagerstown reserves the right to withhold payment of the disputed amount until such time as the dispute is

resolved, the deficient work corrected, or settlement is achieved through other means.

5. **Consideration, Payment, and Performance:**

- A. **Billing.** Contractor shall bill monthly based upon the actual expenditures incurred during the preceding month in accordance with the approved expenditures set forth in the Budget. All Summer Camp programming forms prepared by the City of Hagerstown must be completed by the Contractor in accordance with the required information and accompany the monthly invoices. Monthly invoices must be received by the City of Hagerstown, Parks & Recreation Division, by the 10th of the month following the month for which the invoice is submitted. The Contractor may receive, upon request, an initial drawdown in an amount not to exceed 5% of the funding award, which shall be applied against monthly invoices. Once invoices of actual expenditures exceed the initial drawdown, payments will be made. The maximum sum which Contractor may receive under this Contract is **\$15,000**, the total sum of the funding award.
- B. **Payment to Contractor.** Payment to the Contractor pursuant to this Contract in excess of any drawdown shall be due and payable within thirty (30) days after receipt by the City of Hagerstown of a proper invoice from the Contractor.
- C. **Unauthorized Expenditures.** Contractor's unauthorized expenditures shall be the sole and exclusive responsibility of the Contractor. Unauthorized expenditures include but are not necessarily limited to:
 - 1) those which cause total expenditures to exceed the amount of the approved budget;
 - 2) unbudgeted expenditures;
 - 3) those which differ from the approved budgeted amount; and
 - 4) those which are at variance with an explicit provision of this Contract.
- D. **Reconciliation.** Reconciliation is a fiscal resolution of the Contract pending audit, usually conducted at the termination of the Contract period and at the end of the City of Hagerstown's fiscal year. Reconciliation is based upon reported expenditures and income, subject to correction by the City of Hagerstown. Reconciliation will be conducted in accordance with the terms of the Contract. Based on the review of the final report, any funds due to the City of Hagerstown or the Contractor are due at the conclusion of the reconciliation. Any funds not expended or appropriately retained within the fiscal year must be refunded to the City of Hagerstown.

It is understood and agreed that the City of Hagerstown, its officials, agents, servants, and employees, shall not be responsible for the financial records of the Contractor and shall not be liable for any acts or omissions of the Contractor, its subcontractors, agents, or assignees committed in connection therewith.

- E. **Audit.** The Contractor agrees that the City of Hagerstown and/or its authorized representatives for a period of five (5) years after complete performance or earlier termination of this Contract shall have access to and the right to audit all documents pertaining to the operation of the Contractor's Summer Camp Program.
6. **Budget Modification.** The Contractor may request a budget modification to reallocate the existing budget at any time prior to the expiration of the Contract. A modification does not affect the amount of the award but may affect the amount available for other services. The Contractor must submit a request to the City of Hagerstown Parks & Recreation Division for budget modification:
- 1) Whenever a change would affect any of the following controlled line items reported on the approved budget:
 - a) total salaries, consultant, and/or fringe costs increased by 5% of the budgeted amount
 - b) equipment increases over the budgeted amount; and
 - c) purchase of service increases over the budgeted amount and/or renovation or remodeling increases over the budgeted amount;
 - 2) Whenever a new estimate of third-party income (including fee collections) is over or under the previous estimate of incomes by 5%; or
 - 3) To purchase additional items or substitute items that were not included in the approved budget.

A request for budget modification must be submitted for approval to the Parks & Recreation Division in writing with supporting documentation.

7. **Program Modifications.** No program changes will be authorized without the written approval of the City of Hagerstown and the Contractor. Properly authorized program modifications will become an addendum to this Contract. The City of Hagerstown hereby designates the Parks Superintendent to approve or disapprove any program modifications pertaining to a change to a personnel position listed on the approved budget, including a salary reduction or increase, a change which affects the project scope such as a change in target population or services to be provided, or a change in the dates of the program duration.
8. **Equipment.** All equipment having an acquisition cost of Five Hundred Dollars (\$500.00) or more per unit and a useful life of more than two (2) years which is purchased with funds received under this Contract ("Capital Equipment"), shall be the property of the City of Hagerstown and shall be conspicuously labeled by Contractor immediately after its purchase as "Property of the City of Hagerstown, Maryland." Within ten (10) days of the termination or expiration of this Contract, including any renewal period, Contractor shall furnish the City of Hagerstown with a written inventory of all Capital Equipment acquired under this Contract. If the City of Hagerstown does not take physical possession of an item of Capital

Equipment after the date of termination or expiration of this Contract, including any renewal period, that item of Capital Equipment shall automatically become the property of Contractor at the end of that twelve-month period.

9. **Program Evaluation Contract and Reporting.** The Contractor will be evaluated bi-monthly by the Parks Superintendent. Bi-monthly program reports submitted by the Contractor will be included in the bi-monthly evaluation. Both the Contractor and the Parks & Recreation Division will maintain copies of the evaluation reports.
10. **Meetings.** When requested by the Parks Superintendent, selected Contractor personnel shall attend meetings, conferences and presentations with the City of Hagerstown staff, public agencies, private organizations and others concerned with this project.
11. **Personnel.** Contractor represents that it has or will secure, at its own expense, all personnel needed to perform the services required to be performed by it under this Contract.
12. **Conflict of Interest.**
 - A. No official or employee of the City of Hagerstown, who exercises any functions or responsibilities in reviewing or approving the award or performance of this Contract during his/her tenure or one year thereafter shall have any personal interest, direct or indirect, apart from official duties, in this Contract or the proceeds thereof.
 - B. Contractor covenants that neither it nor any of its employees has any interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
13. **Execution of Contract.** This Contract may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect.
14. **Ownership and Dissemination of Information.** During the term of this Contract and thereafter, Contractor shall not release any information related to the services or performance of the services under this Contract or publish any final reports or documents without the prior written approval of the City of Hagerstown, except as such release is mandated by federal or state law. Any reports, data, studies, or other materials in any form generated by or created in any way from or by the use of funds provided under this Contract shall be the sole and exclusive property of the City of Hagerstown.
15. **Sanctions upon Improper Acts.** If Contractor, or any of its officers, partners, principals, or agents, or if any employee of Contractor acting with Contractor's acquiescence, is convicted of a crime arising out of or in connection with the procurement of this Contract or the services or any payment under it, the Contract

may be terminated at the option of the City of Hagerstown. In the event of a conviction occurring after the expiration or termination of this Contract, Contractor shall be liable for the refund of all fees or profit paid under the Contract which is directly related to the criminal conduct.

16. **Miscellaneous Provisions.**

- A. **Applicable law.** The interpretation, performance, and enforcement of this Contract shall be governed by the law of the State of Maryland.
- B. **Amendments and Waivers.** This Contract constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract is superseded by this Contract. Any amendment, Program Modifications, or Budget Modifications to this Contract must be made in writing and signed by both parties, subject to any additional approvals required by State law.

No term or conditional provision of this Contract shall be deemed waived and no breach shall be excused by the action or inaction of a party.

- C. **Non-Discrimination in Employment.** Contractor affirms and agrees that in relation to employment and personnel practices, it does not and shall not discriminate on the basis of race, age, religion, color, national origin, gender, marital status, or physical or mental disability (except for such disability which reasonably precludes the performance of such employment). Contractor will take affirmative action to ensure that employees are hired and treated during employment without regard to said factors.

In addition, Contractor further certifies that it now complies and will continue to comply with all federal, state and local laws and regulations pertaining to equal employment opportunity and equal employment practices.

- D. **Contingent Fee Prohibition.** Contractor warrants that it has not employed or retained any person, or entity, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, or entity, any fee or any other consideration contingent on the making of this Contract.
- E. **Non-Availability of Funding.** If the City of Hagerstown fails to provide funds or if funds are not otherwise made available for the performance of this Contract, this Contract shall be cancelled/terminated automatically as of the beginning of the period for which funds are not so provided. The effect of cancellation/termination of this Contract will be to discharge both Contractor and the City of Hagerstown from future performance of the Contract, but not from their rights and obligations existing at the date of termination. Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The City of Hagerstown shall notify Contractor as soon as it has

knowledge that funds may not be available for the continuation of this Contract.

- F. Termination for Cause. If Contractor fails to perform any of its obligation under this Contract, including timely performance, or otherwise breaches any provision of this Contract, the City of Hagerstown may terminate this Contract upon thirty (30) days prior written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. The City of Hagerstown shall pay Contractor fair and equitable compensation for satisfactory performance prior to receipt of such a termination notice.
- G. Retention of Records. Contractor shall retain and maintain all records and documents relating to this contract for five (5) years after final payment by the City of Hagerstown hereunder and shall make them available for inspection at all reasonable times. In addition, where applicable and pursuant to 42 Code of Federal Regulations (CFR), Part 420, Contractor shall retain until the expiration of five (5) years after the services are furnished under this Contract such books, documents, and records as required by those regulations. This provision shall survive the termination of this Contract, by expiration or otherwise.
- H. Compliance with Laws. Contractor hereby represents and warrants that it shall comply with all federal, state and local laws, regulations, policies and ordinances applicable to its activities and obligations under this Contract, including the Americans with Disabilities Act of 1990, Public Law 101-336, as amended; and that it shall obtain all licenses, permits, insurance, and government approvals, if any, necessary to the performance of its obligations under this Contract.

Contractor further agrees to comply with all federal, state, and local laws, regulations, policies and ordinances as are applicable subsequent to the termination of this Contract, by expiration or otherwise, including those specifically related to confidentiality of records and information and to retention of records. Contractor understands, acknowledges and agrees that this provision shall survive the termination of this Contract, by expiration and otherwise.

- I. Liability for Lost Data. In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of Contractor, the Contractor shall be solely responsible for recreating such lost data or records.
- J. Subcontracting/Assignment. Contractor may not subcontract or assign any portion of its services to be provided under this Contract without prior written approval of the City of Hagerstown.
- K. Indemnification/Non-Liability. Contractor shall save and hold harmless and indemnify the City of Hagerstown against any liability and shall pay all judgments rendered against it for any and all loss or damage of whatever kind and nature, and for any suits, actions, or claims of any character arising from or as a consequence of the performance of

Contractor under this Contract, up to the amount for which the City of Hagerstown is found liable under the Local Government Tort Claims Act, MD Courts and Judicial Proceedings Code Ann., Sections 5-301, *et. seq.* Contractor shall notify the City of Hagerstown within five (5) days of any claim or suit made or filed against Contractor regarding any matter resulting from or relating to Contractor's obligations or performance under the Contract and, in addition to the other obligations set out in this Article, shall cooperate, assist, and consult with the City of Hagerstown in the defense or investigation of any claim, suit, or action made or filed against the City of Hagerstown as a result of or relating to Contractor's performance under this Contract.

Contractor shall maintain general liability insurance in a minimum amount of one million dollars per occurrence, two million dollars in the aggregate, naming the City of Hagerstown as an additional insured. Contractor shall also keep in place a commercially reasonable policy of Worker's Compensation Insurance. Contractor shall provide certificates of said insurance to the City of Hagerstown prior to the commencement of this Contract.

- L. Criminal Background Investigation. Contractor shall be responsible for completing criminal background investigations of all staff and volunteers providing service under this Contract, as mandated by law. Contractor shall maintain approved copies of reports of these background investigations in its personnel files and will also be responsible for complying with Family Law Article, 5-560 through 5-568, Annotated Code of Maryland.

In any case where a criminal record is reported, Contractor shall (1) notify the City of Hagerstown by the next work day and (2) take immediate and appropriate action to protect the safety and welfare of the children served hereunder.

- M. Independent Contractor Status. Contractor is an independent contractor and neither Contractor nor its employees, agents, or representatives shall be considered employees, agents or representatives of the City of Hagerstown. Nothing contained in the Contract is intended or should be construed as creating the relationship of co-partners or joint ventures, or an association of the City of Hagerstown and Contractor. From any amount due Contractor, there will be no deductions for federal income tax or FICA payments, nor for any State income tax, nor for any other purposes that are associated with any employer-employee relationship. Payment of federal income tax, FICA, and any State income tax shall be the responsibility of Contractor.

- N. Administration. The Parks Superintendent for the Parks & Recreation Division will serve as Contract Monitor. The Contractor agrees to permit the Contract Monitor to inspect any and all records of children and families pertaining to this Contract.

- O. Data. The Contractor agrees to observe all state and federal laws and regulations as to the disclosure of information and records on children being served. Written permission must be obtained from the City of Hagerstown prior to use or disclosure of such information.
- P. Word Forms. The use of any gender, tense or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.
- Q. Paragraph Headings. Any heading utilized is so used for reference and convenience only and is not intended to define or limit the scope of any provision of this Contract nor affect the interpretation thereof.
- R. Party's Authority. The individual(s) executing this Contract on behalf of Contractor hereby covenant and warrant that they are duly authorized to execute and deliver this Contract on behalf of the Contractor. Parks & Recreation is a Division of the City of Hagerstown and serves as its' agent for all purposes under this Contract.
- S. Recognition of Funding from City. Contractor shall acknowledge funding from the City of Hagerstown in all advertising, promotional materials, and signage.

IN WITNESS THEREOF, the parties have caused this Contract to be executed by affixing hereon their respective seals and signatures of the proper officers. It is recognized by and between the parties that it is necessary for the City to pass a Resolution approving the execution of this Agreement and the provisions hereof. In the event that said Resolution should not pass or should not become effective by virtue of a referendum or some other methodology or by operation of law, then in said event, this Agreement is null and void and of no effect. Otherwise, this Agreement shall be effective on the date on which it is passed and becomes legally effective

Witness

City of Hagerstown

Witness

Mayor Date

Organization Name (User)

Officer Signature Date

Officer Name (Printed)

Title

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

Topic:

Approval of a Resolution: Lease Agreement with The Mulch Man for 931 Eldridge Drive

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move that the Mayor & Council approve the attached resolution authorizing the execution of a Lease Agreement with a business known as The Mulch Man for a portion of a City of Hagerstown property located at 931 Eldridge Drive in Hagerstown, MD. The Lease will be between the City of Hagerstown and The Mulch Man, LLC and shall be in effect from April 1, 2017 to March 31, 2020.

Action Dates:

ATTACHMENTS:

File Name

MCC_Mulch_Man_March_Final.pdf

Description

Lease Agreement: The
Mulch Man

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: March 28, 2017

TOPIC: Approval of a Resolution: Execution of a Lease Agreement with a business known as The Mulch Man for a portion of City of Hagerstown property located at 931 Eldridge Drive, Hagerstown, MD.

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

MOTION: I hereby move that the Mayor and City Council approve the attached resolution authorizing the execution of a Lease Agreement with a business known as The Mulch Man for a portion of City of Hagerstown property located at 931 Eldridge Drive in Hagerstown, MD. The Lease will be between the City of Hagerstown and The Mulch Man, LLC and shall be in effect from April 1, 2017 to March 31, 2020.



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

TO: Valerie Means, City Administrator
FROM: Randy Gray, DCED Business Development Specialist
DATE: March 2, 2017
RE: Request to Lease Space on Eldridge Drive adjacent to the Hagerstown Industrial Park

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

Lease Request

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

Options to Consider for the Property

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

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

Additional Background:

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

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

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

CITY OF HAGERSTOWN, MARYLAND

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

RECITALS

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

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

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

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

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEY

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 28th day of March, 2017, by and between the CITY OF HAGERSTOWN, MARYLAND, a Municipal Corporation existing under and by virtue of the Laws of the State of Maryland, hereinafter referred as "CITY", and JAMES HARSH, a sole proprietor, t/a THE MULCH MAN, of Hagerstown, Maryland, hereinafter referred to as "TENANT".

WITNESSETH:

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

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

I. LEASED PREMISES

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

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

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

II. TERM

The term of this lease shall be for a period of three (3) years commencing on the 1st day of April, 2017, and ending and terminating without renewing on the 31st day of March, 2020, at, for and subject to the terms and conditions hereinafter set forth, unless terminated or renewed as provided for herein.

III. RENTAL

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

IV. SECURITY DEPOSIT

There shall be no security deposit.

V. TERMINATION

This Contract shall terminate automatically on March 31, 2020, unless terminated earlier as provided herein. Tenant shall have the option to renew said Lease for one (1) year at an increased rent upon giving notice to the City at least sixty (60) days prior to termination, with the new rental amount to be negotiated by the parties. HOWEVER, if Tenant does not immediately surrender possession of the Premises upon the termination of the original term and/or any renewal term, and there is a holding over by Tenant, then and in said event, the tenancy of this lease shall be considered on a month-to-month basis, terminable by either party upon thirty (30) days written notice.

VI. USE

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

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

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

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

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

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

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

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

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

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

VII. HOLD HARMLESS

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

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

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

VIII. COMPLIANCE WITH LAWS

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

IX. ENVIRONMENTAL MATTERS

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

X. TAXES, UTILITIES

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

XI. ASSIGNMENT

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

XII. INSPECTION OF PREMISES

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

XIII. DEFAULT

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

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

XIV. ADDITIONAL TERMINATION PROVISIONS

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

XV. ENTIRE UNDERSTANDING

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

XVI. NOTICE

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

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

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

XVII. MISCELLANEOUS

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

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

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

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

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

CITY OF HAGERSTOWN

Donna K. Spickler, City Clerk

BY: _____
Robert E. Bruchey, II, Mayor

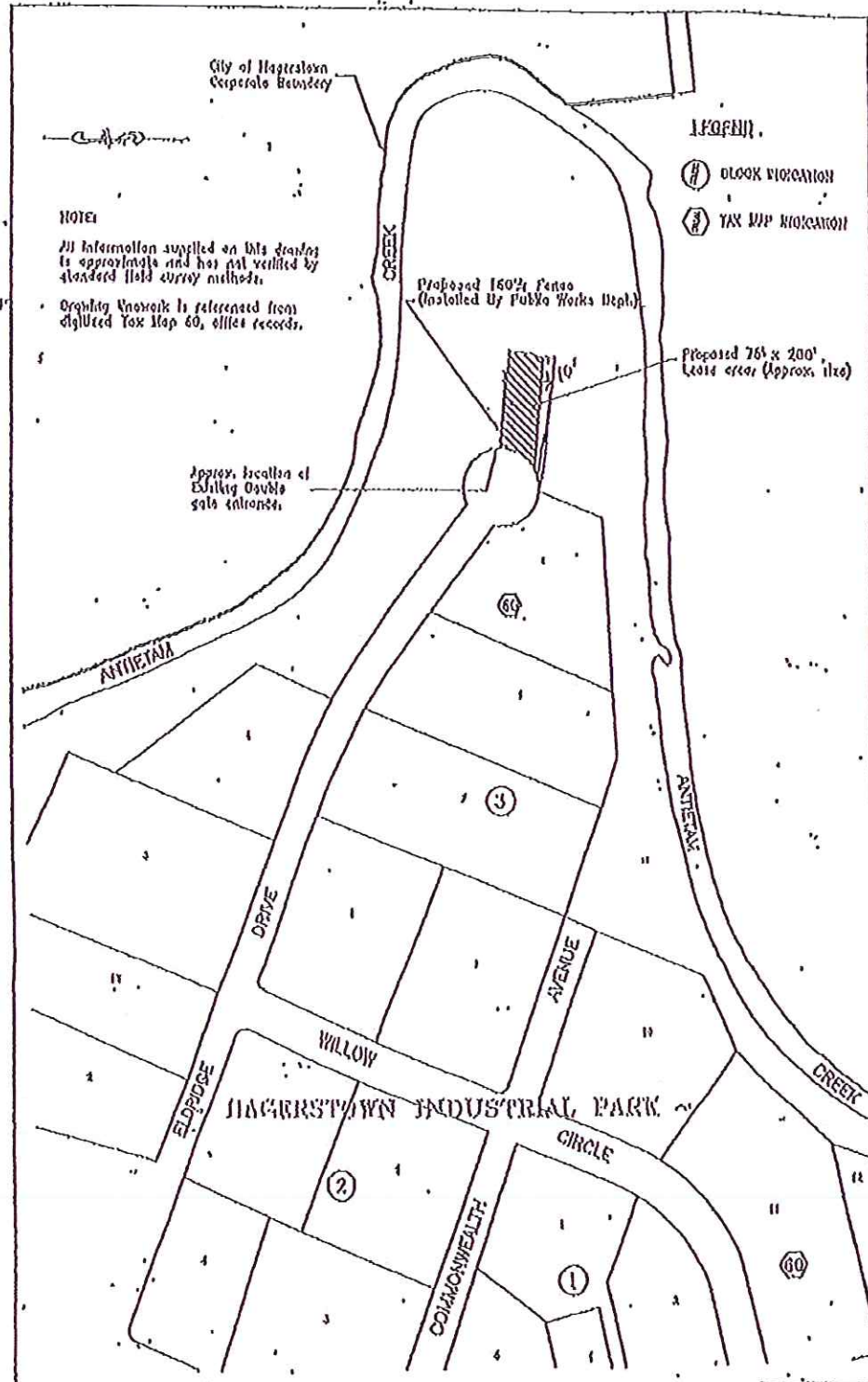
WITNESS

TENANT

James Harsh t/a The Mulch Man

ATTACHMENT A

COPY



CITY OF HAGERSTOWN, MARYLAND
PARCEL of LAND to be LEASED

ENGINEERING DEPARTMENT

BY	DATE	DRAWING No.
DRAWN	WY 8-17-90	83-669-01
CHECKED		SCALE # NONE
APPROVED		

931 ELDRIDGE DRIVE

R-13-35

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

Topic:

Approval of a Resolution: Lease Agreement for 36-40 North Potomac Street, Apt. 1

Mayor and City Council Action Required:

Discussion:

We are requesting review of a proposed lease agreement for a new artist tenant, Sumner Crenshaw, at 36-40 N Potomac Street. With the support of the Mayor and City Council at the March 21, 2017 Work Session, staff will seek approval of the lease agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed lease are listed below.

Key terms and conditions of the proposed lease include:

Unit 1:

- Recommended Artist – Sumner Crenshaw
- One year term
- Lease is for \$6,000 annually (\$500 monthly) for approximately 800 square feet.
- Tenant shall contribute at least 5 hours of time weekly assisting in the operation of the Engine Room Art Gallery

The prospective tenant's art portfolio was reviewed by the Artist Review and Selection Advisory Group. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed lease. A copy of the proposed lease agreement is attached.

Additional Background

The City acquired the property in September 2011. The residential renovations were completed in November 2013 creating four (4) artist lofts that were fully occupied by May 2014. Renovations of the gallery space were completed in the Spring of 2015 and Engine Room Art Space opened in June 2015.

Financial Impact:

Recommendation:

Motion:

I hereby move that the Mayor and City Council approve the attached resolution authorizing the

execution of a residential Lease Agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The Lease will be between the City of Hagerstown and Sumner Crenshaw and shall be in effect from April 1, 2017 to March 31, 2018.

Action Dates:

DATE OF INTRODUCTION:	03/28/2017
DATE OF PASSAGE:	03/28/2017
EFFECTIVE DATE:	03/28/2017

ATTACHMENTS:

File Name

Description

Motion__Resolution_and_Agreement_-_Crenshaw_Lease.pdf

Motion, Resolution,
Agreement - Crenshaw

MCC_Memo_Artist_Lofts_Tenant_Crenshaw.pdf

Memo / Motion / Resolution
Crenshaw

REQUIRED MOTION

**MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND**

DATE: March 28, 2017

TOPIC: Approval of a Resolution: Execution of a residential Lease Agreement for the City of Hagerstown property located at 38 North Potomac Street Apt #1, Hagerstown, MD.

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

MOTION: I hereby move that the Mayor and City Council approve the attached resolution authorizing the execution of a residential Lease Agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The Lease will be between the City of Hagerstown and Sumner Crenshaw and shall be in effect from April 1, 2017 to March 31, 2018.

DATE OF INTRODUCTION:	03/28/2017
DATE OF PASSAGE:	03/28/2017
EFFECTIVE DATE:	03/28/2017

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO A RESIDENTIAL LEASE AGREEMENT WITH SUMNER
CRENSHAW FOR A PORTION OF THE PROPERTY KNOWN AS
THE STUDIOS ON NoPo, 38 NORTH POTOMAC STREET,
HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, the City of Hagerstown owns real property known as *The Studios on NoPo*, 38 North Potomac Street, Hagerstown, Maryland, upon which artist lofts are located;

WHEREAS, a portion of said property is currently available and is intended to be used by Sumner Crenshaw, the Tenant, solely for the purposes of residential lease and the creation of art, as set forth in the attached Lease Agreement;

WHEREAS, the City of Hagerstown desires to lease a portion of said property (further described in the attached Lease Agreement) to Sumner Crenshaw, an adult individual; and

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

1. That the foregoing recitals are incorporated herein as if fully set forth.
2. That the City of Hagerstown be and is hereby authorized to enter into a Lease Agreement with Sumner Crenshaw; for a portion of the property located at premises known as 38 North Potomac Street, Apartment #1, Hagerstown, Maryland, pursuant to the terms of the Lease Agreement attached hereto and incorporated herein by reference.
3. That the City of Hagerstown be and is hereby authorized to execute and deliver the Lease Agreement attached hereto, and to execute any additional documentation required to effectuate the purposes of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

To: Valerie Means, City Administrator
From: Amanda Whitmore, Downtown Coordinator
Date: March 15, 2017
RE: Approval of New Residential Lease for 36-40 N Potomac Street Unit 1

We are requesting review of a proposed lease agreement for a new artist tenant, Sumner Crenshaw, at 36-40 N Potomac Street. With the support of the Mayor and City Council at the March 21, 2017 Work Session, staff will seek approval of the lease agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed lease are listed below.

Key terms and conditions of the proposed lease include:

Unit 1:

- Recommended Artist – Sumner Crenshaw
- One year term
- Lease is for \$6,000 annually (\$500 monthly) for approximately 800 square feet.
- Tenant shall contribute at least 5 hours of time weekly assisting in the operation of the Engine Room Art Gallery

The prospective tenant's art portfolio was reviewed by the Artist Review and Selection Advisory Group. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed lease. A copy of the proposed lease agreement is attached.

Additional Background

The City acquired the property in September 2011. The residential renovations were completed in November 2013 creating four (4) artist lofts that were fully occupied by May 2014. Renovations of the gallery space were completed in the Spring of 2015 and Engine Room Art Space opened in June 2015.

Attachments: Draft lease for Sumner Crenshaw

- c. Jill Frick, Director of DCED
Eric Deike, Director of Public Works
Michelle Hepburn, Director of Finance

14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
(301) 739-8577 Ext. 111

Residential Lease

THIS LEASE made on the 29th day of March, 2016, between City of Hagerstown, Landlord, and Summer Crenshaw, Tenant.

WITNESSETH, that the Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord, premises known as *The Studios on NoPo*, 38 North Potomac Street, Apartment #1, Hagerstown, Maryland 21740.

1. **TERM.** This Lease shall be for a term of one year, beginning on the 1st day of April 2017 and ending on the 31st day of March, 2018. Thereafter, the Tenant shall be considered a month to month, periodic tenant.

2. **RENT.** Total annual rent of Six Thousand Dollars (\$6,000) payable in equal monthly installments of Five Hundred Dollars (\$500) per month in advance on the first day of each and every month of said term, without deduction or demand at the office of the Landlord at the cashier's office, 1 East Franklin Street, Hagerstown, MD.

If this Lease commences on a day other than the first of the month, the pro-rated amount of rent for the balance of the first month shall be paid to the Landlord at the time of possession. Thereafter, rent shall be paid on the first day of each month according to the amounts described above.

3. **SERVICE CHARGES.** Landlord shall have the right to require rent payments to be made in cash, money order, Cashier's Check and/or certified check. A service charge of \$35.00 will automatically be made for each instance in which a check is returned unpaid by the Tenant's bank for any reason. A late Charge of five percent (5%) of the amount of rent due for the monthly rental period shall be assessed for any payment delinquent ten (10) days after the due date.

4. **SECURITY DEPOSIT.** In addition to payment of the first month's rent, Tenant, upon the execution of this Lease, will deposit with Landlord the sum of \$500 as Security Deposit. If the Tenant has a pet within the guidelines outlined in Section 9 of this lease, an additional \$250 shall be collected as the Pet Deposit.

This Security Deposit shall be held as security by Landlord for the full and complete performance by Tenant of Tenant's obligations under this Lease, and shall be applied at the expiration of the term of this Lease, or any extensions, thereof, if any, on account of any unpaid rent, damage due to breach of this Lease or damage to the premises by Tenant, Tenant's family, agents, or social guests in excess of ordinary wear and tear. In no event, shall Tenant apply the Security Deposit toward any month's rent due under this Lease, without prior written consent of Landlord. In the event Tenant shall have fully and completely performed Tenant's obligations under this Lease upon its termination, the Security Deposit shall be refunded to Tenant within forty-five (45) days after the termination of the Lease in accordance with the terms hereof, together with simple interest which shall have accrued in the amount required by State law, currently three percent (3%) per annum, from the receipt of the Security by Landlord. A move-in checklist will be completed by Tenant within three (3) days of moving in and Landlord will use the move-in checklist during the move out inspection to determine if any of the tenant's deposit will be retained for cleaning or repairs after move-out. Upon tenant's written notification to Landlord of Tenant's intention to vacate premises, the date of moving and Tenant's new address, Tenant has the right to be present when Landlord inspects the premises in order to determine the existence of any damages caused during the tenancy. Upon receipt of Tenant's written notice of Tenant's intention to vacate premises, Landlord shall notify Tenant in writing of the date and time when the premises are to be inspected. The date of inspection shall occur within five (5) days before or five (5) days after the date of moving as designated in Tenant's written notice.

5. **DELIVERY OF POSSESSION.** Delivery of possession shall occur only after the first month's rent and security deposit have been paid to the Landlord. The Landlord shall then tender two key sets for the premises to the Tenant.

6. **SUBLEASE.** Tenant shall not assign this Lease or sublet the premises, or any portion thereof, or transfer possession or occupancy thereof to any other person or persons without prior written consent of Landlord.

7. **OCCUPANTS.** Tenant agrees that the premises shall be occupied by the individuals listed below, and as set forth in the NoPo Studio Application, who are specifically declared as follows:

- Summer Crenshaw (Tenant)

Otherwise, children of the above-listed Tenants are allowed to occupy the premises. Additional persons will be permitted to occupy the Premises only upon written consent of the Landlord. Guests of Tenant will be considered additional occupants of the Premises if any such guest remains on the Premises for more than five (5) days in any 30 day period. Tenant shall notify Landlord immediately if Tenant intends to have a guest for more than five days.

8. **THE STUDIOS ON NOPO APPLICATION.** In connection with The Studios on NoPo Application, Tenant has submitted asset verification, employment verification, rental verification, and income certification statements, all of which are considered a part of the Studios on NoPo Application. Tenant has also provided authorization for the Landlord to perform credit report check(s) and criminal background check(s) for the household member(s). The parties acknowledge that Landlord relies upon the information given by Tenant in the Rental Application to enter into this Lease, and said information is incorporated herein by reference as fully as if attached hereto.

9. **ANIMALS.** One cat or dog under 25 pounds is permitted in each studio apartment, after paying the Pet Deposit described above in Section 4.

10. **MAINTENANCE, CONDITIONS, NOISE AND ALTERATIONS.**

(a) Tenant has examined the Premises and all appliances and equipment thereon owned by Landlord, and hereby accepts them in their "AS IS" condition and acknowledges that Landlord has made no representations or warranties, either expressed or implied, as to the condition or use of the Premises. Tenant shall immediately notify Landlord of any defects or dangerous conditions. Tenant shall keep the Premises in good order and condition and shall pay Landlord promptly for any repairs to the Premises or its equipment caused by Tenant's negligence or misuse or by the negligence or misuse of tenant's invitees, licensees or guests. Tenant shall return the Premises and all fixtures, appliances and improvements therein owned by Landlord in substantially the same condition as received, including but not limited to, general cleanliness and upkeep. Tenant acknowledges that Tenant shall pay to Landlord, upon vacating the Premises, expenses as may be incurred to restore the Premises to the condition in which it was delivered to Tenant at the commencement of this Lease, reasonable wear and tear excepted.

(b) Tenant shall not make any alterations or additions to the Premises without the prior written consent of Landlord.

(c) Tenant shall maintain the premises in a clean and sanitary condition at all times; and complies with all laws, ordinances and regulations, health, fire and police regulations with respect to the Premises. Tenant shall indemnify and save Landlord from all liability arising out of any violation by Tenant of such laws or regulations or arising out of any neglect or any violation or non-performance by the Tenant of any of the covenants contained in this Lease. Landlord shall monitor the condition of the premises and maintenance of the property. If the Tenant is negligent and Landlord incurs cost to maintain property, or be charged fines or fees the tenant will subsequently be charged for any and all costs incurred and shall be due as additional RENT.

(d) Tenant shall keep all plumbing from becoming obstructed due to negligence. NOTE: the sanitary sewer system may only be used for its designed and intended purposes. No diapers, condoms, paper towels, feminine hygiene products, or like materials may be flushed in the sanitary sewer system. If the plumbing becomes obstructed because of Tenant negligence or deliberate acts, Tenant shall pay the costs to have lines cleared.

(e) Tenant shall keep noise of occupants and guests and noise from radios, television sets, stereos, etc. to a level of sound that does not annoy or interfere with neighbors.

11. **UTILITIES.** The Landlord shall provide the utilities listed in Column 1 without any additional charge to the Tenant. The utilities listed in Column 2 are not included in the rent and are to be paid solely by the Tenant. The utilities payable by the tenant in Column 2 shall be considered additional rent.

Utility	Column 1 Landlord Paid	Column 2 Tenant Paid
Heating (Electric)		X
Hot Water (Electric)		X
Cooking (Electric)		X
Lights (Electric)		X
Water/Sewer/Trash Collection	X	
Phone/Cable TV/Hard-Wired Internet		X

12. **INSPECTION.** Landlord shall have the right to enter the Premises at all reasonable times necessary to inspect the Premises, to control pests and vermin, and to make necessary repairs to and maintain the Premises, including but not limited to, the heating, ventilation and air conditioning systems, the plumbing system, the electrical systems, etc. When practical, the Landlord shall give Tenant a one (1) day posted written notice of its intent to inspect the premises and the approximate time for said inspection. The notice shall be posted to the front door and such posting shall meet all requirements for said notice. In case of emergency, Landlord may enter the premises immediately and without notice to Tenant. During the last 60 days of the term of this Lease or any extension thereof, Landlord or its Agent may enter the premises during daylight hours to exhibit the same, and place a "for rent" or "for sale" sign thereof.

13. **USE OF PREMISES.** The Premises shall be primarily used for residential and light artistic use, not to include industrial arts. Tenant shall comply with all requirements of the Landlord and by all applicable laws, ordinances, and governmental regulations. No smoking or burning of incense or candles shall be permitted on the premises.

14. **INDEMNIFICATION.** The tenant agrees to indemnify, exonerate and save the landlord harmless from any and all suits, claims for loss, expenses, damages or injury to person or property sustained on the premises or

arising out of the use of the premises by the tenant or the tenant's family, employees, invitees, guests or licensees.

15. **HANDBOOK.** The Tenant shall be in compliance with all property rules and regulations in the booklet titled, *The Studios on NoPo Tenant Handbook*, revised 3/2014 and hereby incorporated into this lease by reference and attached as Exhibit 2.

16. **ILLEGAL ACTIVITY.** Notwithstanding anything which in any way might be construed to the contrary, it shall be deemed to be a material breach of this Lease for Tenant, or any member of the Tenant's household to engage in and/or to suffer the engagement in any criminal activity, including drug-related criminal activity, on or off the premises, while such Tenant is a Tenant in occupancy of any housing unit under control of Landlord. The term "drug-related criminal activity" shall mean the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance [as defined in Section 102 of the Controlled Substance Act (U.S.C. 802) as amended].

17. **INSURANCE.** Tenant acknowledges that Landlord maintains insurance on the Premises, which insurance does not protect the personal property, possessions, or personal liability of Tenant. Tenant must consult her own Agent for insurance protection. It is the responsibility of the Tenant to obtain adequate insurance on personal property of Tenant placed on, in, or about the premises.

18. **CASUALTY.**

(a) If the Premises is damaged or destroyed by fire or other casualty to an extent that the use of the Premises is substantially impaired, Tenant may immediately vacate the Premises and may terminate this Lease upon written notice to Landlord given within ten (10) days of Tenant's vacation of the Premises. In the event Tenant remains in possession of the damaged Premises, Rent shall be reduced in proportion to the impairment of use of the premises until same are repaired.

(b) In the event the Premises are damaged by fire or other casualty, and Landlord elects not to restore, repair and rebuild, Landlord may terminate this Lease by giving written notice to Tenant, whereupon Tenant shall promptly vacate the premises. Rent shall be paid through the date Tenant vacates.

19. **CONDEMNATION.**

(a) If the whole or any part of the Premises shall be taken by any competent authority for public or quasi-public use or purpose, then and in that event, this Lease shall cease and terminate from the date when the possession of the part so taken shall be required for such use or purpose.

(b) All damages awarded for such taking shall belong to and be the property of Landlord. Tenant shall not be entitled to any sum from Landlord or the condemning authority as compensation for the loss to the unexpired Term, nor for any other damages.

20. **BREACH AND REMEDIES.** If Tenant breaches this Lease, Landlord may repossess the Premises pursuant to judicial process, and Landlord shall have other rights as may be allowed by law. Tenant will pay the court costs charged to Landlord for notice sent for non-payment of rent, and Tenant also agrees to reimburse Landlord for all reasonable expenses incurred by Landlord, including attorney's fees as Additional Rent, if ejectment is ordered by the court.

21. **ATTORNEY FEES.** If Landlord be compelled to incur any expenses including reasonable attorney's fees in instituting and prosecuting any action or proceeding by reason of any default of Tenant hereunder, the

sum or sums so paid by Landlord with all interest, costs, and damages shall be deemed to be additional rent hereunder and shall be due from Tenant to Landlord on the 1st day of the month following the incurring of such respective expenses. Tenant agrees to reimburse Landlord for any reasonable attorney fees incurred by Landlord in enforcing the provisions of this Lease. In the event that Tenant files suit against Landlord in connection with this lease and Tenant is unsuccessful in obtaining a judgment against Landlord, Tenant agrees to pay Landlord's reasonable attorney fees in defending said suit.

22. **EXTENDED ABSENCES.** Tenant shall give Landlord prior written notice of any anticipated absence from the premises in excess of seven (7) days, during which absence Landlord may enter the premises as reasonably necessary. In the event Tenant fails to give notification to Landlord of an extended absence in excess of seven (7) days, Landlord may recover actual damages, if any, from Tenant.

23. **ENTIRE AGREEMENT.** The provisions hereof together with the Rental Application and the Rules and Regulations which are incorporated herein by reference along with any addendum attached hereto and initialed by the parties represent the complete and entire agreement between the parties with respect to the Premises. This Lease cannot be changed or supplemented except by agreement in writing signed by both parties.

24. **DEFAULT.** If the premises are abandoned or become vacant during the term, the Lessor or its agents may re-enter the same by force or otherwise without being liable to any prosecution therefore and, in addition to any other remedies, re-rent the premises in whole or in part as the agent of the Lessee who in all events shall remain liable for any unpaid rentals for the full term of this Lease. Lessor may receive the rent from any such re-rental applying the same first to the payment of such expenses as the Lessor may incur in re-entering and re-letting, and then to the payment of the rent due hereunder.

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

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

action(s) by Lessor, Lessee shall in all events remain liable for any unpaid rental for the full term of this Lease.

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

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

25. **FAILURE TO PERFORM.** Tenant covenants that in case Landlord, by reason of the failure of Tenant to perform any of the provisions hereof, shall be compelled to pay or shall pay any sum of money, or shall be compelled to do or shall do any act which requires the payment of money, then the sum or sums so paid or required to be paid, together with all interest, costs and damages, shall be added to the next installment of rent due or to any subsequent installment of rent and shall be collectible as additional rent in the same manner and with the same remedies as if it had been originally reserved.

26. **ADDITIONAL ITEMS / REQUIREMENTS.**

1. Tenant, in addition to rent, commits to assist in the operation of the Art Gallery on the first floor of the premises by contributing time at the Gallery without compensation for a minimum of five (5) hours per week. This obligation shall be scheduled through the Gallery Coordinator. Tenant may also display his own art in the Gallery, which display shall be subject to the discretion of the Gallery Coordinator.

2. The terms of the Lease shall include the terms of the Tenant Handbook, a copy of which is incorporated herein as Exhibit 2.

4. Attached as Exhibit 1 is a lead paint notification.

5. Attached as Exhibit 3 is the wireless network benefit.

27. **CRIME FREE HOUSING.** Tenant, any members of the Tenant's household or a guest or other persons affiliated with the Tenant or affiliated with any member of the Tenant's household:

a. Shall not engage in criminal activity at, on or near the said premises. "Criminal activity" means the commission of any of the acts defined in the Maryland Criminal Law Code Annotated, as from time to time amended.

b. Shall not engage in any act intended to facilitate criminal activity and shall not permit the premises to be used for or to facilitate criminal activity, regardless of whether the individual engaging in the activity is a Tenant, a member of the Tenant's household, a guest, or another person affiliated with the Tenant.

c. Violation of the above provisions shall be a material breach of the Lease and good cause for immediate termination of tenancy. Proof of a violation of the Lease hereunder shall not require a criminal conviction, but shall be by a preponderance of the evidence.

28. **MODIFICATIONS.** The provisions contained in this Lease shall not be changed or modified without express consent of Tenant and Landlord.

29. **SEVERABILITY.** In the event that any term or condition of this Lease shall be determined to be void or

unenforceable for any reason, then notwithstanding such determination, the balance of this Lease shall nonetheless remain in full force and effect and be construed and applied as though that term or condition was not contained herein.

This Lease contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this Lease other than as expressly set forth herein.

LANDLORD: The City of Hagerstown

TENANT: Sumner Crenshaw

Signed: _____

Print: Robert E. Bruchey, II

Title: Mayor of the City of Hagerstown

Witness:

Witness:

Exhibit 1

LEAD-BASED PAINT DISCLOSURE

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement:

Every Tenant of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Landlord of any interesting residential real property is required to provide the Tenant with any information on lead-based paint hazards from risk assessments or inspections in the Landlord's possession and notify the Tenant of any known lead-based paint hazards. A risk assessment or inspections for possible lead-based paint hazards is recommended prior to occupancy of the rental property.

Landlord's Disclosure (initial)

_____ (a.) Presence of lead-based paint and/or lead-based hazards (check one below):

(X) Known lead-based paint and/or lead based paint hazards are present in the housing (explain).

Structure was constructed prior to 1950 and it is likely that lead based paint was used in building components at that time.

() Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b.) Records and reports available to the Landlord (check one below):

() Landlord has provided the Tenant with all available records and reports pertaining to lead-based paint and/or lead based paint hazards in the housing (list documents below).

(X) Landlord has no reports or records pertaining to lead-based paint and/or lead-based hazards in the housing.

Tenant's acknowledgement (initial)

_____ (c.) Tenant has received copies of all information listed above.

_____ (d.) Tenant has received the pamphlet *Protect Your Family From Lead in Your Home*

_____ (e.) Tenant has received a copy of the lead inspection certificate from Landlord (to be delivered to the Tenant upon receipt in March 2017).

_____ (f.) Tenant has received a copy of the Notice of Tenants' Rights, a Maryland Department of Environment publication from Landlord, as required by Annotated Code of Maryland, Environment Section 6-820.

Certification of Accuracy

By signing this lease, the parties agree that they have reviewed the information above and certify; to the best of their knowledge, that the information provided by the signatory is true and accurate.

LANDLORD: The City of Hagerstown

TENANT: Sumner Crenshaw

By: _____

Title: Mayor of the City of Hagerstown

Date

Witness:

Date

Exhibit 2

The Studios on NoPo Tenant Handbook

Welcome to the Studios on NoPo!

This tenant handbook has been created for easy reference of answers to anticipated questions.

Maintenance Requests: Please see the *Residential Maintenance Request Information* at the end of this handbook.

Common Areas: The second floor lounge is considered a common area. Tenants are encouraged to use this area to enhance the enjoyment of their stay.

Noise: All residents and guests of the Studios on NoPo must conduct themselves in a respectful manner to the other residents and guests. Noise levels must be reasonable so as to not impair the quiet enjoyment of the other residents.

Entrance Vestibule: The entrance area is a common space. Tenants shall not change, alter, decorate or store any items in this area.

Landscaped Areas: The Landlord will maintain all landscaped areas. Tenants are not permitted to alter or change any landscaping without prior permission from the Landlord. At no time shall a planter, plant or support for a plant be attached to the structure or any component of the structure without prior permission from the Landlord.

Sanitation - Exterior of Structure: The Landlord shall maintain the exterior of the structure in a clean and sanitary manner. Tenants are responsible for ensuring that all household rubbish and garbage is secured in leak proof containers. Grocery or similar bags cannot be used for the temporary storage of rubbish and garbage. Additionally, tenants are responsible for the timely removal of any litter caused by said tenant or their guests.

Recycling: The City of Hagerstown offers numerous recycling programs. The Landlord encourages all tenants and their guests to participate in the recycling programs.

Exterior Storage: Tenants are prohibited from storing (temporarily or long-term) any items outside their dwelling unit. Boxes, household items, cleaning instruments, and other such personal items must not be stored on the exterior of the structure. Items left in the common areas and entrance vestibule will be considered discarded. As such they will be disposed of at the tenant's expense.

Stickers, flags, banners, signs, posters, or similar items: Such items are prohibited on the exterior of your dwelling unit or affixed to the interior of the unit in such a manner as to intend them to be visible on the exterior of the structure.

Smoking/Burning: Smoking is ONLY permitted at the exterior rear area of premises. Candles, incense or similar burning devices: Use of these or any such item is prohibited.

Clothes lines, exterior blinds or similar items: These items are prohibited.

Pets: Pets are permitted, as outlined in the Lease Agreement.

Yard Sales, Flea Markets, and Porch Sales: Permission must be obtained from the Landlord prior to conducting any such sale on the premises.

Window Treatments: Mini-blinds are provided for each window. Tenants may add window treatments with permission of the Landlord. However, such window treatments must be designed and constructed for that purpose. Window treatments visible to the exterior of the structure shall not contain any messages, (written or drawn). Sheets, blankets, drawn characters, or items considered signs shall not be used as additional window treatments. The mini-blinds shall not be removed without prior permission from the Landlord.

City, State, and Federal Laws, Codes, Ordinances: Tenants and their guest must comply with any and all laws, codes, and ordinances. Any costs incurred by the Landlord for the tenants violating the above shall be billed as rent on the next following month.

These rules are hereby incorporated into the lease and are part of said lease. Violations of rules and regulations constitute a material violation of said lease.

Acknowledge of Receipt

Tenant

Rev. 3/2014

Exhibit 3
WIRELESS NETWORK BENEFIT

A wireless Internet connection is available via a secured network to the tenants of the *Studios on NoPo* at 38 North Potomac Street, Hagerstown, MD. This access is for the exclusive benefit of our tenants, with the following understandings:

- The access of this network is not to be used for any commercial venture or any illegal activity.
- The use of this wireless network is not and will not be included in the lease agreement.
- The owners may at any time without cause or notice eliminate access to this network. The tenant is prohibited from giving others the access code to this secured network.
- The owners do not warrant against any damage or injury from the use of or access to the Internet via this connection. The tenant assumes all risk associated with use of the Internet and releases, indemnifies, and holds harmless the owners in regards to Internet access, the tenant's computer and associated components and related activities.

RELEASE, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Whereas, The City of Hagerstown, hereinafter known as the "owners" desire to make available to the tenants of the *Studios on NoPo*, Secured Network Wireless Internet, and

Whereas, the herein named tenant desires to use said Secured Network Wireless Internet, the tenant hereby releases the owners, their agents or assignees of any and all liability either real or perceived arising from damage to personal property or personal injury in gaining access to or the use of said Secured Network Wireless Internet. The tenant hereby releases, indemnifies, and holds harmless the owners in reference to the herein described activity.

The tenant further acknowledges that access to and use of said Secured Network Wireless Internet is not a requirement of any lease or other written or verbal agreement. Further that the access to and use of said Secured Network Wireless Internet may be terminated by the owners without notice or cause.

Further, tenant agrees and affirms that the tenant shall follow all laws associated with Internet use and use ordinary care in the access of the Secured Network Wireless Internet. The tenant agrees and affirms that any and all damage caused to *The Studios on NoPo*, equipment or building systems by the tenant's unlawful use of the Internet shall be the sole responsibility of the tenant.

Tenant

Date

City of Hagerstown

Date



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

To: Valerie Means, City Administrator

From: Amanda Whitmore, Downtown Coordinator

Date: March 15, 2017

RE: Approval of New Residential Lease for 36-40 N Potomac Street Unit 1

We are requesting review of a proposed lease agreement for a new artist tenant, Sumner Crenshaw, at 36-40 N Potomac Street. With the support of the Mayor and City Council at the March 21, 2017 Work Session, staff will seek approval of the lease agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed lease are listed below.

Key terms and conditions of the proposed lease include:

Unit 1:

- Recommended Artist – Sumner Crenshaw
- One year term
- Lease is for \$6,000 annually (\$500 monthly) for approximately 800 square feet.
- Tenant shall contribute at least 5 hours of time weekly assisting in the operation of the Engine Room Art Gallery

The prospective tenant's art portfolio was reviewed by the Artist Review and Selection Advisory Group. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed lease. A copy of the proposed lease agreement is attached.

Additional Background

The City acquired the property in September 2011. The residential renovations were completed in November 2013 creating four (4) artist lofts that were fully occupied by May 2014. Renovations of the gallery space were completed in the Spring of 2015 and Engine Room Art Space opened in June 2015.

Attachments: Draft lease for Sumner Crenshaw

- c. Jill Frick, Director of DCED
Eric Deike, Director of Public Works
Michelle Hepburn, Director of Finance

Residential Lease

THIS LEASE made on the 29th day of March, 2016, between City of Hagerstown, Landlord, and Sumner Crenshaw, Tenant.

WITNESSETH, that the Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord, premises known as *The Studios on NoPo*, 38 North Potomac Street, Apartment #1, Hagerstown, Maryland 21740.

1. **TERM.** This Lease shall be for a term of one year, beginning on the 1st day of April 2017 and ending on the 31st day of March, 2018. Thereafter, the Tenant shall be considered a month to month, periodic tenant.

2. **RENT.** Total annual rent of Six Thousand Dollars (\$6,000) payable in equal monthly installments of Five Hundred Dollars (\$500) per month in advance on the first day of each and every month of said term, without deduction or demand at the office of the Landlord at the cashier's office, 1 East Franklin Street, Hagerstown, MD.

If this Lease commences on a day other than the first of the month, the pro-rated amount of rent for the balance of the first month shall be paid to the Landlord at the time of possession. Thereafter, rent shall be paid on the first day of each month according to the amounts described above.

3. **SERVICE CHARGES.** Landlord shall have the right to require rent payments to be made in cash, money order, Cashier's Check and/or certified check. A service charge of \$35.00 will automatically be made for each instance in which a check is returned unpaid by the Tenant's bank for any reason. A late Charge of five percent (5%) of the amount of rent due for the monthly rental period shall be assessed for any payment delinquent ten (10) days after the due date.

4. **SECURITY DEPOSIT.** In addition to payment of the first month's rent, Tenant, upon the execution of this Lease, will deposit with Landlord the sum of \$500 as Security Deposit. If the Tenant has a pet within the guidelines outlined in Section 9 of this lease, an additional \$250 shall be collected as the Pet Deposit.

This Security Deposit shall be held as security by Landlord for the full and complete performance by Tenant of Tenant's obligations under this Lease, and shall be applied at the expiration of the term of this Lease, or any extensions, thereof, if any, on account of any unpaid rent, damage due to breach of this Lease or damage to the premises by Tenant, Tenant's family, agents, or social guests in excess of ordinary wear and tear. In no event, shall Tenant apply the Security Deposit toward any month's rent due under this Lease, without prior written consent of Landlord. In the event Tenant shall have fully and completely performed Tenant's obligations under this Lease upon its termination, the Security Deposit shall be refunded to Tenant within forty-five (45) days after the termination of the Lease in accordance with the terms hereof, together with simple interest which shall have accrued in the amount required by State law, currently three percent (3%) per annum, from the receipt of the Security by Landlord. A move-in checklist will be completed by Tenant within three (3) days of moving in and Landlord will use the move-in checklist during the move out inspection to determine if any of the tenant's deposit will be retained for cleaning or repairs after move-out. Upon tenant's written notification to Landlord of Tenant's intention to vacate premises, the date of moving and Tenant's new address, Tenant has the right to be present when Landlord inspects the premises in order to determine the existence of any damages caused during the tenancy. Upon receipt of Tenant's written notice of Tenant's intention to vacate premises, Landlord shall notify Tenant in writing of the date and time when the premises are to be inspected. The date of inspection shall occur within five (5) days before or five (5) days after the date of moving as designated in Tenant's written notice.

5. **DELIVERY OF POSSESSION.** Delivery of possession shall occur only after the first month's rent and security deposit have been paid to the Landlord. The Landlord shall then tender two key sets for the premises to the Tenant.

6. **SUBLEASE.** Tenant shall not assign this Lease or sublet the premises, or any portion thereof, or transfer possession or occupancy thereof to any other person or persons without prior written consent of Landlord.

7. **OCCUPANTS.** Tenant agrees that the premises shall be occupied by the individuals listed below, and as set forth in the NoPo Studio Application, who are specifically declared as follows:

- Sumner Crenshaw (Tenant)

Otherwise, children of the above-listed Tenants are allowed to occupy the premises. Additional persons will be permitted to occupy the Premises only upon written consent of the Landlord. Guests of Tenant will be considered additional occupants of the Premises if any such guest remains on the Premises for more than five (5) days in any 30 day period. Tenant shall notify Landlord immediately if Tenant intends to have a guest for more than five days.

8. **THE STUDIOS ON NOPO APPLICATION.** In connection with The Studios on NoPo Application, Tenant has submitted asset verification, employment verification, rental verification, and income certification statements, all of which are considered a part of the Studios on NoPo Application. Tenant has also provided authorization for the Landlord to perform credit report check(s) and criminal background check(s) for the household member(s). The parties acknowledge that Landlord relies upon the information given by Tenant in the Rental Application to enter into this Lease, and said information is incorporated herein by reference as fully as if attached hereto.

9. **ANIMALS.** One cat or dog under 25 pounds is permitted in each studio apartment, after paying the Pet Deposit described above in Section 4.

10. **MAINTENANCE, CONDITIONS, NOISE AND ALTERATIONS.**

(a) Tenant has examined the Premises and all appliances and equipment thereon owned by Landlord, and hereby accepts them in their "AS IS" condition and acknowledges that Landlord has made no representations or warranties, either expressed or implied, as to the condition or use of the Premises. Tenant shall immediately notify Landlord of any defects or dangerous conditions. Tenant shall keep the Premises in good order and condition and shall pay Landlord promptly for any repairs to the Premises or its equipment caused by Tenant's negligence or misuse or by the negligence or misuse of tenant's invitees, licensees or guests. Tenant shall return the Premises and all fixtures, appliances and improvements therein owned by Landlord in substantially the same condition as received, including but not limited to, general cleanliness and upkeep. Tenant acknowledges that Tenant shall pay to Landlord, upon vacating the Premises, expenses as may be incurred to restore the Premises to the condition in which it was delivered to Tenant at the commencement of this Lease, reasonable wear and tear excepted.

(b) Tenant shall not make any alterations or additions to the Premises without the prior written consent of Landlord.

(c) Tenant shall maintain the premises in a clean and sanitary condition at all times; and complies with all laws, ordinances and regulations, health, fire and police regulations with respect to the Premises. Tenant shall indemnify and save Landlord from all liability arising out of any violation by Tenant of such laws or regulations or arising out of any neglect or any violation or non-performance by the Tenant of any of the covenants contained in this Lease. Landlord shall monitor the condition of the premises and maintenance of the property. If the Tenant is negligent and Landlord incurs cost to maintain property, or be charged fines or fees the tenant will subsequently be charged for any and all costs incurred and shall be due as additional RENT.

(d) Tenant shall keep all plumbing from becoming obstructed due to negligence. NOTE: the sanitary sewer system may only be used for its designed and intended purposes. No diapers, condoms, paper towels, feminine hygiene products, or like materials may be flushed in the sanitary sewer system. If the plumbing becomes obstructed because of Tenant negligence or deliberate acts, Tenant shall pay the costs to have lines cleared.

(e) Tenant shall keep noise of occupants and guests and noise from radios, television sets, stereos, etc. to a level of sound that does not annoy or interfere with neighbors.

11. UTILITIES. The Landlord shall provide the utilities listed in Column 1 without any additional charge to the Tenant. The utilities listed in Column 2 are not included in the rent and are to be paid solely by the Tenant. The utilities payable by the tenant in Column 2 shall be considered additional rent.

Utility	Column 1 Landlord Paid	Column 2 Tenant Paid
Heating (Electric)		X
Hot Water (Electric)		X
Cooking (Electric)		X
Lights (Electric)		X
Water/Sewer/Trash Collection	X	
Phone/Cable TV/Hard-Wired Internet		X

12. INSPECTION. Landlord shall have the right to enter the Premises at all reasonable times necessary to inspect the Premises, to control pests and vermin, and to make necessary repairs to and maintain the Premises, including but not limited to, the heating, ventilation and air conditioning systems, the plumbing system, the electrical systems, etc. When practical, the Landlord shall give Tenant a one (1) day posted written notice of its intent to inspect the premises and the approximate time for said inspection. The notice shall be posted to the front door and such posting shall meet all requirements for said notice. In case of emergency, Landlord may enter the premises immediately and without notice to Tenant. During the last 60 days of the term of this Lease or any extension thereof, Landlord or its Agent may enter the premises during daylight hours to exhibit the same, and place a "for rent" or "for sale" sign thereof.

13. USE OF PREMISES. The Premises shall be primarily used for residential and light artistic use, not to include industrial arts. Tenant shall comply with all requirements of the Landlord and by all applicable laws, ordinances, and governmental regulations. No smoking or burning of incense or candles shall be permitted on the premises.

14. INDEMNIFICATION. The tenant agrees to indemnify, exonerate and save the landlord harmless from any and all suits, claims for loss, expenses, damages or injury to person or property sustained on the premises or

arising out of the use of the premises by the tenant or the tenant's family, employees, invitees, guests or licensees.

15. HANDBOOK. The Tenant shall be in compliance with all property rules and regulations in the booklet titled, *The Studios on NoPo Tenant Handbook*, revised 3/2014 and hereby incorporated into this lease by reference and attached as Exhibit 2.

16. ILLEGAL ACTIVITY. Notwithstanding anything which in any way might be construed to the contrary, it shall be deemed to be a material breach of this Lease for Tenant, or any member of the Tenant's household to engage in and/or to suffer the engagement in any criminal activity, including drug-related criminal activity, on or off the premises, while such Tenant is a Tenant in occupancy of any housing unit under control of Landlord. The term "drug-related criminal activity" shall mean the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance [as defined in Section 102 of the Controlled Substance Act (U.S.C. 802) as amended].

17. INSURANCE. Tenant acknowledges that Landlord maintains insurance on the Premises, which insurance does not protect the personal property, possessions, or personal liability of Tenant. Tenant must consult her own Agent for insurance protection. It is the responsibility of the Tenant to obtain adequate insurance on personal property of Tenant placed on, in, or about the premises.

18. CASUALTY.

(a) If the Premises is damaged or destroyed by fire or other casualty to an extent that the use of the Premises is substantially impaired, Tenant may immediately vacate the Premises and may terminate this Lease upon written notice to Landlord given within ten (10) days of Tenant's vacation of the Premises. In the event Tenant remains in possession of the damaged Premises, Rent shall be reduced in proportion to the impairment of use of the premises until same are repaired.

(b) In the event the Premises are damaged by fire or other casualty, and Landlord elects not to restore, repair and rebuild, Landlord may terminate this Lease by giving written notice to Tenant, whereupon Tenant shall promptly vacate the premises. Rent shall be paid through the date Tenant vacates.

19. CONDEMNATION.

(a) If the whole or any part of the Premises shall be taken by any competent authority for public or quasi-public use or purpose, then and in that event, this Lease shall cease and terminate from the date when the possession of the part so taken shall be required for such use or purpose.

(b) All damages awarded for such taking shall belong to and be the property of Landlord. Tenant shall not be entitled to any sum from Landlord or the condemning authority as compensation for the loss to the unexpired Term, nor for any other damages.

20. BREACH AND REMEDIES. If Tenant breaches this Lease, Landlord may repossess the Premises pursuant to judicial process, and Landlord shall have other rights as may be allowed by law. Tenant will pay the court costs charged to Landlord for notice sent for non-payment of rent, and Tenant also agrees to reimburse Landlord for all reasonable expenses incurred by Landlord, including attorney's fees as Additional Rent, if ejectment is ordered by the court.

21. ATTORNEY FEES. If Landlord be compelled to incur any expenses including reasonable attorney's fees in instituting and prosecuting any action or proceeding by reason of any default of Tenant hereunder, the

sum or sums so paid by Landlord with all interest, costs, and damages shall be deemed to be additional rent hereunder and shall be due from Tenant to Landlord on the 1st day of the month following the incurring of such respective expenses. Tenant agrees to reimburse Landlord for any reasonable attorney fees incurred by Landlord in enforcing the provisions of this Lease. In the event that Tenant files suit against Landlord in connection with this lease and Tenant is unsuccessful in obtaining a judgment against Landlord, Tenant agrees to pay Landlord's reasonable attorney fees in defending said suit.

22. EXTENDED ABSENCES. Tenant shall give Landlord prior written notice of any anticipated absence from the premises in excess of seven (7) days, during which absence Landlord may enter the premises as reasonably necessary. In the event Tenant fails to give notification to Landlord of an extended absence in excess of seven (7) days, Landlord may recover actual damages, if any, from Tenant.

23. ENTIRE AGREEMENT. The provisions hereof together with the Rental Application and the Rules and Regulations which are incorporated herein by reference along with any addendum attached hereto and initialed by the parties represent the complete and entire agreement between the parties with respect to the Premises. This Lease cannot be changed or supplemented except by agreement in writing signed by both parties.

24. DEFAULT. If the premises are abandoned or become vacant during the term, the Lessor or its agents may re-enter the same by force or otherwise without being liable to any prosecution therefore and, in addition to any other remedies, re-rent the premises in whole or in part as the agent of the Lessee who in all events shall remain liable for any unpaid rentals for the full term of this Lease. Lessor may receive the rent from any such re-rental applying the same first to the payment of such expenses as the Lessor may incur in re-entering and re-letting, and then to the payment of the rent due hereunder.

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

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

action(s) by Lessor, Lessee shall in all events remain liable for any unpaid rental for the full term of this Lease.

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

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

25. FAILURE TO PERFORM. Tenant covenants that in case Landlord, by reason of the failure of Tenant to perform any of the provisions hereof, shall be compelled to pay or shall pay any sum of money, or shall be compelled to do or shall do any act which requires the payment of money, then the sum or sums so paid or required to be paid, together with all interest, costs and damages, shall be added to the next installment of rent due or to any subsequent installment of rent and shall be collectible as additional rent in the same manner and with the same remedies as if it had been originally reserved.

26. ADDITIONAL ITEMS / REQUIREMENTS.

1. Tenant, in addition to rent, commits to assist in the operation of the Art Gallery on the first floor of the premises by contributing time at the Gallery without compensation for a minimum of five (5) hours per week. This obligation shall be scheduled through the Gallery Coordinator. Tenant may also display his own art in the Gallery, which display shall be subject to the discretion of the Gallery Coordinator.

2. The terms of the Lease shall include the terms of the Tenant Handbook, a copy of which is incorporated herein as Exhibit 2.

4. Attached as Exhibit 1 is a lead paint notification.

5. Attached as Exhibit 3 is the wireless network benefit.

27. CRIME FREE HOUSING. Tenant, any members of the Tenant's household or a guest or other persons affiliated with the Tenant or affiliated with any member of the Tenant's household:

a. Shall not engage in criminal activity at, on or near the said premises. "Criminal activity" means the commission of any of the acts defined in the Maryland Criminal Law Code Annotated, as from time to time amended.

b. Shall not engage in any act intended to facilitate criminal activity and shall not permit the premises to be used for or to facilitate criminal activity, regardless of whether the individual engaging in the activity is a Tenant, a member of the Tenant's household, a guest, or another person affiliated with the Tenant.

c. Violation of the above provisions shall be a material breach of the Lease and good cause for immediate termination of tenancy. Proof of a violation of the Lease hereunder shall not require a criminal conviction, but shall be by a preponderance of the evidence.

28. MODIFICATIONS. The provisions contained in this Lease shall not be changed or modified without express consent of Tenant and Landlord.

29. SEVERABILITY. In the event that any term or condition of this Lease shall be determined to be void or

unenforceable for any reason, then notwithstanding such determination, the balance of this Lease shall nonetheless remain in full force and effect and be construed and applied as though that term or condition was not contained herein.

This Lease contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this Lease other than as expressly set forth herein.

LANDLORD: The City of Hagerstown

TENANT: Sumner Crenshaw

Signed: _____

Print: Robert E. Bruchey, II

Title: Mayor of the City of Hagerstown

Witness:

Witness:

Exhibit 1

LEAD-BASED PAINT DISCLOSURE

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement:

Every Tenant of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Landlord of any interesting residential real property is required to provide the Tenant with any information on lead-based paint hazards from risk assessments or inspections in the Landlord's possession and notify the Tenant of any known lead-based paint hazards. A risk assessment or inspections for possible lead-based paint hazards is recommended prior to occupancy of the rental property.

Landlord's Disclosure (initial)

_____ (a.) Presence of lead-based paint and/or lead-based hazards (check one below):

- (☒) Known lead-based paint and/or lead based paint hazards are present in the housing (explain).
Structure was constructed prior to 1950 and it is likely that lead based paint was used in building components at that time.
(☐) Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b.) Records and reports available to the Landlord (check one below):

- (☐) Landlord has provided the Tenant with all available records and reports pertaining to lead-based paint and/or lead based paint hazards in the housing (list documents below).

- (X) Landlord has no reports or records pertaining to lead-based paint and/or lead-based hazards in the housing.

Tenant's acknowledgement (initial)

_____ (c.) Tenant has received copies of all information listed above.

_____ (d.) Tenant has received the pamphlet *Protect Your Family From Lead in Your Home*

_____ (e.) Tenant has received a copy of the lead inspection certificate from Landlord (to be delivered to the Tenant upon receipt in March 2017).

_____ (f.) Tenant has received a copy of the Notice of Tenants' Rights, a Maryland Department of Environment publication from Landlord, as required by Annotated Code of Maryland, Environment Section 6-820.

Certification of Accuracy

By signing this lease, the parties agree that they have reviewed the information above and certify; to the best of their knowledge, that the information provided by the signatory is true and accurate.

LANDLORD: The City of Hagerstown

TENANT: Sumner Crenshaw

By: _____

Title: Mayor of the City of Hagerstown

Date

Witness:

Date

Exhibit 2

The Studios on NoPo Tenant Handbook

Welcome to the Studios on NoPo!

This tenant handbook has been created for easy reference of answers to anticipated questions.

Maintenance Requests: Please see the *Residential Maintenance Request Information* at the end of this handbook.

Common Areas: The second floor lounge is considered a common area. Tenants are encouraged to use this area to enhance the enjoyment of their stay.

Noise: All residents and guests of the Studios on NoPo must conduct themselves in a respectful manner to the other residents and guests. Noise levels must be reasonable so as to not impair the quiet enjoyment of the other residents.

Entrance Vestibule: The entrance area is a common space. Tenants shall not change, alter, decorate or store any items in this area.

Landscaped Areas: The Landlord will maintain all landscaped areas. Tenants are not permitted to alter or change any landscaping without prior permission from the Landlord. At no time shall a planter, plant or support for a plant be attached to the structure or any component of the structure without prior permission from the Landlord.

Sanitation - Exterior of Structure: The Landlord shall maintain the exterior of the structure in a clean and sanitary manner. Tenants are responsible for ensuring that all household rubbish and garbage is secured in leak proof containers. Grocery or similar bags cannot be used for the temporary storage of rubbish and garbage. Additionally, tenants are responsible for the timely removal of any litter caused by said tenant or their guests.

Recycling: The City of Hagerstown offers numerous recycling programs. The Landlord encourages all tenants and their guests to participate in the recycling programs.

Exterior Storage: Tenants are prohibited from storing (temporarily or long-term) any items outside their dwelling unit. Boxes, household items, cleaning instruments, and other such personal items must not be stored on the exterior of the structure. Items left in the common areas and entrance vestibule will be considered discarded. As such they will be disposed of at the tenant's expense.

Stickers, flags, banners, signs, posters, or similar items: Such items are prohibited on the exterior of your dwelling unit or affixed to the interior of the unit in such a manner as to intend them to be visible on the exterior of the structure.

Smoking/Burning: Smoking is ONLY permitted at the exterior rear area of premises. Candles, Incense or similar burning devices: Use of these or any such item is prohibited.

Clothes lines, exterior blinds or similar items: These items are prohibited.

Pets: Pets are permitted, as outlined in the Lease Agreement.

Yard Sales, Flea Markets, and Porch Sales: Permission must be obtained from the Landlord prior to conducting any such sale on the premises.

Window Treatments: Mini-blinds are provided for each window. Tenants may add window treatments with permission of the Landlord. However, such window treatments must be designed and constructed for that purpose. Window treatments visible to the exterior of the structure shall not contain any messages, (written or drawn). Sheets, blankets, drawn characters, or items considered signs shall not be used as additional window treatments. The mini-blinds shall not be removed without prior permission from the Landlord.

City, State, and Federal Laws, Codes, Ordinances: Tenants and their guest must comply with any and all laws, codes, and ordinances. Any costs incurred by the Landlord for the tenants violating the above shall be billed as rent on the next following month.

These rules are hereby incorporated into the lease and are part of said lease. Violations of rules and regulations constitute a material violation of said lease.

Acknowledge of Receipt

Tenant

Rev. 3/2014

Exhibit 3
WIRELESS NETWORK BENEFIT

A wireless internet connection is available via a secured network to the tenants of the *Studios on NoPo* at 38 North Potomac Street, Hagerstown, MD. This access is for the exclusive benefit of our tenants, with the following understandings:

- The access of this network is not to be used for any commercial venture or any illegal activity.
- The use of this wireless network is not and will not be included in the lease agreement.
- The owners may at any time without cause or notice eliminate access to this network. The tenant is prohibited from giving others the access code to this secured network.
- The owners do not warrant against any damage or injury from the use of or access to the internet via this connection. The tenant assumes all risk associated with use of the internet and releases, indemnifies, and holds harmless the owners in regards to internet access, the tenant's computer and associated components and related activities.

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Whereas, the herein named tenant desires to use said Secured Network Wireless Internet, the tenant hereby releases the owners, their agents or assignees of any and all liability either real or perceived arising from damage to personal property or personal injury in gaining access to or the use of said Secured Network Wireless Internet. The tenant hereby releases, indemnifies, and holds harmless the owners in reference to the herein described activity.

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Further, tenant agrees and affirms that the tenant shall follow all laws associated with internet use and use ordinary care in the access of the Secured Network Wireless Internet. The tenant agrees and affirms that any and all damage caused to *The Studios on NoPo*, equipment or building systems by the tenant's unlawful use of the internet shall be the sole responsibility of the tenant.

Tenant

Date

City of Hagerstown

Date

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

Topic:

Approval of a Resolution: License Agreement for 36-40 North Potomac Street, Apt. 4

Mayor and City Council Action Required:

Discussion:

We are requesting review of a proposed residential license agreement for the Cultural Trail muralist, Alex Brewer and his assistant, to temporarily reside at 36-40 N. Potomac Street. Staff will seek approval of the license agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed license are listed below.

Key terms and conditions of the proposed license include:

Unit 4:

- Two tenants: Alex Brewer, Cultural Trail muralist, and his assistant
- Two month term (April and May 2017)
- License Fee shall be paid by the City of Hagerstown's Department of Parks and Engineering in accordance with the terms of the Agreement for Commission of Public Artwork between the City and Hense, LLC, dated October 25, 2016.

Staff is also renting furnishings to outfit the loft apartment for the two month term. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed license agreement. A copy of the proposed license agreement is attached.

Financial Impact:

Recommendation:

Motion:

I hereby move that the Mayor and City Council approve the attached resolution authorizing the execution of a residential License Agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The License will be between the City of Hagerstown and Alex Brewer and shall be in effect from April 1, 2017 to May 31, 2017, while Mr. Brewer completes the Mural of Unusual Size along the Hagerstown Cultural Trail.

Action Dates:

DATE OF INTRODUCTION: 03/28/2017
DATE OF PASSAGE: 03/28/2017
EFFECTIVE DATE: 03/28/2017

ATTACHMENTS:

File Name	Description
Motion__Resolution_and_License_Agreement_for_Artist_Hense.pdf	Motion, Resolution and License Agreement - For Artist Hense
MCC_Artist_Lofts_Tenant_Brewer.pdf	Memo/Motion/Resolution

REQUIRED MOTION

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

DATE: March 28, 2017

TOPIC: Approval of a Resolution: Execution of a residential License Agreement for the City of Hagerstown property located at 38 North Potomac Street Apt #4, Hagerstown, MD.

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

MOTION: I hereby move that the Mayor and City Council approve the attached resolution authorizing the execution of a residential License Agreement at the City of Hagerstown property located at 38 North Potomac Street in Hagerstown, MD. The License will be between the City of Hagerstown and Alex Brewer and shall be in effect from April 1, 2017 to May 31, 2017, while Mr. Brewer completes the Mural of Unusual Size along the Hagerstown Cultural Trail.

DATE OF INTRODUCTION:	03/28/2017
DATE OF PASSAGE:	03/28/2017
EFFECTIVE DATE:	03/28/2017

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO A RESIDENTIAL LICENSE AGREEMENT WITH ALEX BREWER,
AKA HENSE, FOR A PORTION OF THE PROPERTY KNOWN AS
THE STUDIOS ON NoPo, 38 NORTH POTOMAC STREET,
HAGERSTOWN, MARYLAND**

RECITALS

WHEREAS, the City of Hagerstown, Maryland ("the City") has, as one of the initiatives of its City Center Plan, the construction of a multi-use trail linking City Park and the Washington County Museum of Fine Arts with the Arts & Entertainment District ("the Cultural Trail"), with located artwork along the Cultural Trail consistent with the Public Art Master Plan approved by the City;

WHEREAS, the City expects the Cultural Trail, and artwork located along the Cultural Trail, to promote the arts to the City's citizens and visitors;

WHEREAS, one of the centerpieces of the Cultural Trail is a Mural of Unusual Size, to be installed at the buildings located at 67 West Baltimore Street, Hagerstown;

WHEREAS, the artist Alex Brewer, aka Hense, is a muralist of international acclaim, who was selected after a public competition, and who has agreed to create a mural of unusual size on the Cultural Trail, in keeping with the Public Art Master Plan;

WHEREAS, in accordance with the Agreement for Commission of Public Artwork with Hense, LLC, a Georgia-based business entity owned and operated by Hense, to design and create the Mural of Unusual Size on the Cultural Trail, the City has agreed to furnish the Artist with housing for a period of eight (8) weeks while he completes the Mural;

WHEREAS, the City of Hagerstown owns real property known as *The Studios on NoPo*, 38 North Potomac Street, Hagerstown, Maryland, upon which artist lofts are located;

WHEREAS, Apartment #4, a portion of said property, is currently available and is intended to be used by Artist, as set forth in the attached License Agreement; and

WHEREAS, the City of Hagerstown desires to license a portion of said property (further described in the attached License Agreement) to the Artist, at no cost to the Artist.

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

1. That the foregoing recitals are incorporated herein as if fully set forth.

2. That the City of Hagerstown be and is hereby authorized to enter into a License Agreement with Alex Brewer, aka Hense, for a portion of the property located at premises known as 38 North Potomac Street, Apartment #4, Hagerstown, Maryland, pursuant to the terms of the License Agreement attached hereto and incorporated herein by reference.

3. That the City of Hagerstown be and is hereby authorized to execute and deliver the License Agreement attached hereto, and to execute any additional documentation required to effectuate the purposes of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II Mayor

Date of Introduction: March 28, 2017
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

To: Valerie Means, City Administrator

From: Amanda Whitmore, Downtown Coordinator
Rodney Tissue, Director of Parks and Engineering

Date: March 15, 2017

RE: Approval of New Residential License Agreement for 36-40 N Potomac Street Unit 4

We are requesting review of a proposed residential license agreement for the Cultural Trail muralist, Alex Brewer and his assistant, to temporarily reside at 36-40 N. Potomac Street. Staff will seek approval of the license agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed license are listed below.

Key terms and conditions of the proposed license include:

Unit 4:

- Two tenants: Alex Brewer, Cultural Trail muralist, and his assistant
- Two month term (April and May 2017)
- License Fee shall be paid by the City of Hagerstown's Department of Parks and Engineering in accordance with the terms of the Agreement for Commission of Public Artwork between the City and Hense, LLC, dated October 25, 2016.

Staff is also renting furnishings to outfit the loft apartment for the two month term. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed license agreement. A copy of the proposed license agreement is attached.

Attachments: Draft license agreement for Alex Brewer

- c. Jill Frick, Director of DCED
Eric Deike, Director of Public Works
Michelle Hepburn, Director of Finance

14 N. Potomac Street, Suite 200A
Hagerstown, MD 21740
(301) 739-8577 Ext. 111

Residential License Agreement

THIS LICENSE AGREEMENT made on the 29th day of March, 2017, between City of Hagerstown, Licensors, and Alex Brewer, Licensee.

WITNESSETH, that the Licensors hereby makes available for housing to the Licensee and the Licensee hereby has the right to use of premises known as *The Studios on NoPo*, 38 North Potomac Street, Apartment #4, Hagerstown, Maryland 21740.

1. **TERM**. This License Agreement shall be for a period of two months, beginning on the 1st day of April 2017 and ending on the 31st day of May, 2017.

2. **LICENSE FEE**. Total license fee of Nine Hundred Dollars (\$900) payable in equal monthly installments of Four Hundred Fifty Dollars (\$450) per month in advance on the first day of each and every month of said term, without deduction or demand at the office of the Licensors at the cashier's office, 1 East Franklin Street, Hagerstown, MD. *The License Fee shall be paid by the City of Hagerstown's Department of Parks and Engineering in accordance with the terms of the Agreement for Commission of Public Artwork between the City and Hense, LLC, dated October 25, 2016.*

If this License Agreement commences on a day other than the first of the month, the pro-rated amount of License fee for the balance of the first month shall be paid to the Licensors at the time of possession. Thereafter, License fee shall be paid on the first day of each month according to the amounts described above.

3. **SECURITY DEPOSIT**. There shall be no security deposit; however, Licensee shall be responsible for damage due to breach of this License Agreement or damage to the premises by Licensee, Licensee's family, agents, or social guests in excess of ordinary wear and tear.

4. **DELIVERY OF POSSESSION**. The Licensors shall then tender two key sets for the premises to the Licensee.

5. **SUBLICENSE AGREEMENT**. Licensee shall not assign this License Agreement or sublet the premises, or any portion thereof, or transfer possession or occupancy thereof to any other person or persons without prior written consent of Licensors.

6. **OCCUPANTS**. Licensee agrees that the premises shall be occupied by the individuals listed below, and as set forth in the NoPo Studio Application, who are specifically declared as follows:

• Alex Brewer (Licensee)

• _____ (Licensee)

Otherwise, children of the above-listed Licensees are allowed to occupy the premises. Additional persons will be permitted to occupy the Premises only upon written consent of the Licensors. Guests of Licensee will be considered additional occupants of the Premises if any such guest remains on the Premises for more than five (5) days in any 30 day period. Licensee shall notify Licensors immediately if Licensee intends to have a guest for more than five days.

7. **ANIMALS**. No pets shall be permitted on the premises.

8. **MAINTENANCE, CONDITIONS, NOISE AND ALTERATIONS.**

(a) Licensee has examined the Premises and all appliances and equipment thereon owned by Licensor, and hereby accepts them in their "AS IS" condition and acknowledges that Licensor has made no representations or warranties, either expressed or implied, as to the condition or use of the Premises. Licensee shall immediately notify Licensor of any defects or dangerous conditions. Licensee shall keep the Premises in good order and condition and shall pay Licensor promptly for any repairs to the Premises or its equipment caused by Licensee's negligence or misuse or by the negligence or misuse of Licensee's invitees, licensees or guests. Licensee shall return the Premises and all fixtures, appliances and improvements therein owned by Licensor in substantially the same condition as received, including but not limited to, general cleanliness and upkeep. Licensee acknowledges that Licensee shall pay to Licensor, upon vacating the Premises, expenses as may be incurred to restore the Premises to the condition in which it was delivered to Licensee at the commencement of this License Agreement, reasonable wear and tear excepted.

(b) Licensee shall not make any alterations or additions to the Premises without the prior written consent of Licensor.

(c) Licensee shall maintain the premises in a clean and sanitary condition at all times; and complies with all laws, ordinances and regulations, health, fire and police regulations with respect to the Premises. Licensee shall indemnify and save Licensor from all liability arising out of any violation by Licensee of such laws or regulations or arising out of any neglect or any violation or non-performance by the Licensee of any of the covenants contained in this License Agreement. Licensor shall monitor the condition of the premises and maintenance of the property. If the Licensee is negligent and Licensor incurs cost to maintain property, or be charged fines or fees the Licensee will subsequently be charged for any and all costs incurred and shall be due as additional LICENSE FEE.

(d) Licensee shall keep all plumbing from becoming obstructed due to negligence. NOTE: the sanitary sewer system may only be used for its designed and intended purposes. No diapers, condoms, paper towels, feminine hygiene products, or like materials may be flushed in the sanitary sewer system. If the plumbing becomes obstructed because of Licensee negligence or deliberate acts, Licensee shall pay the costs to have lines cleared.

(e) Licensee shall keep noise of occupants and guests and noise from radios, television sets, stereos, etc. to a level of sound that does not annoy or interfere with neighbors.

9. **UTILITIES.** The Licensor shall provide the utilities listed in Column 1 without any additional charge to the Licensee. The utilities listed in Column 2 are not included in the License fee and are to be paid solely by the Licensee. The utilities payable by the Licensee in Column 2 shall be considered additional License fee.

Utility	Column 1 Licensor Paid	Column 2 Licensee Paid
Heating (Electric)	X	
Hot Water (Electric)	X	
Cooking (Electric)	X	
Lights (Electric)	X	
Water/Sewer/Trash Collection	X	
Phone/Cable TV/Hard-Wired Internet		X

10. **INSPECTION.** Licensors shall have the right to enter the Premises at all reasonable times necessary to inspect the Premises, to control pests and vermin, and to make necessary repairs to and maintain the Premises, including but not limited to, the heating, ventilation and air conditioning systems, the plumbing system, the electrical systems, etc. When practical, the Licensor shall give Licensee a one (1) day posted written notice of its intent to inspect the premises and the approximate time for said inspection. The notice shall be posted to the front door and such posting shall meet all requirements for said notice. In case of emergency, Licensor may enter the premises immediately and without notice to Licensee.

11. **USE OF PREMISES.** The Premises shall be primarily used for residential and light artistic use, not to include industrial arts. Licensee shall comply with all requirements of the Licensor and by all applicable laws, ordinances, and governmental regulations. No smoking or burning of incense or candles shall be permitted on the premises.

12. **INDEMNIFICATION.** The Licensee agrees to indemnify, exonerate and save the Licensor harmless from any and all suits, claims for loss, expenses, damages or injury to person or property sustained on the premises or arising out of the use of the premises by the Licensee or the Licensee's family, employees, invitees, guests or licensees.

13. **HANDBOOK.** The Licensee shall be in compliance with all property rules and regulations in the booklet titled, *The Studios on NoPo Licensee Handbook*, revised 3/2014 and hereby incorporated into this License Agreement by reference and attached at Exhibit 2.

14. **ILLEGAL ACTIVITY.** Notwithstanding anything which in any way might be construed to the contrary, it shall be deemed to be a material breach of this License Agreement for Licensee, or any member of the Licensee's household to engage in and/or to suffer the engagement in any criminal activity, including drug-related criminal activity, on or off the premises, while such Licensee is a Licensee in occupancy of any housing unit under control of Licensor. The term "drug-related criminal activity" shall mean the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance [as defined in Section 102 of the Controlled Substance Act (U.S.C. 802) as amended].

15. **INSURANCE.** Licensee acknowledges that Licensor maintains insurance on the Premises, which insurance does not protect the personal property, possessions, or personal liability of Licensee. Licensee must consult her own Agent for insurance protection. It is the responsibility of the Licensee to obtain adequate insurance on personal property of Licensee placed on, in, or about the premises.

16. **CASUALTY.**

(a) If the Premises is damaged or destroyed by fire or other casualty to an extent that the use of the Premises is substantially impaired, Licensee may immediately vacate the Premises and may terminate this License Agreement upon written notice to Licensor given within ten (10) days of Licensee's vacation of the Premises. In the event Licensee remains in possession of the damaged Premises, License fee shall be reduced in proportion to the impairment of use of the premises until same are repaired.

(b) In the event the Premises are damaged by fire or other casualty, and Licensor elects not to restore, repair and rebuild, Licensor may terminate this License Agreement by giving written notice to Licensee, whereupon Licensee shall promptly vacate the premises. License fee shall be paid through the date Licensee vacates.

17. **BREACH AND REMEDIES.** If Licensee breaches this License Agreement, Licensor may repossess the Premises pursuant to judicial process, and Licensor shall have other rights as may be allowed by law. Licensee will pay the court costs charged to Licensor for notice sent for non-payment of License fee, and Licensee also agrees to reimburse Licensor for all reasonable expenses incurred by Licensor, including attorney's fees as Additional License fee, if ejectment is ordered by the court.

18. **ENTIRE AGREEMENT.** The provisions hereof together with the Rules and Regulations which are incorporated herein by reference along with any addendum attached hereto and initialed by the parties represent the complete and entire agreement between the parties with respect to the Premises. This License Agreement cannot be changed or supplemented except by agreement in writing signed by both parties.

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

If any default or violation be made in the performance of any of the covenants and agreements herein contained on the part of the Lessee to be performed, and if such default shall not be cured by the Lessee within fifteen (15) days after receipt by the Lessee of written notice from the Licensor of such default, then the relation of Licensor and Lessee, at the option of the Licensor, shall wholly cease and determine and, in addition to any other remedies, the Licensor may re-enter the premises by force, if necessary, and remove all persons therefrom and distrain for License fee, if any be due, and assume and take possession of the premises and Lessee's property therein.

20. **ADDITIONAL ITEMS / REQUIREMENTS.**

1. The terms of the License Agreement shall include the terms of the Licensee Handbook, a copy of which is incorporated herein as Exhibit 2.

2. Attached as Exhibit 1 is a lead paint notification.

3. Attached as Exhibit 3 is the wireless network benefit.

21. **CRIME FREE HOUSING.** Licensee, any members of the Licensee's household or a guest or other persons affiliated with the Licensee or affiliated with any member of the Licensee's household;

a. Shall not engage in criminal activity at, on or near the said premises. "Criminal activity" means the commission of any of the acts defined in the Maryland Criminal Law Code Annotated, as from time to time amended.

b. Shall not engage in any act intended to facilitate criminal activity and shall not permit the premises to be used for or to facilitate criminal activity, regardless of whether the individual engaging in the activity is a Licensee, a member of the Licensee's household, a guest, or another person affiliated with the Licensee.

c. Violation of the above provisions shall be a material breach of the License Agreement and good cause for immediate termination of tenancy. Proof of a violation of the License Agreement hereunder shall not require a criminal conviction, but shall be by a preponderance of the evidence.

22. **MODIFICATIONS.** The provisions contained in this License Agreement shall not be changed or

modified without express consent of Licensee and Licensor.

23. **SEVERABILITY**. In the event that any term or condition of this License Agreement shall be determined to be void or unenforceable for any reason, then notwithstanding such determination, the balance of this License Agreement shall nonetheless remain in full force and effect and be construed and applied as though that term or condition was not contained herein.

This License Agreement contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this License Agreement other than as expressly set forth herein. THIS AGREEMENT IS CONTINGENT UPON APPROVAL BY THE MAYOR AND CITY COUNCIL AND SAID APPROVAL BECOMING LEGALLY EFFECTIVE.

LICENSOR: The City of Hagerstown

LICENSEE: Alex Brewer

Signed: _____

Print: Robert E. Bruchey, II

Title: Mayor of the City of Hagerstown

Witness:

Witness:

Exhibit 1

LEAD-BASED PAINT DISCLOSURE

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement:

Every Licensee of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Licensor of any interesting residential real property is required to provide the Licensee with any information on lead-based paint hazards from risk assessments or inspections in the Licensor's possession and notify the Licensee of any known lead-based paint hazards. A risk assessment or inspections for possible lead-based paint hazards is recommended prior to occupancy of the Licensee's property.

Licensor's Disclosure (initial)

_____ (a.) Presence of lead-based paint and/or lead-based hazards (check one below):

(X) Known lead-based paint and/or lead based paint hazards are present in the housing (explain).

Structure was constructed prior to 1950 and it is likely that lead based paint was used in building components at that time.

() Licensor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b.) Records and reports available to the Licensor (check one below):

() Licensor has provided the Licensee with all available records and reports pertaining to lead-based paint and/or lead based paint hazards in the housing (list documents below).

(X) Licensor has no reports or records pertaining to lead-based paint and/or lead-based hazards in the housing.

Licensee's acknowledgement (initial)

_____ (c.) Licensee has received copies of all information listed above.

_____ (d.) Licensee has received the pamphlet *Protect Your Family From Lead in Your Home*

_____ (e.) Licensee has received a copy of the lead inspection certificate from Licensor (to be delivered to the Licensee upon receipt in March 2017).

_____ (f.) Licensee has received a copy of the Notice of Licensees' Rights, a Maryland Department of Environment publication from Licensor, as required by Annotated

Code of Maryland, Environment Section 6-820.

Certification of Accuracy

By signing this License Agreement, the parties agree that they have reviewed the information above and certify; to the best of their knowledge, that the information provided by the signatory is true and accurate.

LICENSOR: The City of Hagerstown

LICENSEE: Alex Brewer

By: _____
Robert E. Bruchey, II

Title: Mayor

Date

Witness:

Date

Exhibit 2

The Studios on NoPo Licensee Handbook

Welcome to the Studios on NoPo!

This Licensee handbook has been created for easy reference of answers to anticipated questions.

Maintenance Requests: License Agreement see the *Residential Maintenance Request Information* at the end of this handbook.

Common Areas: The second floor lounge is considered a common area. Licensees are encouraged to use this area to enhance the enjoyment of their stay.

Noise: All residents and guests of the Studios on NoPo must conduct themselves in a respectful manner to the other residents and guests. Noise levels must be reasonable so as to not impair the quiet enjoyment of the other residents.

Entrance Vestibule: The entrance area is a common space. Licensees shall not change, alter, decorate or store any items in this area.

Landscaped Areas: The Licensor will maintain all landscaped areas. Licensees are not permitted to alter or change any landscaping without prior permission from the Licensor. At no time shall a planter, plant or support for a plant be attached to the structure or any component of the structure without prior permission from the Licensor.

Sanitation - Exterior of Structure: The Licensor shall maintain the exterior of the structure in a clean and sanitary manner. Licensees are responsible for ensuring that all household rubbish and garbage is secured in leak proof containers. Grocery or similar bags cannot be used for the temporary storage of rubbish and garbage. Additionally, Licensees are responsible for the timely removal of any litter caused by said Licensee or their guests.

Recycling: The City of Hagerstown offers numerous recycling programs. The Licensor encourages all Licensees and their guests to participate in the recycling programs.

Exterior Storage: Licensees are prohibited from storing (temporarily or long-term) any items outside their dwelling unit. Boxes, household items, cleaning instruments, and other such personal items must not be stored on the exterior of the structure. Items left in the common areas and entrance vestibule will be considered discarded. As such they will be disposed of at the Licensee's expense.

Stickers, flags, banners, signs, posters, or similar items: Such items are prohibited on the exterior of your dwelling unit or affixed to the interior of the unit in such a manner as to intend them to be visible on the exterior of the structure.

Smoking/Burning: Smoking is ONLY permitted at the exterior rear area of premises. Candles, incense or similar burning devices: Use of these or any such item is prohibited.

Clothes lines, exterior blinds or similar items: These items are prohibited.

Pets: Pets are permitted, as outlined in the License Agreement.

Yard Sales, Flea Markets, and Porch Sales: Permission must be obtained from the Licensor prior to conducting any such sale on the premises.

Window Treatments: Mini-blinds are provided for each window. Licensees may add window treatments with permission of the Licensor. However, such window treatments must be designed and constructed for that purpose. Window treatments visible to the exterior of the structure shall not contain any messages, (written or drawn). Sheets, blankets, drawn characters, or items considered signs shall not be used as additional window treatments. The mini-blinds shall not be removed without prior permission from the Licensor.

City, State, and Federal Laws, Codes, Ordinances: Licensees and their guest must comply with any and all laws, codes, and ordinances. Any costs incurred by the Licensor for the Licensees violating the above shall be billed as License fee on the next following month.

These rules are hereby incorporated into the License Agreement and are part of said License Agreement. Violations of rules and regulations constitute a material violation of said License Agreement.

Acknowledge of Receipt

Licensee

Rev. 3/2014

Exhibit 3
WIRELESS NETWORK BENEFIT

A wireless internet connection is available via a secured network to the Licensees of the *Studios on NoPo* at 38 North Potomac Street, Hagerstown, MD. This access is for the exclusive benefit of our Licensees, with the following understandings:

- The access of this network is not to be used for any commercial venture or any illegal activity.
- The use of this wireless network is not and will not be included in the License Agreement.
- The owners may at any time without cause or notice eliminate access to this network. The Licensee is prohibited from giving others the access code to this secured network.
- The owners do not warrant against any damage or injury from the use of or access to the internet via this connection. The Licensee assumes all risk associated with use of the internet and License Agreements, indemnifies, and holds harmless the owners in regards to internet access, the Licensee's computer and associated components and related activities.

LICENSE AGREEMENT, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Whereas, The City of Hagerstown, hereinafter known as the "owners" desire to make available to the Licensees of the *Studios on NoPo*, Secured Network Wireless Internet, and

Whereas, the herein named Licensee desires to use said Secured Network Wireless Internet, the Licensee hereby License Agreements the owners, their agents or assignees of any and all liability either real or perceived arising from damage to personal property or personal injury in gaining access to or the use of said Secured Network Wireless Internet. The Licensee hereby License Agreements, indemnifies, and holds harmless the owners in reference to the herein described activity.

The Licensee further acknowledges that access to and use of said Secured Network Wireless Internet is not a requirement of any License Agreement or other written or verbal agreement. Further that the access to and use of said Secured Network Wireless Internet may be terminated by the owners without notice or cause.

Further, Licensee agrees and affirms that the Licensee shall follow all laws associated with internet use and use ordinary care in the access of the Secured Network Wireless Internet. The Licensee agrees and affirms that any and all damage caused to *The Studios on NoPo*, equipment or building systems by the Licensee's unlawful use of the Internet shall be the sole responsibility of the Licensee.

Licensee

Date

City of Hagerstown

Date

Rev. 3/2014



CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development

To: Valerie Means, City Administrator

From: Amanda Whitmore, Downtown Coordinator
Rodney Tissue, Director of Parks and Engineering

Date: March 15, 2017

RE: Approval of New Residential License Agreement for 36-40 N Potomac Street Unit 4

We are requesting review of a proposed residential license agreement for the Cultural Trail muralist, Alex Brewer and his assistant, to temporarily reside at 36-40 N. Potomac Street. Staff will seek approval of the license agreement during the Regular Session on March 28, 2017. Key terms and conditions of the proposed license are listed below.

Key terms and conditions of the proposed license include:

Unit 4:

- Two tenants: Alex Brewer, Cultural Trail muralist, and his assistant
- Two month term (April and May 2017)
- License Fee shall be paid by the City of Hagerstown's Department of Parks and Engineering in accordance with the terms of the Agreement for Commission of Public Artwork between the City and Hense, LLC, dated October 25, 2016.

Staff is also renting furnishings to outfit the loft apartment for the two month term. Staff have worked with the prospective tenant and City Attorney Jason Morton to review all aspects of the proposed license agreement. A copy of the proposed license agreement is attached.

Attachments: Draft license agreement for Alex Brewer

- c. Jill Frick, Director of DCED
Eric Deike, Director of Public Works
Michelle Hepburn, Director of Finance

Residential License Agreement

THIS LICENSE AGREEMENT made on the 29th day of March, 2017, between City of Hagerstown, Licensors, and Alex Brewer, Licensee.

WITNESSETH, that the Licensors hereby makes available for housing to the Licensee and the Licensee hereby has the right to use of premises known as *The Studios on NoPo*, 38 North Potomac Street, Apartment #4, Hagerstown, Maryland 21740.

1. **TERM.** This License Agreement shall be for a period of two months, beginning on the 1st day of April 2017 and ending on the 31st day of May, 2017.

2. **LICENSE FEE.** Total license fee of Nine Hundred Dollars (\$900) payable in equal monthly installments of Four Hundred Fifty Dollars (\$450) per month in advance on the first day of each and every month of said term, without deduction or demand at the office of the Licensors at the cashier's office, 1 East Franklin Street, Hagerstown, MD. *The License Fee shall be paid by the City of Hagerstown's Department of Parks and Engineering in accordance with the terms of the Agreement for Commission of Public Artwork between the City and Hense, LLC, dated October 25, 2016.*

If this License Agreement commences on a day other than the first of the month, the pro-rated amount of License fee for the balance of the first month shall be paid to the Licensors at the time of possession. Thereafter, License fee shall be paid on the first day of each month according to the amounts described above.

3. **SECURITY DEPOSIT.** There shall be no security deposit; however, Licensee shall be responsible for damage due to breach of this License Agreement or damage to the premises by Licensee, Licensee's family, agents, or social guests in excess of ordinary wear and tear.

4. **DELIVERY OF POSSESSION.** The Licensors shall then tender two key sets for the premises to the Licensee.

5. **SUBLICENSE AGREEMENT.** Licensee shall not assign this License Agreement or sublet the premises, or any portion thereof, or transfer possession or occupancy thereof to any other person or persons without prior written consent of Licensors.

6. **OCCUPANTS.** Licensee agrees that the premises shall be occupied by the individuals listed below, and as set forth in the NoPo Studio Application, who are specifically declared as follows:

- Alex Brewer (Licensee)
- _____ (Licensee)

Otherwise, children of the above-listed Licensees are allowed to occupy the premises. Additional persons will be permitted to occupy the Premises only upon written consent of the Licensors. Guests of Licensee will be considered additional occupants of the Premises if any such guest remains on the Premises for more than five (5) days in any 30 day period. Licensee shall notify Licensors immediately if Licensee intends to have a guest for more than five days.

7. **ANIMALS.** No pets shall be permitted on the premises.

8. MAINTENANCE, CONDITIONS, NOISE AND ALTERATIONS.

(a) Licensee has examined the Premises and all appliances and equipment thereon owned by Licensor, and hereby accepts them in their "AS IS" condition and acknowledges that Licensor has made no representations or warranties, either expressed or implied, as to the condition or use of the Premises. Licensee shall immediately notify Licensor of any defects or dangerous conditions. Licensee shall keep the Premises in good order and condition and shall pay Licensor promptly for any repairs to the Premises or its equipment caused by Licensee's negligence or misuse or by the negligence or misuse of Licensee's invitees, licensees or guests. Licensee shall return the Premises and all fixtures, appliances and improvements therein owned by Licensor in substantially the same condition as received, including but not limited to, general cleanliness and upkeep. Licensee acknowledges that Licensee shall pay to Licensor, upon vacating the Premises, expenses as may be incurred to restore the Premises to the condition in which it was delivered to Licensee at the commencement of this License Agreement, reasonable wear and tear excepted.

(b) Licensee shall not make any alterations or additions to the Premises without the prior written consent of Licensor.

(c) Licensee shall maintain the premises in a clean and sanitary condition at all times; and complies with all laws, ordinances and regulations, health, fire and police regulations with respect to the Premises. Licensee shall indemnify and save Licensor from all liability arising out of any violation by Licensee of such laws or regulations or arising out of any neglect or any violation or non-performance by the Licensee of any of the covenants contained in this License Agreement. Licensor shall monitor the condition of the premises and maintenance of the property. If the Licensee is negligent and Licensor incurs cost to maintain property, or be charged fines or fees the Licensee will subsequently be charged for any and all costs incurred and shall be due as additional LICENSE FEE.

(d) Licensee shall keep all plumbing from becoming obstructed due to negligence. NOTE: the sanitary sewer system may only be used for its designed and intended purposes. No diapers, condoms, paper towels, feminine hygiene products, or like materials may be flushed in the sanitary sewer system. If the plumbing becomes obstructed because of Licensee negligence or deliberate acts, Licensee shall pay the costs to have lines cleared.

(e) Licensee shall keep noise of occupants and guests and noise from radios, television sets, stereos, etc. to a level of sound that does not annoy or interfere with neighbors.

9. UTILITIES. The Licensor shall provide the utilities listed in Column 1 without any additional charge to the Licensee. The utilities listed in Column 2 are not included in the License fee and are to be paid solely by the Licensee. The utilities payable by the Licensee in Column 2 shall be considered additional License fee.

Utility	Column 1 Licensor Paid	Column 2 Licensee Paid
Heating (Electric)	X	
Hot Water (Electric)	X	
Cooking (Electric)	X	
Lights (Electric)	X	
Water/Sewer/Trash Collection	X	
Phone/Cable TV/Hard-Wired Internet		X

10. INSPECTION. Licensors shall have the right to enter the Premises at all reasonable times necessary to inspect the Premises, to control pests and vermin, and to make necessary repairs to and maintain the Premises, including but not limited to, the heating, ventilation and air conditioning systems, the plumbing system, the electrical systems, etc. When practical, the Licensors shall give Licensee a one (1) day posted written notice of its intent to inspect the premises and the approximate time for said inspection. The notice shall be posted to the front door and such posting shall meet all requirements for said notice. In case of emergency, Licensors may enter the premises immediately and without notice to Licensee.

11. USE OF PREMISES. The Premises shall be primarily used for residential and light artistic use, not to include industrial arts. Licensee shall comply with all requirements of the Licensors and by all applicable laws, ordinances, and governmental regulations. No smoking or burning of incense or candles shall be permitted on the premises.

12. INDEMNIFICATION. The Licensee agrees to indemnify, exonerate and save the Licensors harmless from any and all suits, claims for loss, expenses, damages or injury to person or property sustained on the premises or arising out of the use of the premises by the Licensee or the Licensee's family, employees, invitees, guests or licensees.

13. HANDBOOK. The Licensee shall be in compliance with all property rules and regulations in the booklet titled, *The Studios on NoPo Licensee Handbook*, revised 3/2014 and hereby incorporated into this License Agreement by reference and attached at Exhibit 2.

14. ILLEGAL ACTIVITY. Notwithstanding anything which in any way might be construed to the contrary, it shall be deemed to be a material breach of this License Agreement for Licensee, or any member of the Licensee's household to engage in and/or to suffer the engagement in any criminal activity, including drug-related criminal activity, on or off the premises, while such Licensee is a Licensee in occupancy of any housing unit under control of Licensors. The term "drug-related criminal activity" shall mean the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance [as defined in Section 102 of the Controlled Substance Act (U.S.C. 802) as amended].

15. INSURANCE. Licensee acknowledges that Licensors maintains insurance on the Premises, which insurance does not protect the personal property, possessions, or personal liability of Licensee. Licensee must consult her own Agent for insurance protection. It is the responsibility of the Licensee to obtain adequate insurance on personal property of Licensee placed on, in, or about the premises.

16. CASUALTY.

(a) If the Premises is damaged or destroyed by fire or other casualty to an extent that the use of the Premises is substantially impaired, Licensee may immediately vacate the Premises and may terminate this License Agreement upon written notice to Licensors given within ten (10) days of Licensee's vacation of the Premises. In the event Licensee remains in possession of the damaged Premises, License fee shall be reduced in proportion to the impairment of use of the premises until same are repaired.

(b) In the event the Premises are damaged by fire or other casualty, and Licensors elects not to restore, repair and rebuild, Licensors may terminate this License Agreement by giving written notice to Licensee, whereupon Licensee shall promptly vacate the premises. License fee shall be paid through the date Licensee vacates.

17. BREACH AND REMEDIES. If Licensee breaches this License Agreement, Licenser may repossess the Premises pursuant to judicial process, and Licenser shall have other rights as may be allowed by law. Licensee will pay the court costs charged to Licenser for notice sent for non-payment of License fee, and Licensee also agrees to reimburse Licenser for all reasonable expenses incurred by Licenser, including attorney's fees as Additional License fee, if ejectment is ordered by the court.

18. ENTIRE AGREEMENT. The provisions hereof together with the Rules and Regulations which are incorporated herein by reference along with any addendum attached hereto and initialed by the parties represent the complete and entire agreement between the parties with respect to the Premises. This License Agreement cannot be changed or supplemented except by agreement in writing signed by both parties.

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

If any default or violation be made in the performance of any of the covenants and agreements herein contained on the part of the Lessee to be performed, and if such default shall not be cured by the Lessee within fifteen (15) days after receipt by the Lessee of written notice from the Licenser of such default, then the relation of Licenser and Lessee, at the option of the Licenser, shall wholly cease and determine and, in addition to any other remedies, the Licenser may re-enter the premises by force, if necessary, and remove all persons therefrom and distrain for License fee, if any be due, and assume and take possession of the premises and Lessee's property therein.

20. ADDITIONAL ITEMS / REQUIREMENTS.

1. The terms of the License Agreement shall include the terms of the Licensee Handbook, a copy of which is incorporated herein as Exhibit 2.
2. Attached as Exhibit 1 is a lead paint notification.
3. Attached as Exhibit 3 is the wireless network benefit.

21. CRIME FREE HOUSING. Licensee, any members of the Licensee's household or a guest or other persons affiliated with the Licensee or affiliated with any member of the Licensee's household:

- a. Shall not engage in criminal activity at, on or near the said premises. "Criminal activity" means the commission of any of the acts defined in the Maryland Criminal Law Code Annotated, as from time to time amended.
- b. Shall not engage in any act intended to facilitate criminal activity and shall not permit the premises to be used for or to facilitate criminal activity, regardless of whether the individual engaging in the activity is a Licensee, a member of the Licensee's household, a guest, or another person affiliated with the Licensee.
- c. Violation of the above provisions shall be a material breach of the License Agreement and good cause for immediate termination of tenancy. Proof of a violation of the License Agreement hereunder shall not require a criminal conviction, but shall be by a preponderance of the evidence.

22. MODIFICATIONS. The provisions contained in this License Agreement shall not be changed or

modified without express consent of Licensee and Licensors.

23. SEVERABILITY. In the event that any term or condition of this License Agreement shall be determined to be void or unenforceable for any reason, then notwithstanding such determination, the balance of this License Agreement shall nonetheless remain in full force and effect and be construed and applied as though that term or condition was not contained herein.

This License Agreement contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this License Agreement other than as expressly set forth herein. THIS AGREEMENT IS CONTINGENT UPON APPROVAL BY THE MAYOR AND CITY COUNCIL AND SAID APPROVAL BECOMING LEGALLY EFFECTIVE.

LICENSOR: The City of Hagerstown

LICENSEE: Alex Brewer

Signed: _____

Print: Robert E. Bruchey, II

Title: Mayor of the City of Hagerstown

Witness:

Witness:

Exhibit 1

LEAD-BASED PAINT DISCLOSURE

Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards

Lead Warning Statement:

Every Licensee of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Licensor of any interesting residential real property is required to provide the Licensee with any information on lead-based paint hazards from risk assessments or inspections in the Licensor's possession and notify the Licensee of any known lead-based paint hazards. A risk assessment or inspections for possible lead-based paint hazards is recommended prior to occupancy of the Licensee's property.

Licensor's Disclosure (initial)

_____ (a.) Presence of lead-based paint and/or lead-based hazards (check one below):

- (☒) Known lead-based paint and/or lead based paint hazards are present in the housing (explain).
Structure was constructed prior to 1950 and it is likely that lead based paint was used in building components at that time.
- (☐) Licensor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b.) Records and reports available to the Licensor (check one below):

- (☐) Licensor has provided the Licensee with all available records and reports pertaining to lead-based paint and/or lead based paint hazards in the housing (list documents below).

- (X) Licensor has no reports or records pertaining to lead-based paint and/or lead-based hazards in the housing.

Licensee's acknowledgement (initial)

_____ (c.) Licensee has received copies of all information listed above.

_____ (d.) Licensee has received the pamphlet *Protect Your Family From Lead in Your Home*

_____ (e.) Licensee has received a copy of the lead inspection certificate from Licensor (to be delivered to the Licensee upon receipt in March 2017).

_____ (f.) Licensee has received a copy of the Notice of Licensees' Rights, a Maryland Department of Environment publication from Licensor, as required by Annotated

Code of Maryland, Environment Section 6-820.

Certification of Accuracy

By signing this License Agreement, the parties agree that they have reviewed the information above and certify; to the best of their knowledge, that the information provided by the signatory is true and accurate.

LICENSOR: The City of Hagerstown

LICENSEE: Alex Brewer

By: _____
Robert E. Bruchey, II

Title: Mayor

Date

Witness:

Date

Exhibit 2

The Studios on NoPo Licensee Handbook

Welcome to the Studios on NoPo!

This Licensee handbook has been created for easy reference of answers to anticipated questions.

Maintenance Requests: License Agreement see the *Residential Maintenance Request Information* at the end of this handbook.

Common Areas: The second floor lounge is considered a common area. Licensees are encouraged to use this area to enhance the enjoyment of their stay.

Noise: All residents and guests of the Studios on NoPo must conduct themselves in a respectful manner to the other residents and guests. Noise levels must be reasonable so as to not impair the quiet enjoyment of the other residents.

Entrance Vestibule: The entrance area is a common space. Licensees shall not change, alter, decorate or store any items in this area.

Landscaped Areas: The Licensor will maintain all landscaped areas. Licensees are not permitted to alter or change any landscaping without prior permission from the Licensor. At no time shall a planter, plant or support for a plant be attached to the structure or any component of the structure without prior permission from the Licensor.

Sanitation - Exterior of Structure: The Licensor shall maintain the exterior of the structure in a clean and sanitary manner. Licensees are responsible for ensuring that all household rubbish and garbage is secured in leak proof containers. Grocery or similar bags cannot be used for the temporary storage of rubbish and garbage. Additionally, Licensees are responsible for the timely removal of any litter caused by said Licensee or their guests.

Recycling: The City of Hagerstown offers numerous recycling programs. The Licensor encourages all Licensees and their guests to participate in the recycling programs.

Exterior Storage: Licensees are prohibited from storing (temporarily or long-term) any items outside their dwelling unit. Boxes, household items, cleaning instruments, and other such personal items must not be stored on the exterior of the structure. Items left in the common areas and entrance vestibule will be considered discarded. As such they will be disposed of at the Licensee's expense.

Stickers, flags, banners, signs, posters, or similar items: Such items are prohibited on the exterior of your dwelling unit or affixed to the interior of the unit in such a manner as to intend them to be visible on the exterior of the structure.

Smoking/Burning: Smoking is ONLY permitted at the exterior rear area of premises. Candles, Incense or similar burning devices: Use of these or any such item is prohibited.

Clothes lines, exterior blinds or similar items: These items are prohibited.

Pets: Pets are permitted, as outlined in the License Agreement.

Yard Sales, Flea Markets, and Porch Sales: Permission must be obtained from the Licensor prior to conducting any such sale on the premises.

Window Treatments: Mini-blinds are provided for each window. Licensees may add window treatments with permission of the Licensor. However, such window treatments must be designed and constructed for that purpose. Window treatments visible to the exterior of the structure shall not contain any messages, (written or drawn). Sheets, blankets, drawn characters, or items considered signs shall not be used as additional window treatments. The mini-blinds shall not be removed without prior permission from the Licensor.

City, State, and Federal Laws, Codes, Ordinances: Licensees and their guest must comply with any and all laws, codes, and ordinances. Any costs incurred by the Licensor for the Licensees violating the above shall be billed as License fee on the next following month.

These rules are hereby incorporated into the License Agreement and are part of said License Agreement. Violations of rules and regulations constitute a material violation of said License Agreement.

Acknowledge of Receipt

Licensee

Rev. 3/2014

Exhibit 3
WIRELESS NETWORK BENEFIT

A wireless internet connection is available via a secured network to the Licensees of the *Studios on NoPo* at 38 North Potomac Street, Hagerstown, MD. This access is for the exclusive benefit of our Licensees, with the following understandings:

- The access of this network is not to be used for any commercial venture or any illegal activity.
- The use of this wireless network is not and will not be included in the License Agreement.
- The owners may at any time without cause or notice eliminate access to this network. The Licensee is prohibited from giving others the access code to this secured network.
- The owners do not warrant against any damage or injury from the use of or access to the internet via this connection. The Licensee assumes all risk associated with use of the internet and License Agreements, indemnifies, and holds harmless the owners in regards to internet access, the Licensee's computer and associated components and related activities.

LICENSE AGREEMENT, INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Whereas, The City of Hagerstown, hereinafter known as the "owners" desire to make available to the Licensees of the *Studios on NoPo*, Secured Network Wireless Internet, and

Whereas, the herein named Licensee desires to use said Secured Network Wireless Internet, the Licensee hereby License Agreements the owners, their agents or assignees of any and all liability either real or perceived arising from damage to personal property or personal injury in gaining access to or the use of said Secured Network Wireless Internet. The Licensee hereby License Agreements, indemnifies, and holds harmless the owners in reference to the herein described activity.

The Licensee further acknowledges that access to and use of said Secured Network Wireless Internet is not a requirement of any License Agreement or other written or verbal agreement. Further that the access to and use of said Secured Network Wireless Internet may be terminated by the owners without notice or cause.

Further, Licensee agrees and affirms that the Licensee shall follow all laws associated with internet use and use ordinary care in the access of the Secured Network Wireless Internet. The Licensee agrees and affirms that any and all damage caused to *The Studios on NoPo*, equipment or building systems by the Licensee's unlawful use of the internet shall be the sole responsibility of the Licensee.

Licensee

Date

City of Hagerstown

Date

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

Topic:

Approval of a Resolution: Renewal of a Memorandum of Understanding between the Hagerstown Police Department and the Department of Social Services, Division of Adult Protective Services (APS)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Motion_-_Resolution_approving_agreement_for_Adult_Protective_Services.pdf	Motion - APS Agreement Renewal
Resolution_-_HPD_MOU_Vulnerable_Adults_3_23_17.pdf	Resolution
201702241133.pdf	MOU - APS
Memo_-_Adult_Protective_Services_MOU.pdf	Memo - APS

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 28, 2017

TOPIC: **RESOLUTION:** Approval of the renewal of a Memorandum of Understanding between the Hagerstown Police Department and the Department of Social Services, division of Adult Protective Services.

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

MOTION: I hereby move for Mayor and Council approval of a resolution authorizing the Hagerstown Police Department to renew an agreement with the Washington County Department of Social Services. This agreement establishes certain investigative responsibilities between the Hagerstown Police Department and the Department of Social Services division of Adult Protective Services as it relates to reported crimes against vulnerable adults. No additional costs are associated with this agreement.

DATE OF PASSAGE: 03/28/2017

CITY OF HAGERSTOWN

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF HAGERSTOWN AND THE WASHINGTON COUNTY DEPARTMENT OF SOCIAL SERVICES, THE WASHINGTON COUNTY COMMISSION ON AGING, THE WASHINGTON COUNTY SHERIFF'S OFFICE, THE SMITHSBURG POLICE DEPARTMENT, THE MARYLAND STATE POLICE – HAGERSTOWN BARRACKS, THE DEVELOPMENTAL DISABILITIES ADMINISTRATION, AND THE STATE'S ATTORNEY'S OFFICE – WASHINGTON COUNTY REGARDING JOINT INVESTIGATIONS OF MALTREATMENT OF VULNERABLE ADULTS AND NURSING HOME AND ASSISTED LIVING RESIDENTS

RECITALS

WHEREAS, the City of Hagerstown and the Washington County Department of Social Services, the Washington County Commission on Aging, the Washington County Sheriff's Office, the Boonsboro Police Department, the Hancock Police Department, the Smithsburg Police Department, the Maryland State Police – Hagerstown Barracks, the Developmental Disabilities Administration, and the State's Attorney's Office – Washington County are parties to a Memorandum of Understanding Regarding Joint Investigations of Maltreatment of Vulnerable Adults and Nursing Home and Assisted Living Residents; and

WHEREAS, the current MOU expired on March 1, 2017; and

WHEREAS, all parties desire to continue their relationship in this regard for an additional three (3) year term; and

WHEREAS, the Mayor and Council of the City of Hagerstown find it 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. The foregoing recitals are hereby incorporated herein by reference.
2. That the Mayor be and is hereby authorized to execute and deliver the Memorandum of Understanding Regarding Joint Investigations of Maltreatment of Vulnerable Adults and Nursing Home and Assisted Living Residents between the City of Hagerstown and the Washington County Department of Social Services, the Washington County Commission on Aging, the Washington County Sheriff's Office, the Boonsboro Police Department, the Hancock Police Department, the Smithsburg Police Department, the Maryland State Police – Hagerstown Barracks, the Developmental Disabilities Administration, and the State's Attorney's Office – Washington County, a copy of which is attached hereto and incorporated herein by reference.
3. That the Mayor be and is hereby authorized to execute and deliver any other documentation that may be necessary to effectuate the purpose of this resolution.

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

ATTEST:

CITY OF HAGERSTOWN, MARYLAND

By: _____
Donna Spickler, City Clerk

By: _____
Robert E. Bruchey, Mayor

Date of Introduction: N/A
Date of Passage: March 28, 2017
Effective Date: March 28, 2017

PREPARED BY:
SALVATORE & MORTON, LLC
City Attorneys

MEMORANDUM OF UNDERSTANDING REGARDING
JOINT INVESTIGATIONS OF MALTREATMENT OF
VULNERABLE ADULTS AND NURSING HOME
AND ASSISTED LIVING RESIDENTS

BETWEEN

WASHINGTON COUNTY DEPARTMENT OF SOCIAL SERVICES - -APS UNIT

WASHINGTON COUNTY COMMISSION ON AGING - - LONG-TERM CARE
OMBUDSMAN

WASHINGTON COUNTY SHERIFF'S OFFICE

HAGERSTOWN CITY POLICE DEPARTMENT

BOONSBORO POLICE DEPARTMENT

HANCOCK POLICE DEPARTMENT

SMITHSBURG POLICE DEPARTMENT

MARYLAND STATE POLICE- HAGERSTOWN BARRACKS

DEVELOPMENTAL DISABILITIES ADMINISTRATION- WESTERN MD REGIONAL
OFFICE

and

STATE'S ATTORNEY'S OFFICE – WASHINGTON COUNTY

I. PREFACE

Under Title 14 of the Family Law Article of the Maryland Code, the Maryland Department of Human Resource's Adult Protective Services Program is responsible for investigating all reports of alleged abuse, neglect, exploitation or self neglect of vulnerable adults.¹ (See Exhibit A.) In this Memorandum of Understanding ("MOU") the word "maltreatment" is used to encompass abuse, neglect, and exploitation. A vulnerable adult is an adult who lacks the physical or mental capacity to provide for the adult's daily needs.

The Adult Protective Services Program operates through staff in the local Department of Social Services. Adult Protective Services does not have jurisdiction over abuse or neglect cases in mental health facilities, facilities for persons with intellectual disability, nursing homes, or hospitals. (Family Law Article §14-103.)

This MOU does not cover incidents that occur in mental health facilities, facilities for persons with intellectual disability, nursing homes, or hospitals. It does cover maltreatment of: (1) vulnerable adults (who may or may not live in an assisted living facility) and (2) financial exploitation of residents of nursing homes and assisted living facilities. When an alleged victim of maltreatment is a resident of an assisted living facility or nursing home the Office of Health Care Quality, a unit within Maryland's Department of Health and Mental Hygiene also has jurisdiction, as well as the Long Term Care Ombudsman Program (See Health General Article § 19-347 and Health Services Article Title 10, Subtitle 9 § 5 – Exhibits B & C respectively.) As a consequence, various entities can be involved in any given case, and if someone believes a crime may have been committed, then law enforcement and prosecutorial agencies become involved.

¹ For the definitions of "abuse", "neglect", "self-neglect", and "exploitation" see Exhibit A, and note that terms may have slightly different meanings in nursing homes, etc., (see Exhibit B). Unless otherwise indicated, all legal citations in this MOU are to the Maryland Annotated Code.

The need for clear lines of communication and an understanding of each agency's processes is obvious.

II. OBJECTIVE

The participating agencies ("Parties") jointly recognize the need for a proficient, high quality, coordinated service system dealing with maltreatment of vulnerable adults and nursing home and assisted living residents in **Washington County**. The objective of this agreement is to coordinate services of the Parties through cooperation, collaboration, and the sharing of appropriate information. In fact, State regulations mandate that each local department of social services "meet with the appropriate law enforcement agencies and the State's Attorney's Office to develop written agreements on procedures for joint investigation responsibilities and information sharing." (COMAR 07.02.16.07B.)

This agreement establishes operational protocols for the joint investigation of a report of maltreatment that requires investigation by more than one of the agencies participating in this MOU.

The Parties agree to:

1. Share available knowledge and resources;
2. Create an effective and efficient system of client referral, assessment and response;
3. Share a commitment to victim safety and holding abusers accountable;
4. Facilitate standard, consistent and thorough investigations of allegations of abuse, neglect, or exploitation of vulnerable adults and assisted living and nursing home residents;

5. Maximize resources through joint investigations;
6. Coordinate wherever possible interviews of victims of abuse, neglect, or exploitation to minimize unnecessary inconvenience to the victim;
7. Facilitate the orderly collection of evidence in any related criminal investigative process;
8. Ensure the provision of appropriate services to victims when deemed necessary; and,
9. Provide a forum for the on-going communication and resolution of issues involving the safety of vulnerable adults and residents of nursing homes and assisted living facilities.

When identifying appropriate investigatory responses, our goal is that teams are used; however the degree to which law enforcement takes the lead will depend on the nature of the case and the need to preserve biological or other evidence, such as blood, semen, etc. In abuse cases, law enforcement may have more expertise in documenting injuries, gathering evidence or protecting a crime scene. They may also have more expertise in knowing when to bring in experts to “process” a scene or where to take a victim to ensure that evidence collection is done in the matter that preserves evidence for future legal use. In self-neglect cases, it is unlikely that law enforcement should take the lead. On the other hand, in neglect cases they may need to take the lead in documenting injuries or processing physical evidence. In financial exploitation cases, law enforcement may need to work with Adult Protective Services workers to obtain information from and about the victim. In sum, with a team approach, all should learn the roles, strengths and limitations of the participating agencies in order to make better decisions about how to best

handle any given case or situation.

Some incidents of maltreatment may constitute one or more crimes codified under the Maryland Criminal Code or other statutes (see Exhibit D).

III. STATUTORY REPORTING PROCEDURES

A. Abuse in a NURSING HOME: If an alleged victim of abuse² is a resident in a nursing home, a person who believes the resident has been abused shall promptly report the alleged abuse to at least one of the following three law enforcement entities in the county in which the maltreatment is alleged to have occurred:

(1) Law Enforcement:

(a) Nursing Home in the city of Hagerstown report to:

Hagerstown Police Department
Investigative Services Commander
50 North Burhans Boulevard
Hagerstown, MD 21740-4696
(301) 790-3700 ext: 236

(b) Nursing Home in the city of Boonsboro report to:

Boonsboro Police Department
Chief Hewett
241 Potomac Street
Boonsboro, MD
(301) 432-6838

² In a nursing home abuse means – “the non-therapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce, or resulting in, mental or emotional distress.” See Exhibit B.

(c) Nursing Home in the city of Hancock report to:

Hancock City Police Department
Chief Buskirk
126 West High Street
Hancock, MD
(301) 678-5622

(d) Nursing Home in the city of Smithsburg report to:

Smithsburg City Police
Chief Knight
21 West Water Street
Smithsburg, MD 21783
(301) 824-3500

(e) Nursing Homes elsewhere in the county report to :

Washington County Sheriff's Office
Commander of the Criminal Investigation's Section
500 Western Maryland Parkway
Hagerstown, MD 21740-5125
(240) 313-2100
(240) 313-2182

Maryland State Police
Barrack O - Hagerstown
18345 Colonel Henry K Douglas Drive
Hagerstown, Maryland 21740
301-739-2102 (phone)
301-739-6324 (fax)

(2) Local Long Term Care Ombudsman: Report to:

Long Term Care Ombudsman
Washington County Commission on Aging
535 E. Franklin St.
Hagerstown, MD 21740
301-790-0275

OR (3) Office of Health Care Quality: Address complaints to:

Office of Health Care Quality
The Nursing Home Licensing Unit
Spring Grove Hospital Center
Bland Bryant Building
55 Wade Avenue
Catonsville, Maryland 21228

and submit your complaint by: (1) phone to 410-402-8201
(Toll-free 877-402-8219) or (2) fax to 410-402-8234.

Whichever agency (1, 2, or 3) receives the report is to promptly notify the other two and the administrator of the nursing home, unless the administrator is the alleged abuser.

B. Exploitation or Abuse of Funds in a NURSING HOME: If an alleged victim of exploitation or abuse of funds³ is a resident in a nursing home, a person may, and a health practitioner, police officer, or human service worker shall, make a written or oral complaint to:

1. Adult Protective Services Intake/Screening
Washington County Department of Social Services
122 N. Potomac St.
Hagerstown, MD. 21740
240-420-2155 (8:00am-4:30pm)
240-420-2222 (afterhours)

OR

If the resident is older than 64, to the local Ombudsman

2. Long Term Care Ombudsman
Washington County Commission on Aging
535 E. Franklin St.
Hagerstown, MD 21740
301-790-0275

³ Abuse of funds in this context means "using the assets or income of a resident: (i) against the express wishes of the resident, if the expenditure was not necessary for the direct and immediate benefit and welfare of the resident; or (ii) or the use or benefit of a person other than the resident if the expenditure is not also for the direct and immediate benefit of the resident or consistent with an express wish and past behavior of the resident." See Exhibit B.

C. Abuse, Neglect, or Exploitation in ASSISTED LIVING: If an alleged victim of abuse, neglect, or exploitation is a resident in an assisted living facility, then any person may, and a health practitioner, police officer, human service worker, licensee or employee of the facility shall, report a belief that a resident has been subject to abuse, neglect, or exploitation within 24 hours to:

1. Adult Protective Services Intake/Screening
Washington County Department of Social Services
122 N. Potomac St.
Hagerstown, MD. 21740
240-420-2155 (8:00am-4:30pm)
240-420-2222 (afterhours)

AND 2. One or more of the following three:

A. Law Enforcement:

(a) Facility in the city of Hagerstown report to:

Hagerstown Police Department
Investigative Services Commander
50 North Burhans Boulevard
Hagerstown, MD 21740-4696
(301) 790-3700 ext: 236

(b) Assisted Living Facility elsewhere in the county report to:

Washington County Sheriff's Office
Commander of the Criminal Investigation's Section
500 Western Maryland Parkway
Hagerstown, MD 21740-5125
(240) 313-2100
(240) 313-2182

Maryland State Police
Barrack O - Hagerstown
18345 Colonel Henry K Douglas Drive
Hagerstown, Maryland 21740
301-739-2102 (phone)
301-739-6324 (fax)

B. Local Long Term Care Ombudsman:

Long Term Care Ombudsman
Washington County Commission on Aging
535 E. Franklin St.
Hagerstown, MD 21740
301-790-0275

OR C. Office of Health Care Quality: Address complaints to the Assisted Living
Licensing Unit:

Office of Health Care Quality
Spring Grove Hospital Center
Bland Bryant Building
55 Wade Avenue
Catonsville, Maryland 21228

And submit your complaint by: (1) phone to 410 402-8217
(Toll-free 877-402-8221) or (2) fax to 410-402-8212.

If one of the agencies listed above in 2 (A), (B), or (C), receives a report, the recipient shall notify the other two agencies and the assisted living manager, unless the assisted living manager is believed to be involved. (COMAR 10.07.14.27)

D. Abuse, Neglect, Self-Neglect or Exploitation IN THE COMMUNITY: If an alleged vulnerable adult, who does not reside in a nursing home, hospital, mental health facility, etc., may be a victim of abuse, neglect, self-neglect, or exploitation, then any person may (and each health practitioner, police officer, or human services worker who has had contact with the

alleged victim shall) notify Adult Protective Service (APS) as soon as possible at:

Adult Protective Services Intake/Screening
Washington County Department of Social Services
122 N. Potomac St.
Hagerstown, MD 21741
240-420-2155 (8:00am-4:30pm)
240-420-2222 (afterhours)

IV. REPORT CONTENT

A. Report to Adult Protective Services: Reports to APS should contain the following information, if known:

1. The name, age, and home address of the alleged vulnerable adult;
2. The name and home address of the person responsible for the care of the alleged vulnerable adult;
3. The whereabouts of the alleged vulnerable adult;
4. The nature of the alleged vulnerable adult's capacity;
5. The nature and extent of the abuse, neglect, self-neglect, or exploitation of the alleged vulnerable adult, including evidence or information available to the reporter concerning previous injury possibly resulting from abuse, neglect, self-neglect, or exploitation;
6. Any other information that would help to determine:
 - a. The cause of the suspected abuse, neglect, self-neglect, or exploitation;
 - b. The identity of any individual responsible for the abuse, neglect, self-

neglect, or exploitation; and

7. The words “Vulnerable Adult Abuse” at the top of the report.

B. Report to Law Enforcement : A report from a participating agency to a law enforcement agency should include:

1. Date, Time, and Location of incident
2. Personal information for victim(s), witness(es), and suspect(s): Name, D.O.B, Address, Phone number(s), and Physical Description
3. Brief description of the incident
4. Reporting agency/office’s advisement, opinions, concerns, or recommendations concerning the incident.

C. Report to Office of Health Care Quality (OHCQ): Use the complaint form attached as Exhibit F.

D. Report to Long Term Care Ombudsman: A report to the local ombudsman should include the name of the resident, the name and location of the nursing home or assisted living facility, and a brief summary of the events that gave rise to the referral. A copy of the OHCQ report form or the report to APS will suffice.

E. Confidentiality of Reports: Agencies participating in an investigation may share pertinent client information relevant to the investigation. Beyond that, the parties hereto acknowledge that all confidential information received or developed in an investigation report is protected and may be released only in accordance with applicable law and regulation. (APS: Family Law §14-303(c) & (e), §14-305, and §14-308; Human

Services 1-201; COMAR07.02.16.04D. Ombudsman: 42 USCA §3058g, Human Services §10-905; 45 CFR 164.512 (a) and (c))

V. REFERRAL BY ADULT PROTECTIVE SERVICES TO LAW ENFORCEMENT BEFORE ADULT PROTECTIVE SERVICES INVESTIGATION IS COMPLETED

A. When Referral by APS is Appropriate: In cases of abuse in an assisted living facility or nursing home, law enforcement is to be notified initially along with the other agencies. In other situations, i.e., community settings, law enforcement may not be contacted until APS has completed its investigation, and then only if APS feels a crime may have been committed. However, §14-305 of the Family Law Article requires that law enforcement be notified earlier in appropriate cases, and §4-303 specifies that the local law enforcement agency shall assist in the investigation process on request by APS.

B. When Early Referral is Appropriate: Local Adult Protective Services office (“APS”) should immediately notify law enforcement in any of the following cases/situations:

1. A report regarding suspected abuse causes the APS intake worker or responder to reasonably believe that a crime is occurring or has been committed and the victim is at risk of immediate danger because of the imminent occurrence of physical abuse, sexual abuse, or other behaviors or conditions that are placing the victim’s health, physical safety, financial safety, or welfare in substantial jeopardy.
2. The referral or intake information leads the APS intake worker or responder to reasonably believe that the APS worker or responder may be in danger of serious harm or injury during the response, investigation, or assessment. (Examples of

situations that may require law enforcement accompaniment include the presence of alcohol, drugs, weapons, or dangerous animals.)

3. A response cannot be made or pursued because the worker is prevented from seeing the alleged victim or where other circumstances interfere with the response.
4. The victim requests that the responder/APS worker notify law enforcement.
5. An assessment causes the vulnerable adult responder to reasonably believe that a criminal act has been committed against a vulnerable adult and the person is not verbally objecting or otherwise actively protesting the worker's request for law enforcement investigation.

C. Early Referral Protocol:

1. Emergency: If during an APS home visit, it is determined that there is an emergency and a person is at substantial risk, the APS team will call 911 for assistance.
2. Non-emergency: If immediate response is not required, but law enforcement assistance is requested, the APS team will call: Central Communication at 240-313-2910.

VI. IMMEDIATE EMERGENCY CUSTODY

If from personal observation it appears to a police officer that: (1) an adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility, (2) the adult is incapable of giving consent, and (3) it is not possible to have a court

name an emergency guardian, then the officer has the authority under Section 13-709 (a) of the Estates and Trusts Article to take the individual to an appropriate health care facility. (See Exhibit E.) When a law enforcement officer determines that a vulnerable adult must be taken into physical custody, because there is a need for emergency protective placement under Estates and Trusts Article §13-709(a), the law enforcement agency shall notify APS that the person has been taken into physical custody. When circumstances permit, the APS team will notify the appropriate health care facility prior to the officer transporting the individual.

VII. INVESTIGATIONS, REFERRALS, REQUESTS FOR ASSISTANCE

A. General Principles: Each party has its own investigative procedures. When a case involves a vulnerable adult or a resident of a nursing home or assisted living facility more than one party may be required to investigate. The parties recognize the need to work together on such cases. A case may first come to the attention of any one of the participating agencies. In certain situations it is more appropriate for law enforcement to take the lead in responding. There will be other occasions when law enforcement should seek an assessment by APS or when OHCQ should take the lead. The parties agree to the following principles:

1. All parties acknowledge that in cases involving physical crimes (e.g., crimes involving domestic violence, sexual assault, physical abuse), as well as situations of financial exploitation, law enforcement has available more effective tools for conducting investigations such as access to the subpoena power of the State's Attorney. Therefore, law enforcement will take the lead role in investigating these cases.
2. In situations of financial exploitation law enforcement may work with the APS

workers as a team, to develop an investigation plan, including interviewing witnesses and securing information gained from bank statements or other financial records.

3. In situations where the intake information leads the intake worker or responder to reasonably believe that the worker or responder may be in danger of serious sexual, emotional, financial, or physical harm during the response, investigation, or assessment, other agencies may request law enforcement to take the lead in investigation. (Examples of situations that may require law enforcement assistance or lead in investigations include the presence of alcohol, drugs, weapons, or dangerous animals.)

4. If appropriate, law enforcement may request APS assistance with an emergency protective services placement (of either the elder or the alleged perpetrator) pursuant to Estates and Trusts Article §13-709(b). (See Exhibit E). APS will initiate emergency guardianship proceedings in court, if APS determines an emergency guardianship is needed.

B. Specific Protocols:

1. If the evaluation of the initial report indicates that the matter is solely within the jurisdiction of another party (e.g., APS receives a report on abuse at a nursing home, where it has no jurisdiction), the matter shall be referred to the appropriate agency and that agency shall be informed of whether or not law enforcement has been contacted by the agency that received the initial report.

2. When a report of suspected maltreatment of a vulnerable adult or a nursing home or assisted living resident is received by law enforcement, it will evaluate the information to determine if immediate response is necessary because the life or well being of a person is threatened. If immediate response is deemed proper, the nearest available officer will be

dispatched to the scene. If an immediate response to the scene is not considered necessary, the complaint will be assigned to an on-duty investigator.

3. If a person accused of maltreatment is an employee of an agency (e.g., home health agency or residential service agency), contact with the alleged abuser's employer should be made within 24 hours of receipt of the report by the primary responder or investigator by either APS or law enforcement in order that the employer may assist in providing services that address the safety of the individual requiring care-giving assistance as well as address the potential employment violations by the alleged abuser.

4. If a report of abuse, neglect, self-neglect, or exploitation is received from any source other than one of the parties to this agreement, the recipient of the report will notify the appropriate parties as indicated above in Part III and advise them of any specific immediate actions the receiving agency has already taken.

5. Abuse cases in nursing homes and assisted living facilities: Law enforcement agencies are to investigate abuse cases occurring in nursing homes and assisted living facilities in all but two situations: (1) if the alleged abuse involved conduct intended to produce, or resulting in, emotional distress, the matter shall be referred to OHCQ, and (2) if the matter concerns resident-to-resident abuse, law enforcement may refer the matter to OHCQ. See Exhibit B.

6. In any joint investigation, the parties involved will advise the other agencies involved when the case is referred for prosecution to either the State's Attorney or the Medicaid Fraud Control Unit of the Office of the Attorney General.

VIII. COORDINATION BETWEEN LAW ENFORCEMENT AGENCIES

A. Victims are sometimes found in a jurisdiction other than the jurisdiction in which an alleged offense occurred because they are taken to a hospital emergency room or a nursing home. The undersigned law enforcement agencies agree to coordinate initial inquiries and preliminary investigations. In these cases, the agency having jurisdiction where the victim is located (Jurisdiction of Victim Location or JVL) shall, if requested by any of the undersigned agencies, have a law enforcement officer respond and conduct a preliminary inquiry to establish sufficient facts upon which the case may be evaluated, giving particular attention to the severity of the alleged offense, the availability of witnesses, and the existence of physical evidence which requires timely handling. Once the preliminary inquiry is conducted, an immediate notification shall be given by the JVL agency to an on-duty supervisor of the agency having jurisdiction where the alleged offense occurred (Jurisdiction of Occurrence or JoO). The JoO agency is responsible for further investigating the criminal act(s).

B. The JoO agency shall promptly inform the JVL agency what type of response will be made and when the response will occur. The JoO agency may request the JVL agency conduct a preliminary interview of the victim and witnesses, and other activities associated with a preliminary investigation. If the JVL agency conducts an investigation, the investigating officer shall prepare a written report, "Assist Other Agency", and shall send it to the JoO agency's Dispatcher, or appropriate component, as soon as possible.

IX. REFERRAL FOR PROSECUTION

A. Referral by APS: APS is required to report to law enforcement and the State's Attorney any matters it has investigated where there is a possibility that a crime has been committed against a vulnerable adult. See Exhibit A.

B. Nursing Homes and Assisted Living Facilities:

1. Abuse: In abuse cases in nursing homes or assisted living facilities, the investigating law enforcement agency is required to submit a written report to the State's Attorney, among others, within 10 days of an investigation's completion. See Exhibit B.

2. Exploitation: In a case concerning the misuse of a resident's assets, either APS or the Ombudsman may refer the matter to the State's Attorney. See Exhibit B.

C. Medicaid Fraud Control Unit: The Medicaid Fraud Control Unit has jurisdiction to prosecute cases of maltreatment arising in any health care setting participating in Medicaid. This includes almost every nursing home in Maryland and most home health agencies. It also has jurisdiction over assisted living facilities, even if they do not participate in Medicaid.

If concern of Medicaid Fraud is suspected please contact:

Office of Health Care Quality
Spring Grove Hospital Center
Bland Bryant Building
55 Wade Avenue
Catonsville, Maryland 21228

And submit your complaint by: (1) phone to 410 402-8217
(Toll-free 877-402-8221) or (2) fax to 410-402-8212.

OR

Local Long Term Care Ombudsman:

Long Term Care Ombudsman
Washington County Commission on Aging
535 E. Franklin St.
Hagerstown, MD 21740
301-790-0275

These agencies and representatives will then be responsible to continue necessary investigations and to establish contact with the Medicaid Fraud Control Unit when necessary.

X. REFERRALS FOR SOCIAL SERVICES

The parties recognize that in the course of a criminal investigation, law enforcement representatives may determine that, irrespective of potential criminal activities, a person may be in need of an assessment or other social services. If in a nursing home, an officer will refer such a matter to the Long Term Care Ombudsman Program. If in an assisted living setting, an officer will refer such a matter to the Ombudsman Program or APS. If the matter is referred to both agencies, the officer will inform both of the agencies of the dual referral. In all other instances, the matter should be referred to APS.

XI. CHECKING IN ON AT RISK VULNERABLE ADULTS

If mutually agreed upon with APS, city and county law enforcement agencies will check on the well-being of an agreed upon vulnerable adult(s) determined to be at risk in the community. APS should contact Central Communication at 240-313-2910 to request checks by law enforcement for vulnerable adults in both city and county jurisdictions.

Central Communication will properly determine and establish contacts for these requests with

the presiding agency based on jurisdiction and officer availability. Return contact information should be provided upon request for timely report back to the requesting agency. Should concerns arise following a safety check after-hours, said concerns should be called into WCDSS after-hours hotline at 240-420-2222.

XII. TRAINING

The parties agree to work together collaboratively to mutually develop and conduct training programs for both law enforcement and agency staff on issues of maltreatment of vulnerable adults and residents of nursing homes and assisted living facilities. Topics will include:

- a. The civil abuse reporting laws contained in Exhibits A and B;
- b. Criminal statutes that may be applicable in cases involving elder abuse;
- c. Assessing competency;
- d. Documentation issues;
- e. "Consent" as it applies to refusing services; and
- f. The principles and processes adopted in this MOU.

Training outcomes are to ensure that staff of all participating agencies is informed of the proper procedures for receiving calls, investigating cases, and reporting to and working with APS, Ombudsman, OHCQ, prosecutors, and law enforcement agencies.

XIII. COLLABORATION AND REVIEW

Throughout the life of this agreement, the parties will meet periodically to identify issues

of mutual concern and solutions. Review meetings can be convened at any time, upon request of a participating agency, in order to review, and amend as necessary, the policies and procedures contained in this Memorandum of Understanding. Review meetings will be conducted as needed or upon request. Said meetings shall be conducted by the Washington County Department of Social Services.

XIV. PERIOD OF AGREEMENT, MODIFICATIONS, EFFECT

This Memorandum of Understanding is effective as of March 1, 2017. It may be modified at any time upon mutual consent of the signing parties or at the time of a review meeting. This agreement will remain in effect until terminated by mutual agreement of the parties. Any party hereto may withdraw by providing 30 days written notice to the other agencies. Should a party withdraw from the agreement, this Memorandum of Understanding will remain in effect for the remaining parties. Nothing in this agreement shall supercede any State or federal statutory regulatory requirements. This Memorandum of Understanding supercedes any memorandum previously signed by the parties that covers the same subject matter.

Signature, Director, WCDSS

Date

Signature, Sheriff

Date

Signature, Long Term Ombudsman

Date

Signature
Director, Washington County Commission on Aging

Date

Signature
Chief of Police, Boonsboro

Date

Signature
Chief of Police, Hagerstown

Date

Signature
Chief of Police, Hancock

Date

Signature
Chief of Police, Smithsburg

Date

Signature
Superintendent of Maryland State Police

Date

Signature
Developmental Disabilities Adm.

Date

Signature
State's Attorney's Office

Date

ARTICLE - FAMILY LAW

(Select Adult Protective Services Statutes)

§ 14-101.

- (a) In this title the following words have the meanings indicated.
- (b) "Abuse" means the sustaining of any physical injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act by any person.
- (c) "Director" means the director of the local department in the county where the vulnerable adult lives.
- (d) "Disabled person" has the meaning stated in § 13-101(e) of the Estates and Trusts Article.
- (e) "Emergency" means any condition in which an individual is living that presents a substantial risk of death or immediate and serious physical harm to the individual or others.
- (f) "Exploitation" means any action which involves the misuse of a vulnerable adult's funds, property, or person.
- (g) "Health practitioner" includes any person who is authorized to practice healing under the Health Occupations Article.
- (h) (1) "Human service worker" means any professional employee of any public or private health or social services agency or provider.
 - (2) "Human service worker" includes:
 - (i) any social worker; and
 - (ii) any caseworker.
- (i) "Law enforcement agency" means a State, county, or municipal police department, bureau, or agency.
- (j) "Local department" means the department of social services that has jurisdiction in the county:
 - (1) where the vulnerable adult lives; or
 - (2) where the abuse is alleged to have taken place.
- (k) "Local State's Attorney" means the State's Attorney for the county:
 - (1) where the vulnerable adult lives; or
 - (2) where the abuse is alleged to have taken place.
- (l) (1) "Neglect" means the willful deprivation of a vulnerable adult of adequate food,

clothing, essential medical treatment or habilitative therapy, shelter, or supervision.

(2) "Neglect" does not include the providing of nonmedical remedial care and treatment for the healing of injury or disease, with the consent of the vulnerable adult, recognized by State law instead of medical treatment.

(m) "Police officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(n) "Review board" means the adult public guardianship review board.

(o) "Secretary" means the Secretary of Human Resources.

(p) "Self-neglect" means the inability of a vulnerable adult to provide the vulnerable adult with the services:

(1) that are necessary for the vulnerable adult's physical and mental health; and

(2) the absence of which impairs or threatens the vulnerable adult's well-being.

(q) "Vulnerable adult" means an adult who lacks the physical or mental capacity to provide for the adult's daily needs.

§ 14-102.

(a) It is the policy of the State that adults who lack the physical or mental capacity to care for their basic daily living needs shall have access to and be provided with needed professional services sufficient to protect their health, safety, and welfare.

(b) The General Assembly intends that the provisions for appointment of public officials as guardian of the person be used sparingly and with utmost caution and only if an alternative does not exist.

§ 14-103.

This title does not apply to:

(1) the abuse of a patient in a mental health facility, under Title 10 of the Health - General Article;

(2) the abuse of a patient in a facility for mentally retarded individuals under Title 7 of the Health - General Article;

(3) the abuse of a patient in a nursing home under Title 19 of the Health - General Article; or

(4) the abuse of a patient in a hospital under Title 19 of the Health - General Article.

§ 14-201.

To implement the policy set out in § 14-102 of this title, the Secretary, with the advice of the Secretary of Health and Mental Hygiene and the Secretary of Aging, shall develop, supervise, and cause each local department to implement a program of protective services for disabled

individuals and vulnerable adults.

§ 14-202.

(a) The adult protective services program shall include:

- (1) intake and investigative services including, if appropriate, medical, social, and psychiatric evaluation;
- (2) planning for the needs of the recipient of services;
- (3) assistance to locate, apply for, and effectively use home care, day care, chore services, transportation, counseling, emergency arrangements, and other health and social services;
- (4) cooperation with the courts, including provision of any necessary recommendations, reports, or petitions;
- (5) counsel to represent any indigent recipient of services in any protective proceeding or any review board hearing conducted under Subtitle 3 or Subtitle 4 of this title, and assistance to locate, apply for, and effectively use other legal assistance; and
- (6) notification of and participation by the Secretary of Aging or the director of the local office on aging, as appropriate, as a party in any protective proceeding or review board hearing relating to an individual who is 65 years old or older.

(b) For adults 65 years old and over, the services of the protective services program shall be coordinated with the Department of Aging or the local office on aging as appropriate.

§ 14-204.

(a) Subject to the provisions of subsection (b) of this section, the Secretary shall establish a fee schedule based on financial ability to pay under which the individual who receives protective services, or the individual's legally responsible relative shall reimburse the federal, State, or local government for the services provided.

(b) An individual may not be charged a fee for protective services if:

- (1) federal law or federal regulations prohibit an income eligibility test for the protective service; or
- (2) the recipient is eligible for continuing financial aid under:
 - (i) the federal program of Supplemental Security Income;
 - (ii) the federal-State program of temporary cash assistance; or
 - (iii) the State program of transitional emergency, medical, and housing assistance.

§ 14-301.

The provisions of this subtitle do not limit the responsibility of a law enforcement agency to enforce the laws of this State or preclude a law enforcement agency from reporting and investigating alleged criminal conduct.

§ 14-302.

(a) Notwithstanding any law on privileged communications, each health practitioner, police officer, or human service worker who contacts, examines, attends, or treats an alleged vulnerable adult, and who has reason to believe that the alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation shall:

- (1) notify the local department; and
- (2) if acting as a staff member of a hospital or public health agency, immediately notify and give all the information required by this section to the head of the institution or the designee of the head.

(b) An individual who is required to make a report under subsection (a) of this section shall make the report by telephone, direct communication, or in writing to the local department as soon as possible.

(c) Any individual other than a health practitioner, human service worker, or police officer who has reason to believe that an alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation may file with the local department an oral or written report of the suspected abuse, neglect, self-neglect, or exploitation.

(d) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

- (1) the name, age, and home address of the alleged vulnerable adult;
- (2) the name and home address of the person responsible for the care of the alleged vulnerable adult;
- (3) the whereabouts of the alleged vulnerable adult;
- (4) the nature of the alleged vulnerable adult's incapacity;
- (5) the nature and extent of the abuse, neglect, self-neglect, or exploitation of the alleged vulnerable adult, including evidence or information available to the reporter concerning previous injury possibly resulting from abuse, neglect, self-neglect, or exploitation; and
- (6) any other information that would help to determine:

§ 14-303.

(a) To protect the welfare of the alleged vulnerable adult the local department shall begin a thorough investigation:

- (1) within 5 working days after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation; or

(2) within 24 hours after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation if the report indicates that an emergency exists.

(b) The investigation shall include:

(1) a determination of whether:

- (i) the individual is a vulnerable adult; and
- (ii) there has been abuse, neglect, self-neglect, or exploitation; and

(2) if the individual is determined to be a vulnerable adult and to have suffered abuse, neglect, self-neglect, or exploitation:

(i) a determination of the nature, extent, and cause of the abuse, neglect, self-neglect, or exploitation;

(ii) a determination of the identity of the person or persons responsible for the abuse, neglect, self-neglect, or exploitation;

(iii) an evaluation of the home environment; and

(iv) a determination of any other pertinent facts.

(c) (1) On request by the local department, the local State's Attorney or the appropriate law enforcement agency shall assist in the investigation.

(2) As appropriate, the local office on aging or Department of Aging, local geriatric evaluation service, or any other public or private agency providing services or care to the alleged vulnerable adult or whose information or expertise may be of assistance in assessing risk or planning services may assist in the investigation on the request by the local department.

(3) Any agencies set out in this subsection may jointly agree to cooperative arrangements for investigation.

(d) An investigation under this section shall be completed within:

- (1) 30 days; or
- (2) 10 days if the report indicates that an emergency exists.

(e) Parties participating in an investigation may share pertinent client information relevant to the investigation.

(i) the cause of the suspected abuse, neglect, self-neglect, or exploitation; and

(ii) the identity of any individual responsible for the abuse, neglect, self-neglect, or exploitation.

§ 14-304.

(a) If, in the course of an investigation under § 14-303 of this subtitle a representative of

the local department believes that an emergency exists, the representative may contact the local law enforcement agency.

(b) A police officer shall:

- (1) accompany the representative; and
- (2) if the police officer agrees that an emergency exists as described in § 13-709(a) of the Estates and Trusts Article, the officer shall ensure that the individual is transported to an appropriate health care facility under § 13-709(a) of the Estates and Trusts Article.

§ 14-305.

Based on the investigation under this subtitle, the local department shall:

- (1) render or assist a vulnerable adult to receive the appropriate services in the best interests of the vulnerable adult under the program of adult protective services;
- (2) as appropriate, involve the local office on aging;
- (3) report to the appropriate local law enforcement agency any incident of abuse, neglect, or exploitation of an alleged vulnerable adult where the possibility of a crime being committed against the alleged vulnerable person is indicated by information provided in the initial report to the local department or by information obtained in the course of investigation; and
- (4) send to the local State's Attorney and the appropriate local law enforcement agency a report of the investigation of any incident of abuse, neglect, or exploitation of an alleged vulnerable adult which was or should have been reported to the appropriate local law enforcement agency under paragraph (3) of this section.

§ 14-307.

(a) If after the investigation under this subtitle the director determines that the individual requires protective services, with the individual's consent the director shall provide the services.

(b) If the individual is unwilling or unable to accept protective services voluntarily, the director may petition the court for:

- (1) an emergency order for protective services under Title 13, Subtitle 7 of the Estates and Trusts Article;
- (2) the appointment of a guardian of the person under Title 13, Subtitle 7 of the Estates and Trusts Article; or
- (3) the appointment of a guardian of the property under Title 13, Subtitle 2 of the Estates and Trusts Article.

(c) The director shall submit with any petition filed under this section the findings of the

investigation under § 14-303 of this subtitle, including:

(1) an evaluation of the medical, psychiatric, and social factors that affect the individual's condition; and

(2) a description of recommended services.

(d) The director shall notify the Secretary of Aging or director of the local office on aging, as appropriate, of each guardianship proceeding that the director institutes under this subtitle that involves an individual who is 65 years old or older.

(e) If, as a result of a proceeding that the director institutes under this subtitle, the court appoints the director as guardian, the guardianship:

(1) shall transfer automatically to each individual who becomes director, unless the court terminates the guardianship; and

(2) may not be delegated to any other person.

§ 14-308.

(a) Subject to the provisions of subsection (b) of this section, the identity of any person who makes a report under § 14-302 of this subtitle shall be confidential.

(b) The identity of a person who makes a report under § 14-302 of this subtitle may be disclosed if:

(1) the person consents; or

(2) the court orders the disclosure.

§ 14-309.

Any person who makes or participates in making a report under this subtitle or participates in an investigation or a judicial proceeding resulting from a report under this subtitle shall have the immunity from liability described under § 5-622 of the Courts and Judicial Proceedings Article.

ARTICLE – HEALTH-GENERAL

§ 19-346.

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Abuse of funds" means using the assets or income of a resident:
- (i) Against the express wish of the resident, if the expenditure was not necessary for the direct and immediate benefit and welfare of the resident; or
- (ii) For the use or benefit of a person other than the resident if the expenditure is not also for the direct and immediate benefit of the resident or consistent with an express wish and past behavior of the resident.
- (3) "Bank" means a bank, trust company, savings bank, or savings and loan association that:
- (i) Is authorized to do business in this State; and
- (ii) Is insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the State of Maryland Deposit Insurance Fund Corporation.
- (4) "Facility" means:
- (i) A hospital that is classified as a special hospital; or
- (ii) A related institution.
- (b) This section provides rights and remedies in addition to, and not in derogation of, any right or remedy that a resident of a facility has under any other law.
- (c) Each resident of a facility may:
- (1) Keep control over personal financial transactions unless:
- (i) A court adjudicates the resident as a disabled person, in accordance with Title 13 of the Estates and Trusts Article; or
- (ii) The Social Security Administration designates a representative payee to receive the Social Security funds for the use and benefit of the resident; and
- (2) Choose any person, including the administrator of the facility or a designee of the administrator, to handle the financial transactions.
- (d) (1) Each facility shall have adequate safeguards for property of a resident that is entrusted to the facility.

....

(n) (1) A person, including the legal representative of the resident, may not use the assets or income of a resident for any purpose that is not authorized by the resident, a designee or legal representative, including a representative payee of the resident.

(2) (i) A person may make a written or oral complaint if the person believes that there has been an abuse of funds.

(ii) The complaint shall set forth each reason for the belief that there has been an abuse of funds and any facts that the complainant has to support the complaint.

(iii) The complaint shall be made:

1. To the local department of social services for the county where the facility is located; or

2. If the patient is 65 years old or older, to the Secretary of Aging.

(3) The recipient of the complaint shall:

(i) Immediately give the administrator of the facility written notice of the complaint, unless the administrator is the alleged abuser and the recipient believes that the notice would affect an investigation adversely;

(ii) Investigate the complaint, as appropriate; and

(iii) Give the alleged abuser specific notice of the alleged abuse and an opportunity to reply to the charges stated in the complaint.

(4) On request of the Secretary of Aging or the local department of social services, a State's Attorney shall help in the investigation.

(5) If, after the completion of an investigation, there is probable cause to believe that there has been an abuse of funds, the Secretary of Aging or the local department of social services may:

(i) Refer the matter to the State's Attorney for appropriate action; and

(ii) On behalf of the resident, bring suit to recover the misused money, costs, and attorney fees.

(6) A person who acts in good faith is not civilly or criminally liable for:

(i) Making a complaint under this subsection;

(ii) Participating in an investigation arising out of a complaint under this subsection; or

(iii) Participating in a judicial proceeding arising out of a report under this subsection.

(o) (1) If there is an abuse of funds, a person who misused the money is guilty of a

misdemeanor and on conviction is subject to a fine not exceeding \$10,000.

(2) Any person who violates another provision of this section is subject to a fine of \$10,000.

§ 19-347.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Abuse" means the nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce or resulting in mental or emotional distress.

(ii) "Abuse" does not include the performance of an accepted medical procedure that a physician orders.

(3) "Law enforcement agency" means the Department of State Police or a police agency of a county or municipal corporation.

(b) (1) A person who believes that a resident of a related institution has been abused shall report promptly the alleged abuse to an appropriate law enforcement agency, the Secretary, or the Department of Aging.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) The recipient of the report promptly shall notify:

(i) The other parties referred to in paragraph (1) of this subsection; and

(ii) Unless the administrator is the alleged abuser, the administrator of the related institution.

(c) Any employee of a related institution who is required to report alleged abuse under subsection (b) of this section, and who fails to report the alleged abuse within 3 days after learning of the alleged abuse, is liable for a civil penalty of not more than \$1,000.

(d) (1) Unless otherwise provided, the law enforcement agency, with the assistance of the Secretary, shall:

(i) Investigate thoroughly each report of an alleged abuse; and

(ii) Attempt to insure the protection of the alleged victim.

(2) The investigation shall include:

(i) A determination of the nature, extent, and cause of the abuse;

(ii) The identity of the alleged abuser; and

(iii) Any other pertinent fact or matter.

(3) Within 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to:

(i) The State's Attorney;

(ii) The Secretary;

(iii) The local ombudsman as designated by the Secretary of Aging;

(iv) Unless the administrator is the alleged abuser, the administrator of the related institution; and

(v) The Division of Licensing and Certification of the Department of Health and Mental Hygiene.

(e) The law enforcement agency:

(1) Shall refer to the Secretary for investigation reported instances of abuse involving any persistent course of conduct intended to produce or resulting in mental or emotional distress; and

(2) May refer to the Secretary for investigation reported instances of patient-to-patient abuse.

(f) Within 10 working days after the completion of an investigation under subsection (d) of this section, the Secretary shall submit a written report of its findings to:

(1) The State's Attorney;

(2) The local ombudsman as designated by the Secretary of Aging; and

(3) Unless the administrator is the alleged abuser, the administrator of the related institution.

(g) A person shall have the immunity from liability described under § 5-631 of the Courts and Judicial Proceedings Article for:

(1) Making a report under this section;

(2) Participating in an investigation arising out of a report under this section;

(3) Participating in a judicial proceeding arising out of a report under this section; or

(4) Participating in transferring, suspending, or terminating the employment of any individual who is believed to have abused or aided in abusing a resident under this section.

(h) (1) The Department shall provide each related institution with signs that set forth the reporting requirements under this section.

(2) The related institution shall post the signs conspicuously in the employee and public areas of the related institution.

**2010 Maryland Code
HUMAN SERVICES
TITLE 10 - DEPARTMENT OF AGING
Subtitle 9 - Long-Term Care Ombudsman Program
Section 10-905 - Powers**

§ 10-905. Powers.

In accordance with requirements of the federal Older Americans Act, an ombudsman shall have access to:

- (1) long-term care facilities and residents;
- (2) the medical and social records of a resident, if:
 - (i) the ombudsman has the permission of the resident or the legal representative of the resident; or
 - (ii) the resident is unable to consent and has no legal representative;
- (3) the records that are necessary to investigate a complaint if:
 - (i) a legal guardian of the resident refuses to give permission to access the records;
 - (ii) the ombudsman has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
 - (iii) the ombudsman obtains the approval of the State Long-Term Care Ombudsman;
- (4) the administrative records, policies, and documents of long-term care facilities to which the residents or members of the general public have access; and
- (5) copies of all licensing and certification records maintained by the Department of Health and Mental Hygiene or any other State unit with respect to long-term care facilities.

MARYLAND'S CRIMINAL CODE AND CIVIL PENALTIES

A. Some incidents of maltreatment may constitute one or more crimes codified under the Maryland Criminal Law Article, including but not limited to:

1. Abuse or Neglect of a Vulnerable Adult in the First Degree (§3-604),
2. Abuse or Neglect of a Vulnerable Adult in the Second Degree (§3-605),
3. Assault in the First Degree (§3-202),
4. Assault in the Second Degree (§3-203),
5. Breaking and Entering, Burglary, etc. (§6-201 through §6-205),
6. Coercing or Intimidating Another to Contribute or Donate (§3-707),
7. Counterfeiting of Private Instruments (§8-601),
8. Credit Card Theft (§8-204),
9. Destroying a Will (§8-702),
10. Embezzlement (§7-113),
11. Embezzling, Altering Will or Record (§8-701),
12. Exploitation of Vulnerable Adults (financial) (§8-801),
13. Extortion (§3-701),
14. Fraud in Procuring Issuance of Credit Card (§8-203),
15. Harassment (§3-803),
16. Identity Fraud (§8-301),
17. Kidnapping (§3-502),

19. Manslaughter (§2-207),
20. Medicaid Fraud (§8-508),
21. Misuse of Electronic Mail (§3-805),
22. Misuse of Telephone (§3-804),
23. Motor Vehicle Theft (§7-109,)
24. Murder, First and Second Degree and Attempts (§2-201 through 2-206),
25. Pyramid Promotional Schemes (§8-404),
26. Rape First and Second Degree (§3-303, 3-304),
27. Reckless Endangerment (§3-204),
28. Robbery (§3-402),
29. Robbery With a Dangerous Weapon (§3-403),
30. Sexual Offense, First, Second, Third, and Fourth Degrees (§3-305 through §3-308),
31. Sexual Crimes (Subtitle 3), and
32. Theft (§7-104).

B. In addition to the above, some cases may constitute violations of the following criminal statutes, which are not found in the Criminal Law Article:

1. Telemarketing Abuse (Commercial Law Article, §§14-3201 and 3202, §13-411),
2. Consumer Protection Violations (Commercial Law Article §13-411),
3. Securities Fraud (Corporations & Associations Article §11-301),
5. Robbery or Larceny of a Will (Estates and Trusts Article §4-203),
6. Destruction, Concealment, Forgery of Advance Directive (Health-General

Article §5-610),

7. Operation of Related Institution (nursing home, assisted living home, etc.) Without a License (Health-General Article §19-358),
8. Operation of Related Institution in Violation of Regulations of Department of Health & Mental Hygiene (Health-General Article §19-359), and
9. Failure by Employee of an Adult Dependent Care Program (nursing home, assisted living home, adult day care program, etc.) to Disclose Criminal Conviction or Pending Criminal Charges (Health-General Article §19-1909).

Article - Estates and Trusts

§13-709.

(a) When, from personal observation of a law enforcement officer, it appears probable that an adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility, that the adult is incapable of giving consent, and that it is not possible to follow the procedures of this section, the officer shall transport the person to an appropriate medical facility which shall immediately notify the next of kin and the director. This medical care may not be rendered in a State mental hospital other than, in an appropriate case, the Walter P. Carter Community Mental Health and Retardation Center and the Highland Health Facility unless authorized by the courts in a civil commitment proceeding. The director shall file a petition pursuant to subsection (b) of this section within 24 hours after the transfer of the person has taken place. The court shall hold a hearing on the petition and render its decision within 48 hours after the transfer has occurred.

(b) Upon petition by an interested person, a court may issue an order authorizing the provision of protective services on an emergency basis to an adult after finding on the record, based on clear and convincing evidence, that:

(1) For the purpose of this section the person lacks capacity under the standards enumerated in § 13-705(b) of this subtitle;

(2) An emergency exists, as defined in § 13-101 of this title; and

(3) No person authorized by law or court order to give consent for the person is available to consent to emergency services.

(c) In issuing an emergency order, the court shall adhere to the following limitations:

(1) Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; the court shall specifically designate the approved services in its order;

(2) Protective services authorized by an emergency order shall not include hospitalization or a change of residence unless the court specifically finds such action is necessary and gives specific approval for such action in its order;

(3) Protective services may be provided under an initial emergency order for not more than 144 hours, and the initial order may be renewed as provided in paragraph (5) of this subsection;

(4) In its order the court shall appoint the petitioner, another interested person, the director, or the Secretary of Aging as temporary guardian of the person with responsibility for the person's welfare and authority to give consent for the person for the approved protective services until the expiration of the order;

(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, the court may extend the terms of the emergency order and the appointment of the temporary guardian until appointment of a guardian of the person pursuant to § 13-705 of this subtitle, upon petition of the temporary guardian, the director, or the Secretary of Aging, as appropriate, and after a showing that the conditions found to exist in subsection (b) of this section will probably continue beyond the expiration of the extended emergency order. Such petition shall be filed before the expiration of the six-day period provided for in paragraph (3) of this subsection and shall be accompanied by a petition for appointment of a guardian of the person pursuant to § 13-705 of this subtitle. Such petition for appointment of a guardian of the person shall be heard on an expedited basis no more than 60 days after the filing of the petition;

(6) The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent provided for in the order or appointment; and

(7) To implement an emergency order, the court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for the provision of such services only after a showing to the court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary. Persons making authorized forcible entry shall be accompanied by a law enforcement officer, the director or his representative, and if appropriate, a representative of the local department of health.

EXHIBIT F

MARYLAND
Department of Health and Mental Hygiene
Office of Health Care Quality
Spring Grove Center • Bland Bryant Bldg. • 55 Wade Avenue • Catonsville, MD 21228 • 410-402-8015

COMPLAINT REPORT FORM

Complete this form if you have concerns about the health care or treatment that you or a family member received or did not receive. Answer all questions. Give complete details. Use additional sheet, if necessary. You may use this form as a guide when making a complaint by telephone. We will investigate your concerns based on the information that you provide.
You may file an anonymous complaint

Complete the following questions.

I. Name of patient/resident/client involved in the incident: _____

Sex: ☐ Male ☐ Female Age: _____

II. Health care facility, residence, or community treatment program involved in the incident:

Name: _____

Address: _____

Check the type of facility or program: ☐ Nursing home ☐ Adult medical day care ☐ Assisted living
☐ Hospital ☐ Home health agency ☐ Residential treatment center ☐ Community mental health
program ☐ Hospice ☐ Dialysis Center ☐ HMO ☐ Ambulatory surgery center ☐ Residential services
agency ☐ Birthing center ☐ Medical laboratory ☐ Community drug treatment program ☐
Developmental disabilities provider ☐ Other. Please specify _____

III. Witnesses to the incident:

Name

Contact information, if known (include telephone number)

IV. Person filing complaint or reporting incident (optional). Note: If you would like a deficiency report that may result from our investigation, please complete this section.

Name: _____ Relationship: _____

Address: _____

Telephone: _____

May we reveal your identity during the investigation of your complaint? ☐ Yes ☐ No

V. Briefly describe the incident or your concerns (use additional paper if necessary):
Include dates and times, persons involved, and description of what happened. Include attachments, if appropriate. **Note:** If this is an anonymous report, be complete since we will not be able to contact you to obtain missing information.

VI. Have you reported this incident or concern to the person in charge of the facility, residence or program? ☐ Yes ☐ No

Address written complaints to the appropriate licensing unit (listed below) and mail to:

Office of Health Care Quality
Spring Grove Hospital Center
Bland Bryant Building
55 Wade Avenue
Catonsville, Maryland 21228

Or submit your complaint to the appropriate OHCQ licensing unit phone:

Nursing homes- (410) 402-8108 Toll-free 877-402-8219
Hospitals- (410) 402-8000 Toll-free 877-402-8218
Health maintenance organizations- (410) 402-8000 Toll-free 877-402-8218
Developmental disabilities programs- (410) 402-8094 Toll-free 877-402-8220
Assisted living homes- (410) 402-8217 Toll-free 877-402-8221
Clinical laboratories- (410) 402-8025 Toll-free 877-402-8202
Home health agencies, hospice programs, residential service agencies, kidney dialysis centers-
(410) 402-8040 Toll-free 800-492-6005
Adult day care- (410) 402-8201 Toll-free 877-402-8219
Substance abuse treatment programs- (410) 402-8095 (410) 402-8052 Toll-free 877-402-8218
Community Mental Health Unit- (410) 402-8060 Toll-free 877-402-8220

4/2008



CITY OF HAGERSTOWN MARYLAND

DEPARTMENT OF POLICE
50 N. Burhans Blvd.

Non-Emergency 301-790-3700
Emergency 301-739-6000
Fax 301-733-5513

February 22, 2017

To: Valerie Means,
City Administrator

From: Victor V. Brito, *Chief VVB*
Chief of Police

Re: Memorandum of Understanding between the Washington County Department of Social
Services: Adult Protective Services (APS)

The Hagerstown Police Department is seeking to renew the Memorandum of Understanding (MOU) with the Washington County Department of Social Services - Adult Protective Services (APS), for the purpose of continuing specific duties and responsibilities regarding reports of abuse, neglect, and exploitation of vulnerable adults.

The MOU outlines current practices of information sharing and investigative protocols followed by HPD and APS. We find it beneficial to continue with the Department of Social Services and requests permission to renew the agreement on behalf of the City of Hagerstown.



A Nationally Accredited Law Enforcement Agency

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

Topic:

Approval of Contract for Reconstruction of Marsh Run - GRC General Contractor, Inc. (Zullinger, PA) \$315,000.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Motion -	Motion
_Marsh_Run_Wall_and_City_Park_Lake_Walls_Repair.pdf	
Complete_Consent_Form_-_Reconstruction_of_Marsh_Run.pdf	Signed Purchase Form
Mash_Run_Contract_Approval.pdf	Marsh Run

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 28, 2017

TOPIC: Approval of a Contract: Marsh Run and City Park Lake Walls Maintenance and Repair

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

MOTION: I hereby move for the approval of a contract with GRC General Contractor, Inc. of Zullinger, PA in the amount of \$315,000.00 for the Marsh Run and City Park Lake Walls Maintenance and Repair.

DATE OF PASSAGE: 3/28/2017

**City of Hagerstown
Mayor and Council
Purchase / Contract Information
Meeting of 3/28/17**

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

Originating Department: Parks and Engineering By: Rodney Tissue
Account Number: 4540000-5594 Account / Project Name: Marsh Run and City Park
Lake Walls Maintenance
and Repair
Budget Amount: \$400,000 Account Balance: \$400,000 Year: 16/17 CIP Control No. C0853
Unbudgeted \$: -0- Source of Funds: 2017 Bond Issue

Quantity	Description	Value
1	Masonry repairs to City Park Lake wall and Marsh Run wall	\$278,065.06
1	Contingency for addressing extra work	\$36,934.94

TOTAL VALUE OF PROJECT: \$315,000.00

ABOVE TO BE USED FOR:

City Park Lake: Replace missing stones, joint repair and repointing primarily along Virginia Avenue and Key Street (approximately 30% of contract).

Marsh Run Walls: Completely reconstruct 75 foot section at Potomac Street, repairs where wall sections are lost at storm drains, joint repair and repointing (approximately 70% of contract).

Recommended Vendor:

Business Name: GRC General Contractor, Inc.
Address: 3289 Waynecastle Road
City, State: Zullinger, PA 17272
Bid/Proposal/Quote No.: 17-SD-02

OTHER VENDORS:

Firm	City/State	Total Amount
Building Systems, Inc.	Hagerstown, MD	\$316,648.00
Lonestar Builders, Inc.	Hagerstown, MD	\$373,204.00
Milton Stamper Builders	Hagerstown, MD	\$379,065.00
Mar-Allen	Ephrata, PA	\$388,629.00

(1) Department Manager

Staff recommends award of this construction contract to *GRC General Contractor, Inc.* in the amount of \$278,065.06. We further recommend earmarking \$36,934.94 in contingent funds to address any additional deteriorated areas we encounter during the work. This extra work will be done at the competitively bid unit rates. Total approval requested is \$315,000.00

Patricia 3/10/17

Signature / Date

(2) Purchasing Agent:

Recommend Approval.

Jason T. Miller
3/13/17

Signature / Date

(3) Finance Manager:

Recommend approval. This project was included in the FY17 approved budget. The funding source is future 2017 bond issue.

Michelle

Signature / Date

3/13/17

(4) City Administrator's Recommendation:

approval

Vicki A. Miller
3/17/17

Signature / Date

**City of Hagerstown
Mayor and Council
Purchase / Contract Information
Meeting of 3/28/17**

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

Originating Department: Parks and Engineering By: Rodney Tissue
Account Number: 4540000-5594 Account / Project Name: Marsh Run and City Park
Lake Walls Maintenance
and Repair
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RTA 3/10/17

Signature / Date

(2) Purchasing Agent:

Recommend Approval.

Jason T. Miller
3/13/17

Signature / Date

(3) Finance Manager:

Recommend approval. This project was included in the FY17 approved budget. The funding source is future 2017 bond issue.

Michelle L. Miller

Signature / Date

3/13/17

(4) City Administrator's Recommendation:

approval

Vicki A. Miller
3/17/17

Signature / Date

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

Topic:

Approval of Amendments to FY16 and FY17 Community Development Block Grant (CDBG) Annual Action Plans

Mayor and City Council Action Required:

Discussion:

Staff request Mayor & City Council approval to amend the Community Development Block Grant (CDBG) FY16 Action Plan and FY17 Action Plan. The amendments are required for two distinct items:

- 1) allocation of unanticipated CDBG Program Income received from a CDBG loan payoff (previously discussed during the February 21st Work Session)
- 2) a change to the National Objective for existing CDBG activities

One amendment to the FY16 Action Plan will allocate \$80,000 of CDBG funding for sidewalk accessibility ramps to be constructed in multiple City neighborhoods. The amendment was discussed with the Mayor & Council during the February 21st work session and the CDBG amendment approval was postponed to March due to requirements of the Citizen Participation regulations. The change order for the Accessibility Ramps contract was approved during the February Regular Session.

The remaining amendments to the FY16 and FY17 Action Plans will change the National Objective for two CDBG Activities: Residential Rental Rehabilitation Loans and Residential Rental Rehabilitation Administration. The National Objective will change from Low/Moderate Income Housing to Removal of Blight. This National Objective change is essentially an administrative edit to allow for more flexibility in the execution of CDBG funded Investment Owner Rehabilitation projects. This amendment was not previously discussed.

Staff recommend amending the FY16 and FY17 CDBG Action Plans by allocating \$80,000 of unbudgeted Program Income to Accessibility Ramps and changing the Residential Rental Rehabilitation Activities objective to Removal of Blight.

Staff will be available to answer any questions on the above items.

**CITY OF HAGERSTOWN, MARYLAND
PROPOSED AMENDMENTS
FY 2016 and FY 2017 ANNUAL ACTION PLANS FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

Receipt of Unanticipated Program Income

In Fiscal Year 2016, the City of Hagerstown received \$80,000 of unanticipated program income through loan repayment funds. \$80,000 of unanticipated program income will be allocated to an existing activity: **Accessibility Ramps**.

Change to National Objective

In Fiscal Year 2016, the National Objective will be changed for the following CDBG activities:

Residential Rental Rehabilitation – National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Residential Rental Rehabilitation Administration- National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

The City proposes to amend the follow CDBG activities in the FY 2017 Action Plan:

Change to National Objective

~~_____~~

In Fiscal Year 2017, the National Objective will be changed for the following CDBG activities:

Residential Rental Rehabilitation – National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Residential Rental Rehabilitation Administration- National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Motion -
_Amendments_to_FY16_and_FY17_Community_Developent_Block_Grant_Annual_Action_Plans.pdf

Motion -
CDBG
Annual
Action Plan
Amendments

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

March 28, 2017

TOPIC: Amendments to FY16 and FY17 Community Development Block Grant (CDBG) Annual Action Plans

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

MOTION: I hereby move for the Mayor and City Council to amend the FY16 and FY17 Community Development Block Grant Annual Action Plans in order to allocate unanticipated CDBG program income and to edit the national objective for two activities. These amendments are required by CDBG citizen participation regulations and details of the amendments are attached.

DATE OF INTRODUCTION:	03/28/2017
DATE OF PASSAGE:	03/28/2017
EFFECTIVE DATE:	03/28/2017

CITY OF HAGERSTOWN, MARYLAND
AMENDMENTS TO FY 2016 and FY 2017 ANNUAL ACTION PLANS FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Receipt of Unanticipated Program Income

In Fiscal Year 2016, the City of Hagerstown received \$80,000 of unanticipated program income through loan repayment funds. \$80,000 of unanticipated program income will be allocated to an existing activity: **Accessibility Ramps**.

Change to National Objective

In Fiscal Year 2016, the National Objective will be changed for the following CDBG activities:

Residential Rental Rehabilitation – National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Residential Rental Rehabilitation Administration- National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Change to National Objective

In Fiscal Year 2017, the National Objective will be changed for the following CDBG activities:

Residential Rental Rehabilitation – National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

Residential Rental Rehabilitation Administration- National Objective changing from Low/Mod Housing to Elimination of Slum and Blight

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

Topic:

Authorization to Renew the City's Sustainable Community Area Designation

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

I hereby move to authorize City Staff to submit an application to the Maryland Department of Housing and Community Development to renew the City's Sustainable Community Area designation and to update the City's Sustainable Community Plan.

Action Dates:

ATTACHMENTS:

File Name

Motion_of_Authorization.pdf

Description

Motion Sheet

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: March 28, 2017

TOPIC: Authorization to Renew the City's Sustainable Community Area Designation

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

MOTION: I hereby move to authorize City Staff to submit an application to the Maryland Department of Housing and Community Development to renew the City's Sustainable Community Area designation and to update the City's Sustainable Community Plan.

DATE OF PASSAGE: 03/28/2017

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

Topic:

Approval of 2017 Western Maryland Blues Festival Rain Insurance - Weather Insurance Agency
\$9,991.00

Mayor and City Council Action Required:

Discussion:

At the March 28, 2017 Regular Session the Executive Committee of the Western Maryland Blues Festival would like to receive authorization from the Mayor and City Council to purchase rain insurance for the event on Friday, June 2, 2017 and Saturday, June 3, 2017.

After a review of multiple insurance options, the Executive Committee of the Western Maryland Blues Festival would like to recommend the purchase of the rain insurance as described below:

The rain insurance policy for Friday, June 2, 2017 is for \$20,000. The policy will cover the hours of 4:00 p.m. to 9:00 p.m. (5 hours), and it must rain 0.25 inches or more to collect on the policy. Please note that 5% of the \$20,000 will go to the Maryland Theatre for their risk of the beer and wine sales. The rain insurance policy for Saturday, June 3, 2017 is for \$60,000 and would cover the hours of 10:00 a.m. to 6:00 p.m. (8 hours). It must rain 0.25 inches or more in order to collect on the policy. Please note 5% of the rain insurance proceeds would go to the Maryland Theatre for their risk of the beer and wine sales. These policies must be purchased by April 10, 2017.

The purchase of a rain insurance policy will not cover the entire festival liability; however, buying the rain insurance policy is a balance between the price of the insurance versus the risk of loss.

The Executive Committee of the Western Maryland Blues Festival appreciates your continued support of the event.

Financial Impact:

The total cost of the insurance would be \$9991.00 and would come from the Blues Fest Public Functions Budget. The policy would be purchased from Weather Insurance Agency. Two additional companies provided quotes and these quotes can be found on the attached comparison document.

Recommendation:

2017 Western Maryland Blues Festival Rain Insurance

<u>Company</u>	<u>Price</u>
Weather Insurance Agency	Friday, June 2, 2017 - \$2,327.80 Saturday, June 3, 2017 - \$7,663.20 TOTAL - \$9,991.00

Keller-Stonebraker Insurance	Friday, June 2, 2017 - \$2,780.00 Saturday, June 3, 2017 - \$11,280.00 TOTAL - \$14,060.00
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Global Weather Insurance Agency	Friday, June 2, 2017 - \$3,000.00 Saturday, June 3, 2017 - \$12,210.00 TOTAL - \$15,210.00
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Motion:

I hereby move for Mayor and Council to approve the purchase rain insurance policies for the 2017 Western Maryland Blues Festival at the following maximum amounts: a \$20,000 policy for Friday, June 2, 2017 from 4:00 p.m. to 9:00 p.m. and a \$60,000 policy for Saturday, June 3, 2017 from 10:00 a.m. to 6:00 p.m. The total cost for the insurance will be \$9,991.00. Funding would be from the Blues Fest Budget in the Public Functions Account. Five percent of the rain insurance proceeds would go the Maryland Theatre for their risk of the beer and wine sales.

Action Dates:

DATE OF PASSAGE: 03/28/2017

ATTACHMENTS:**File Name**

Motion_032817.pdf

Memo_032817.pdf

Rain_Insurance_Comparison_Document.pdf

Description

Motion

Memo: 2017 Rain Insurance

Rain Insurance Price
Comparison

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: March 28, 2017

TOPIC: **Approval of a Rain Insurance Policy for 2017 Western Maryland Blues Festival**

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

MOTION: I hereby move for Mayor and Council to approve the purchase rain insurance policies for the 2017 Western Maryland Blues Festival at the following maximum amounts: a \$20,000 policy for Friday, June 2, 2017 from 4:00 p.m. to 9:00 p.m. and a \$60,000 policy for Saturday, June 3, 2017 from 10:00 a.m. to 6:00 p.m. The total cost for the insurance will be \$9,991.00. Funding would be from the Blues Fest Budget in the Public Functions Account. Five percent of the rain insurance proceeds would go the Maryland Theatre for their risk of the beer and wine sales.

DATE OF PASSAGE: 03/28/2017



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

TO: Valerie Means, City Administrator

FROM: Lauren Metz, Community Events Coordinator

DATE: March 28, 2017

SUBJECT: 2017 Western Maryland Blues Festival Rain Insurance

At the March 28, 2017 Regular Session the Executive Committee of the Western Maryland Blues Festival would like to receive authorization from the Mayor and City Council to purchase rain insurance for the event on Friday, June 2, 2017 and Saturday, June 3, 2017.

After a review of multiple insurance options, the Executive Committee of the Western Maryland Blues Festival would like to recommend the purchase of the rain insurance as described below:

The rain insurance policy for Friday, June 2, 2017 is for \$20,000. The policy will cover the hours of 4:00 p.m. to 9:00 p.m. (5 hours), and it must rain 0.25 inches or more to collect on the policy. Please note that 5% of the \$20,000 will go to the Maryland Theatre for their risk of the beer and wine sales. The rain insurance policy for Saturday, June 3, 2017 is for \$60,000 and would cover the hours of 10:00 a.m. to 6:00 p.m. (8 hours). It must rain 0.25 inches or more in order to collect on the policy. Please note 5% of the rain insurance proceeds would go to the Maryland Theatre for their risk of the beer and wine sales. These policies must be purchased by April 10, 2017.

The total cost of the insurance would be \$9991.00 and would come from the Blues Fest Public Functions Budget. The policy would be purchased from Weather Insurance Agency. Two additional companies provided quotes and these quotes can be found on the attached comparison document.

The purchase of a rain insurance policy will not cover the entire festival liability; however, buying the rain insurance policy is a balance between the price of the insurance versus the risk of loss.

The Executive Committee of the Western Maryland Blues Festival appreciates your continued support of the event.

c: Jill Frick, Director, Community and Economic Development

2017 Western Maryland Blues Festival Rain Insurance

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