

**89th Regular Session
Mayor and City Council
December 17, 2019
Agenda**

7:00 PM - December 17, 2019 - REGULAR SESSION -*Council Chamber, 2nd Floor, City Hall*

I. CALL TO ORDER

Mayor Robert E. Bruchey, II

II. INVOCATION

III. PLEDGE TO THE FLAG

IV. ANNOUNCEMENTS

- A. A. Rules of Procedure – *Effective October 22, 2019*
- 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, January 7, 2020 – Work Session at 4:00 p.m.
 - 2. Tuesday, January 14, 2020 – Work Session at 4:00 p.m.
 - 3. Tuesday, January 21, 2020 – Work Session at 4:00 p.m.
 - 4. Tuesday, January 28, 2020 – Regular Session at 7:00 p.m.

V. APPOINTMENTS

A. Board of Zoning Appeals

VI. AGENDA ITEM CITIZEN COMMENTS

VII. PUBLIC HEARINGS

Proposed Comprehensive Plan Amendments

VIII. MINUTES

(November 5, 2019, November 6, 2019, November 12, 2019, November 19, 2019, November 26, 2019)

IX. CONSENT

B. Parks and Engineering

- 1. 2020 and 2021 Pavement Preservation Program
- 2. Stormwater Utility Phase III Implementation Contract – Wood, Inc. (Chantilly, VA)
\$41,596.00

C. Utilities

- 1. Light - Substation Class Vacuum Circuit Breakers - Siemens Industry, Inc. (Wendell,

NC) \$62,741.00

2. Wastewater – Miscellaneous Facility Repairs – Synagro – WWT, Inc. (Baltimore, MD)
\$37,219.18
3. Water – Hydrofluorosilicic Acid – George S. Coyne Chemical Co., Inc. (Croydon, PA)
\$51,763.50

X. UNFINISHED BUSINESS

- A. Approval of an Ordinance: Chapter 64 Building Construction, Article III

XI. NEW BUSINESS

- A. Approval of a Resolution: Parking Lease for the University District Parking Deck with the State of Maryland
- B. Approval of a Resolution: Amendment to a Commercial Lease Agreement with Fresh Academicz, LLC / Peter Arizmendi for the property located at 60 W. Washington Street
- C. Approval of a Resolution: Alter Traffic Patterns in the Dale Street Neighborhood
- D. Approval of Renewal of City-Wide Mowing Contract: 3/15/20-12/15/20
- E. Approval of a Resolution: User Agreement with Hagerstown Area Youth Soccer League (HAYSL)
- F. Approval of a Resolution: User Agreement with Hagerstown YMCA

XII. GENERAL CITIZEN COMMENTS

XIII. CITY ADMINISTRATOR'S COMMENTS

XIV. MAYOR AND COUNCIL COMMENTS

XV. ADJOURN

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

Topic:

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:

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 - 4. Tuesday, January 28, 2020 – 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:

Board of Zoning Appeals

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Proposed Comprehensive Plan Amendments

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Public_Hearing_Notice_-_2018_Comprehensive_Plan.pdf

Comp_Plan_Amendments_MCC_Public_Hearing.pdf

Description

Notice - Public Hearing
Comprehensive Plan

Public Hearing - Proposed
Comprehensive Plan
Amendments

N O T I C E
P U B L I C H E A R I N G

Pursuant to the provisions of the Land Use Article of the Annotated Code of the State of Maryland, NOTICE is hereby given that a Public Hearing will be held by the Hagerstown Mayor and City Council at 7:00 p.m., in the Council Chamber, 2nd Fl., City Hall, Hagerstown, MD, on Tues., Dec. 17, 2019.

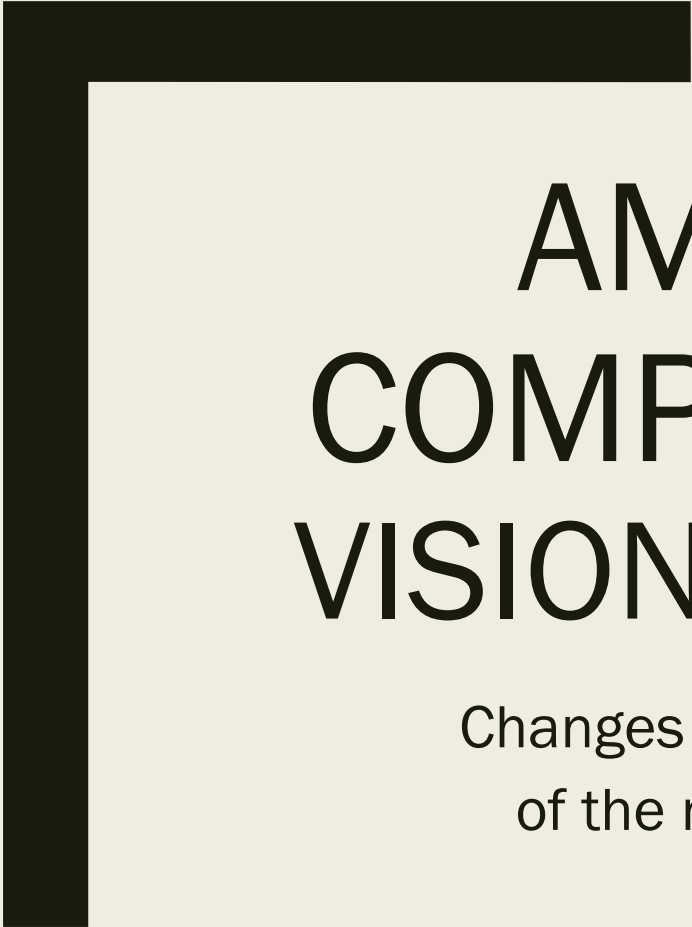
The purpose of the public hearing is to consider amendments to the Future Land Use Map and designation in the Hagerstown 2018 Comprehensive Plan, visionHagerstown 2035.

A copy of the update is available for public review at the Washington County Free Library. Copies are also available in the City Clerk's office, 2nd Fl., City Hall; and in the Planning and Code Administration Dept., 3rd Fl., City Hall, Hagerstown, MD. The update can be viewed online at www.hagerstownmd.org/1468/Comp-Plan-Amendments.

Individuals requiring special accommodations are requested to contact the City Clerk at 301.739.8577, ext. 113, or TDD 301.797.6617. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

HAGERSTOWN MAYOR AND CITY COUNCIL

By: Robert E. Bruchey, II, Mayor



AMENDMENTS TO COMPREHENSIVE PLAN, VISIONHAGERSTOWN 2035

Changes to Future Land Use Plan and incorporation
of the newly created Institutional zoning district



Comprehensive Plan Amendments Process

- In order to create changes to the City's Comprehensive Plan, visionHagerstown 2035, staff are required to send the amendment package to the State Clearinghouse for a 60 day review period
- City staff also sent the amendments package to Washington County and the Town of Funkstown
- The package was sent out towards the end of August and the Planning Commission held their public review meeting on October 30
- We received feedback from the Maryland Department of Planning and MDOT as well as input from the public

Comprehensive Plan Amendments Package

The City of Hagerstown Planning Commission is proposing to amend the Comprehensive Plan visionHagerstown 2035. The proposed amendments to the Plan include changes in Future Land Use designations and incorporation of the newly created Institutional zoning district into the Growth Management and Land Use text.

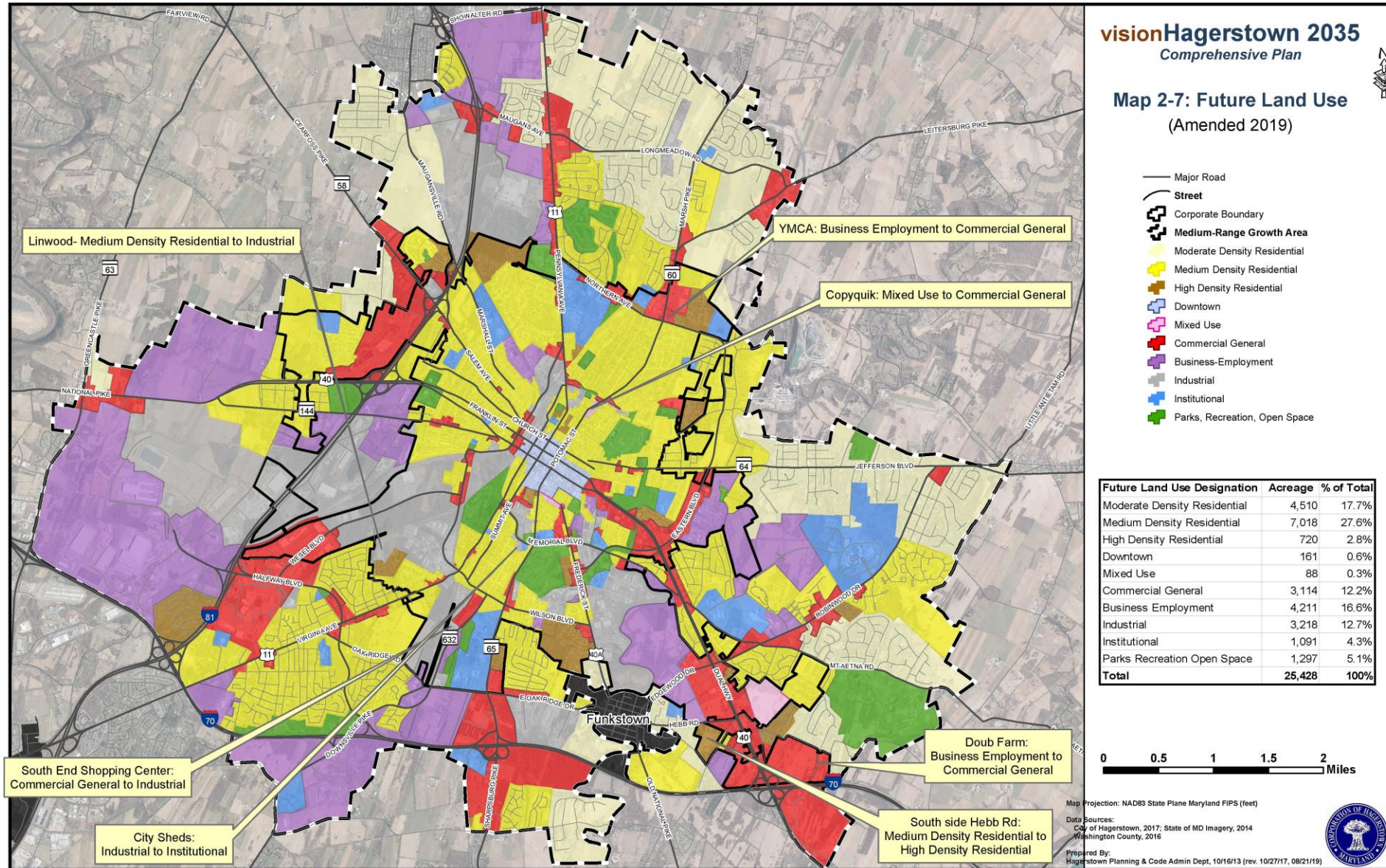
Future Land Use and Zoning

- Future Land Use dictates Zoning in the City
- For example, a “Commercial General” future land use designation dictates those areas to be zoned any of the 3 commercial zoning districts: Commercial Local; Commercial General; and Commercial Regional
- A comprehensive rezoning is initiated in order to implement the Comprehensive Plan- to ensure the City’s Zoning Map matches the Future Land Use Map
- Therefore, we are pausing the rezoning process to create consistency between the proposed rezoning and the future land uses of those areas

Future Land Use Plan Amendments

- YMCA Property: from Business Employment to Commercial General
- Linwood Property (southern half): from Medium Density Residential to Industrial
- Doub Farm Property (eastern parcel): from Business Employment to Commercial General
- South End Shopping Center (southern portion): from Commercial General to Industrial
- Hebb Road Property (south side): from Medium Density Residential to High Density Residential
- Copy Quik & Old Potomac Liquor: from Mixed Use to Commercial General
- Hagerstown Water Department: from Industrial to Institutional

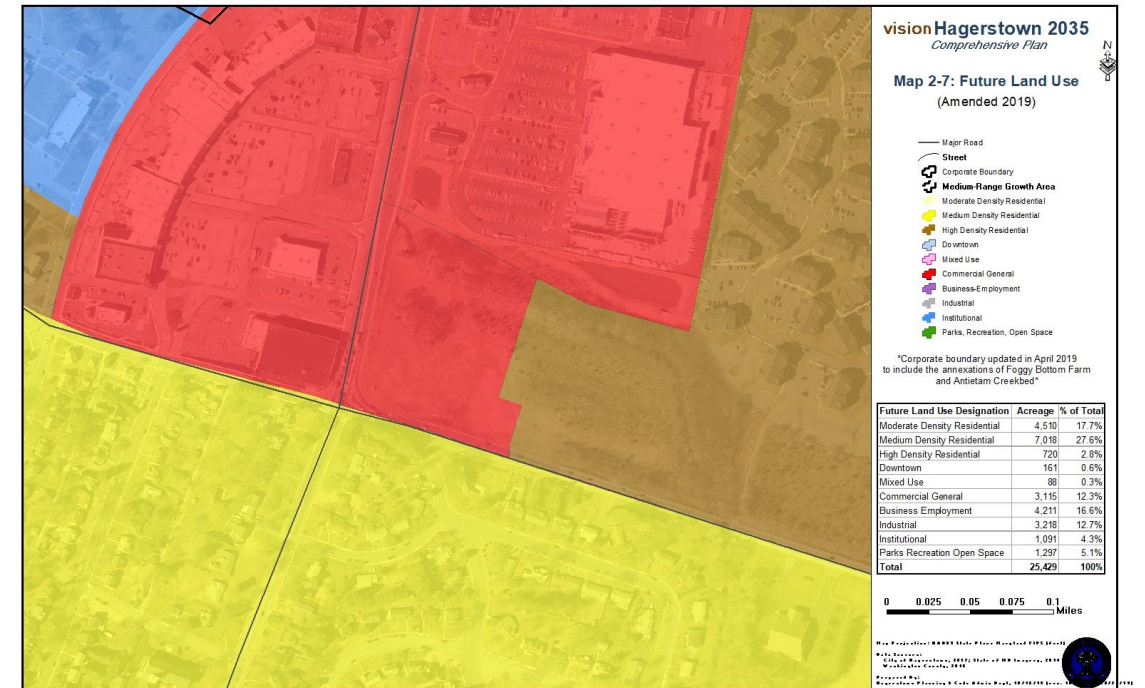
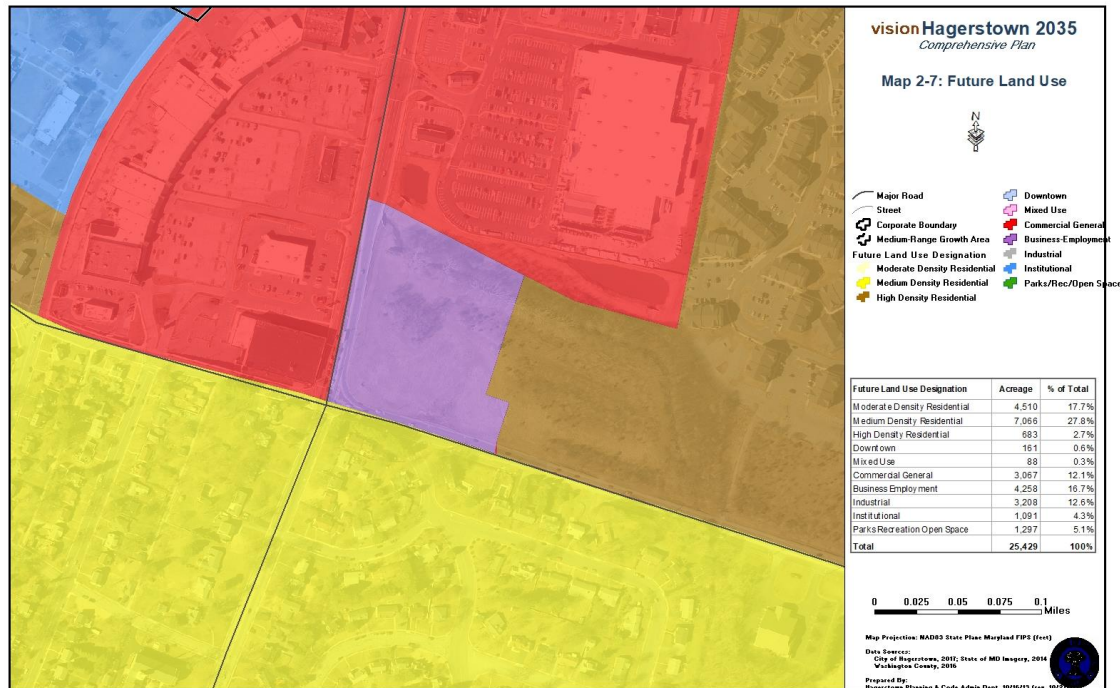
Future Land Use Map



YMCA Property: Business Employment to Commercial General

Existing Future Land Use: (Business Employment)

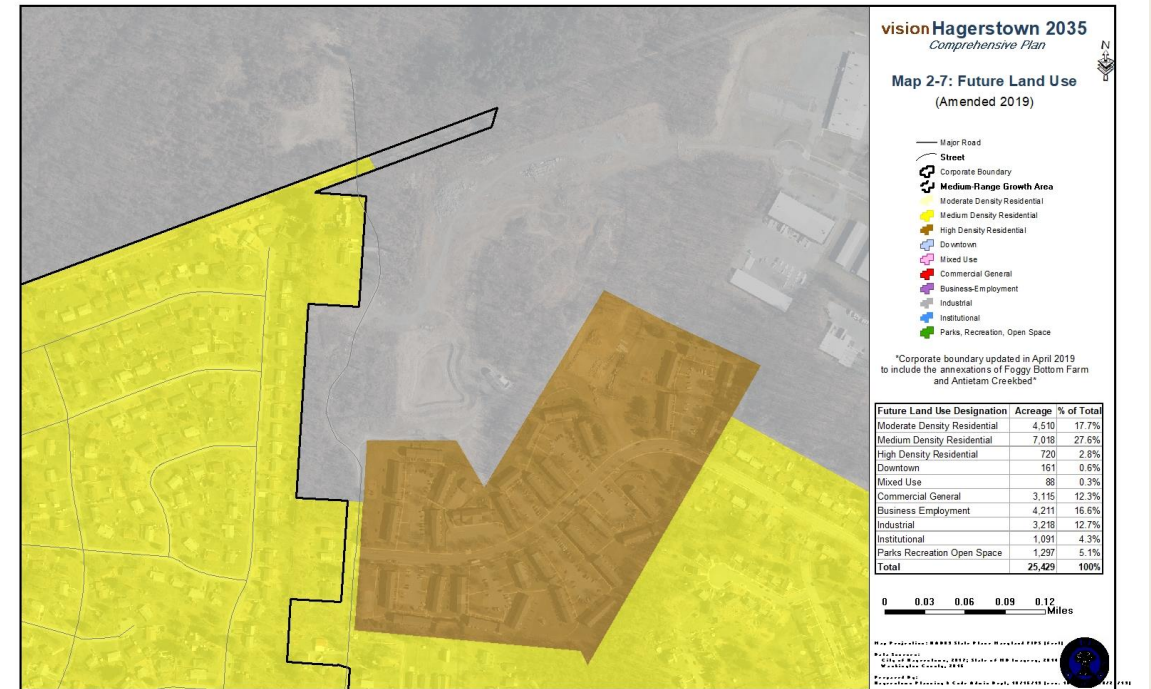
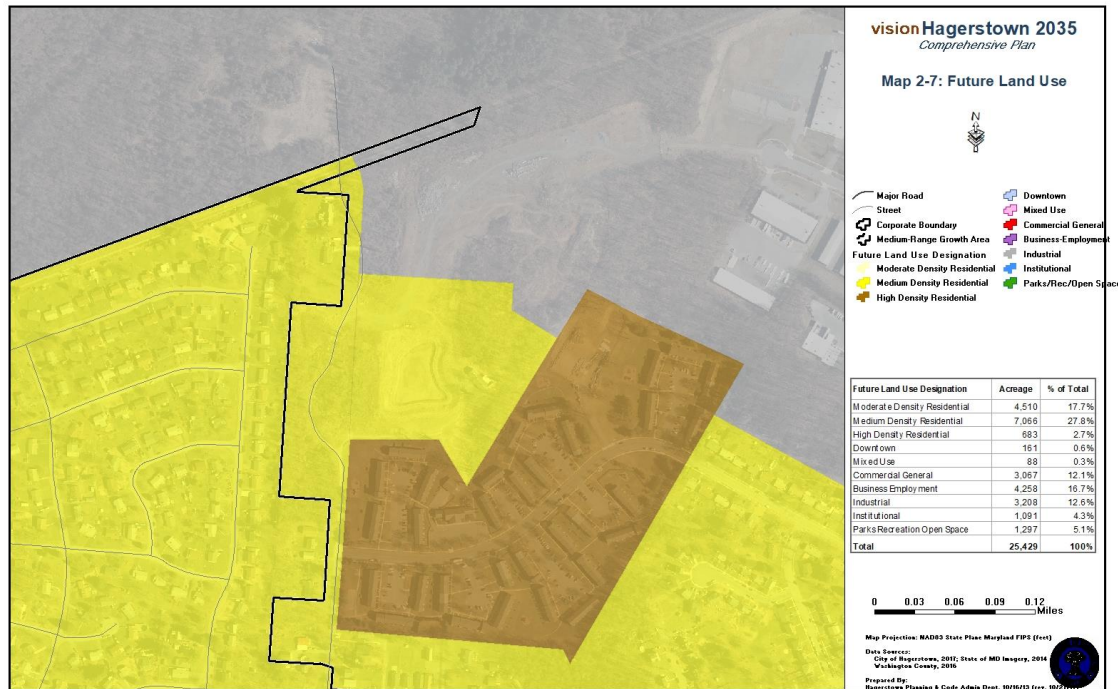
Proposed Future Land Use: (Commercial General)



Linwood Property (southern half): Medium Density Residential to Industrial

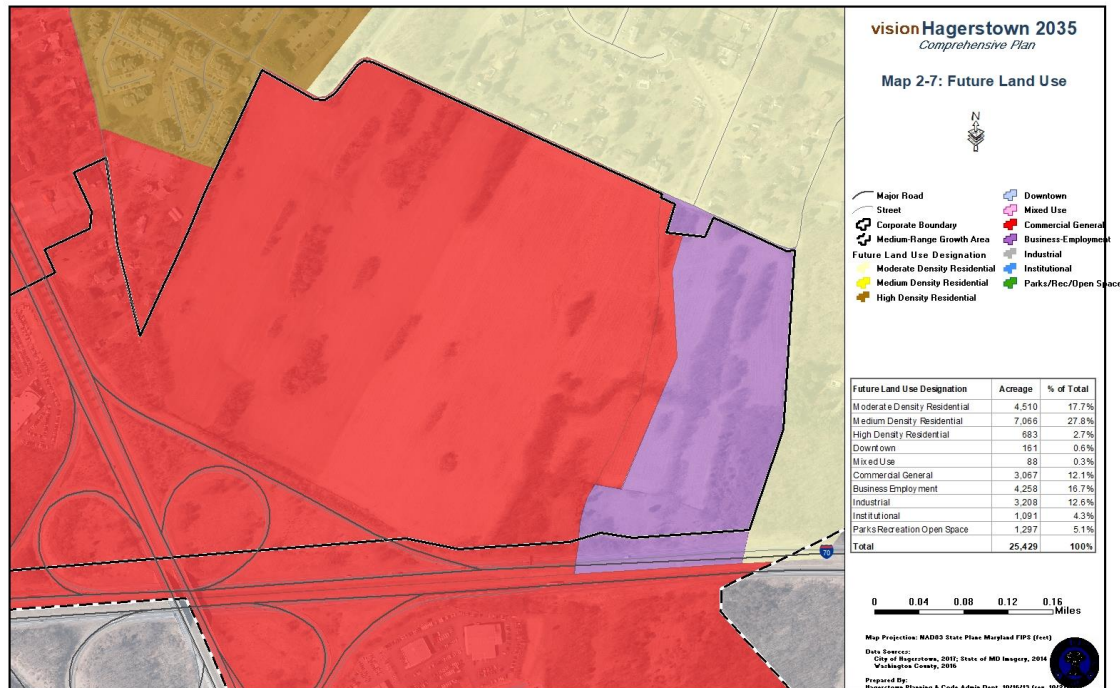
Existing Future Land Use: Medium Density Residential

Proposed Future Land Use: Industrial

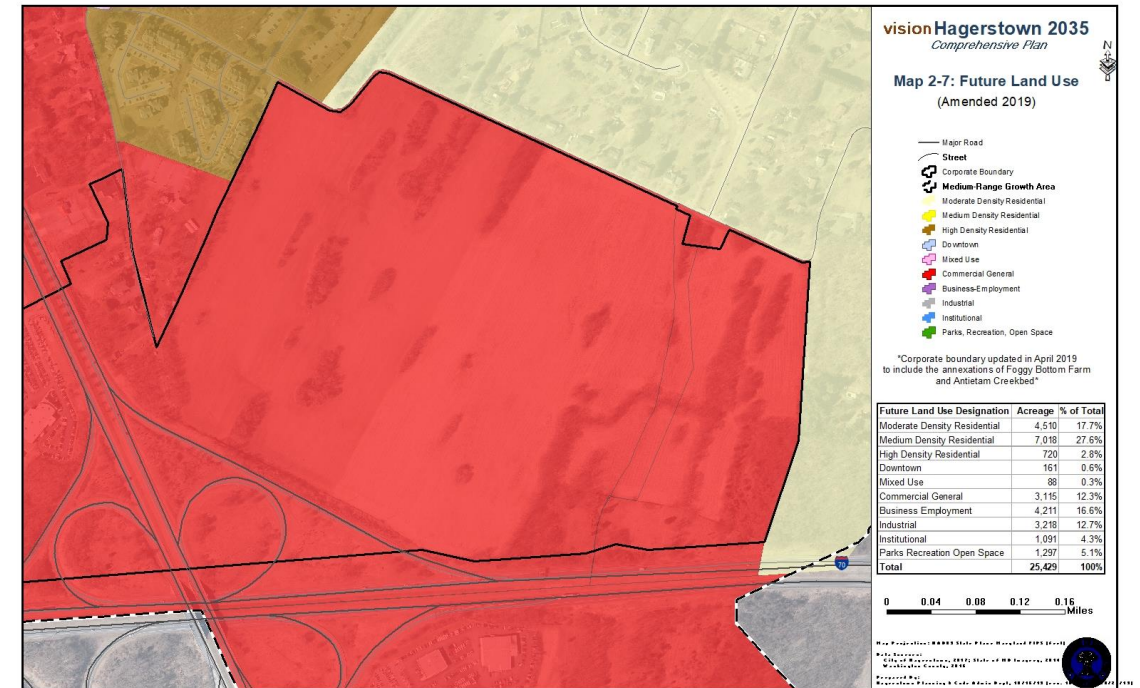


Doub Farm Property (eastern parcel): from Business Employment to Commercial General

Existing Future Land Use: Business Employment

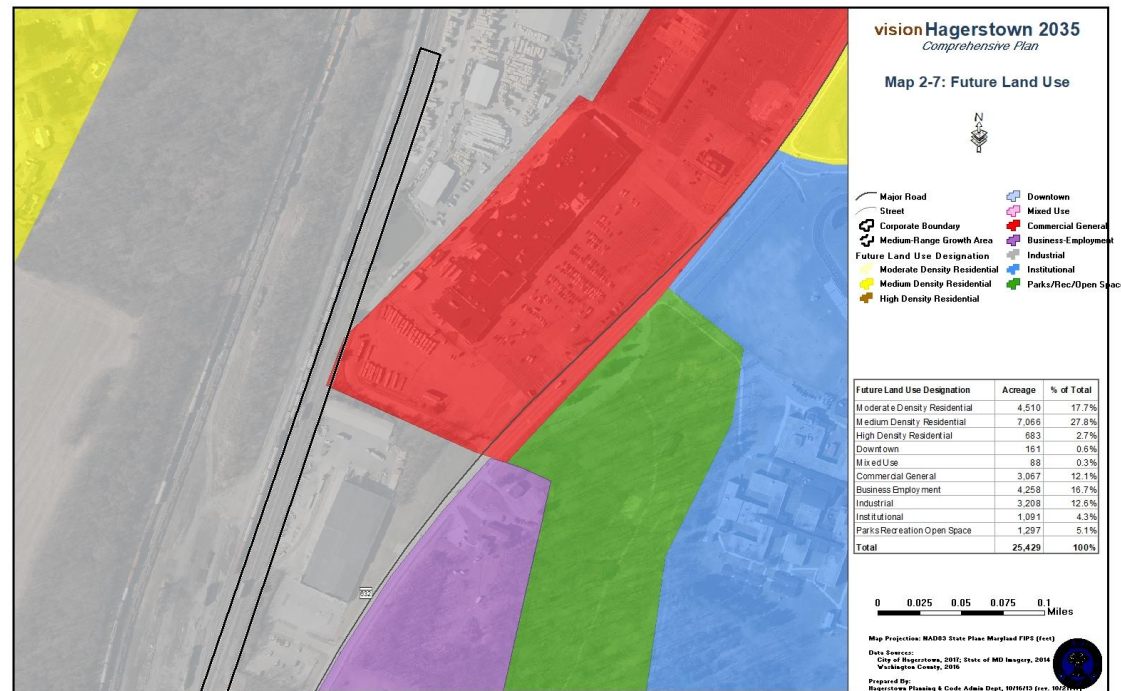


Proposed Future Land Use: Commercial General

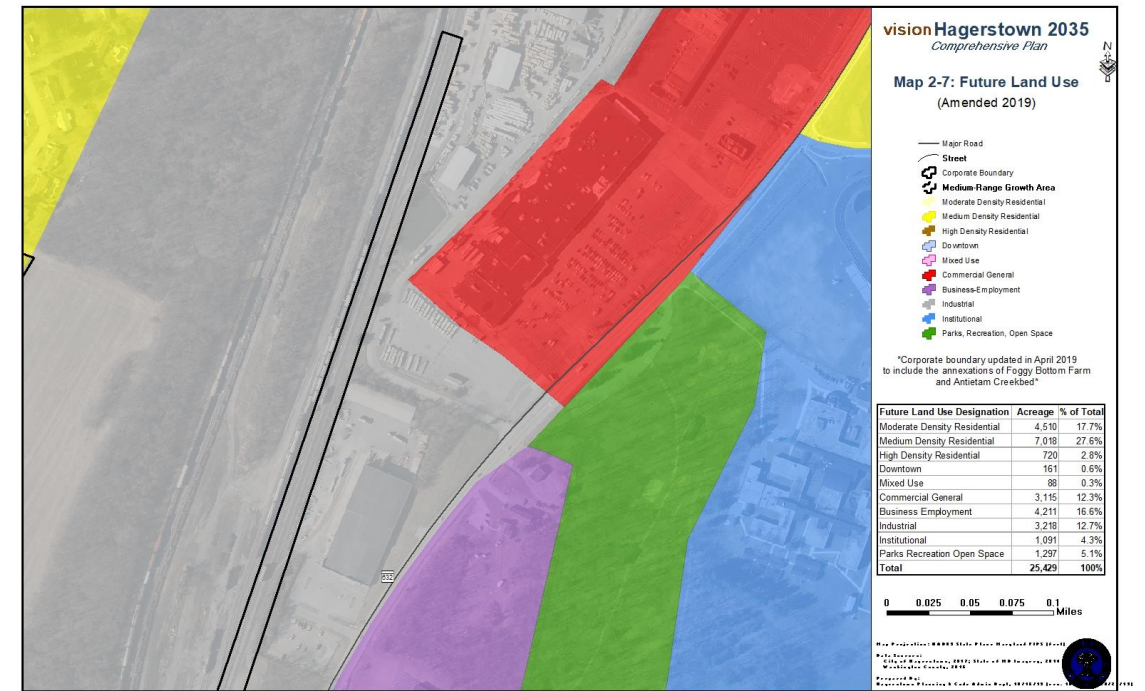


South End Shopping Center (southern portion): from Commercial General to Industrial

Existing Future Land Use: Commercial General

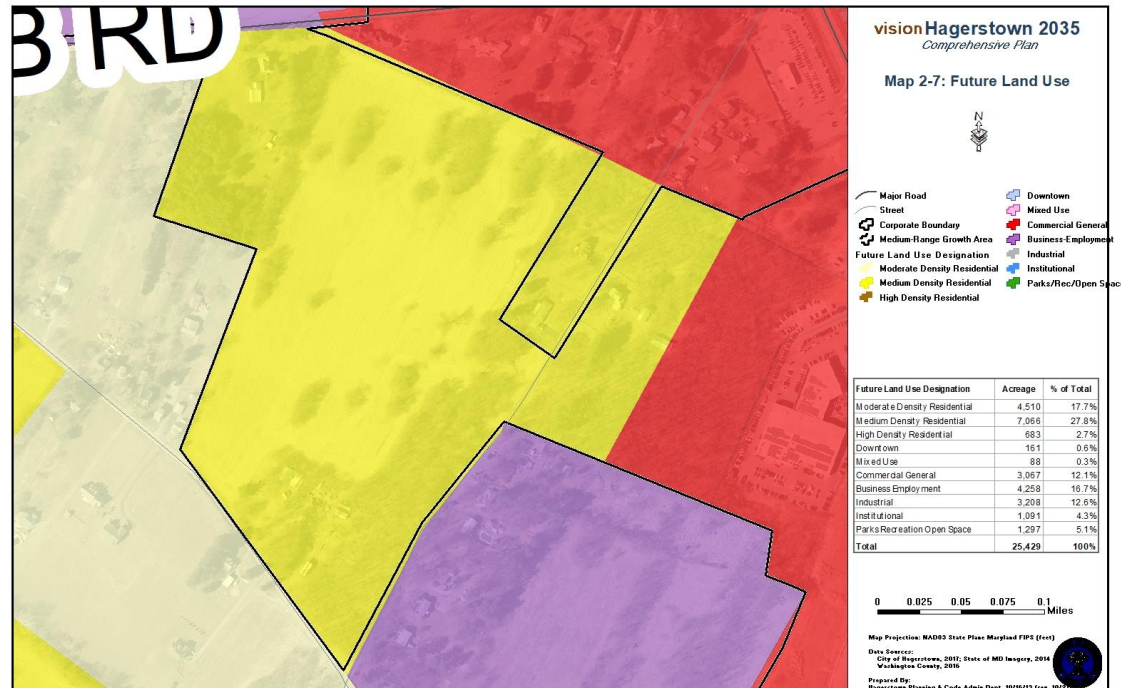


Proposed Future Land Use: Industrial

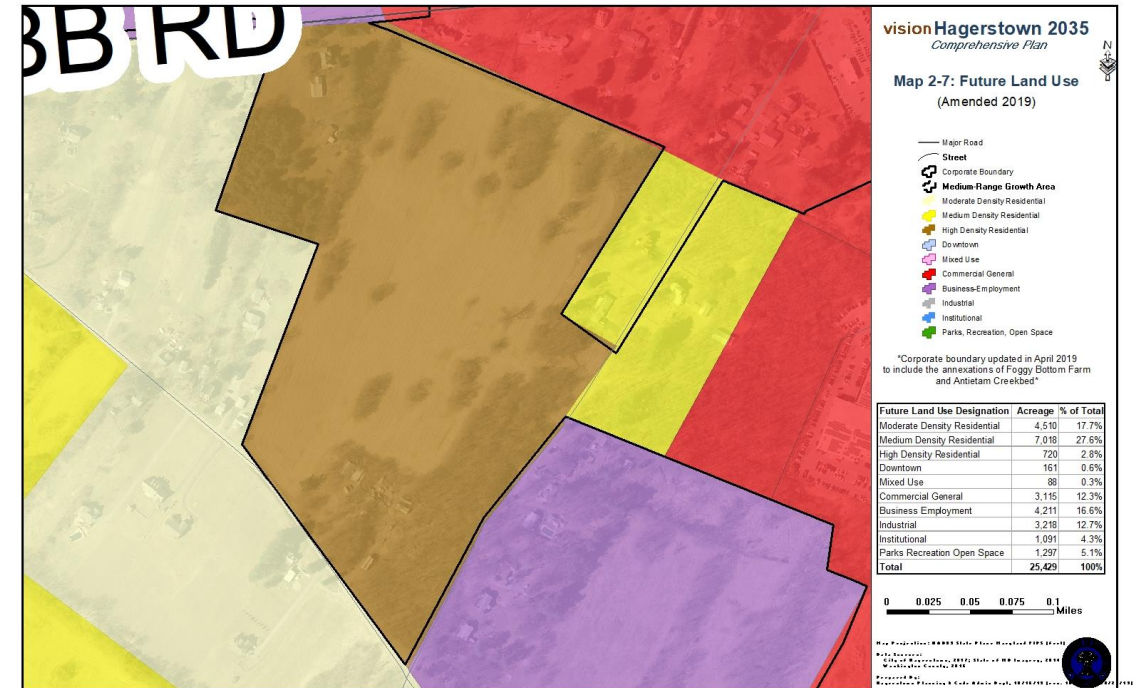


Hebb Road Property (south side): from Medium Density Residential to High Density Residential

Existing Future Land Use: Medium Density Residential

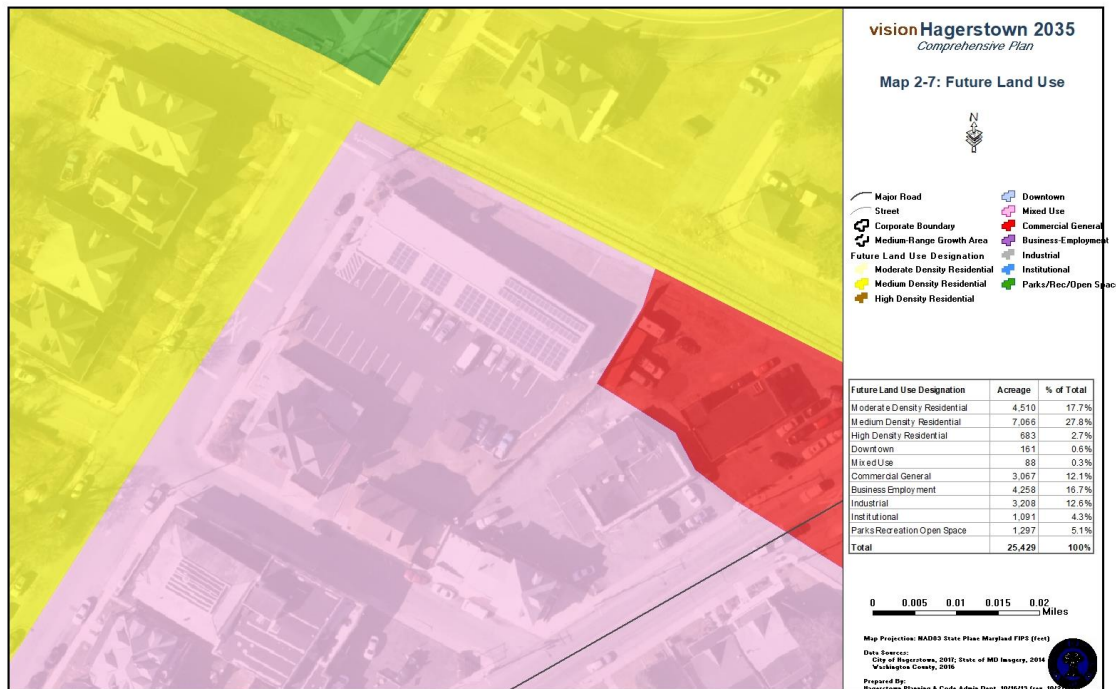


Proposed Future Land Use: High Density Residential



Copy Quik & Old Potomac Liquor: from Mixed Use to Commercial General

Existing Future Land Use: Mixed Use

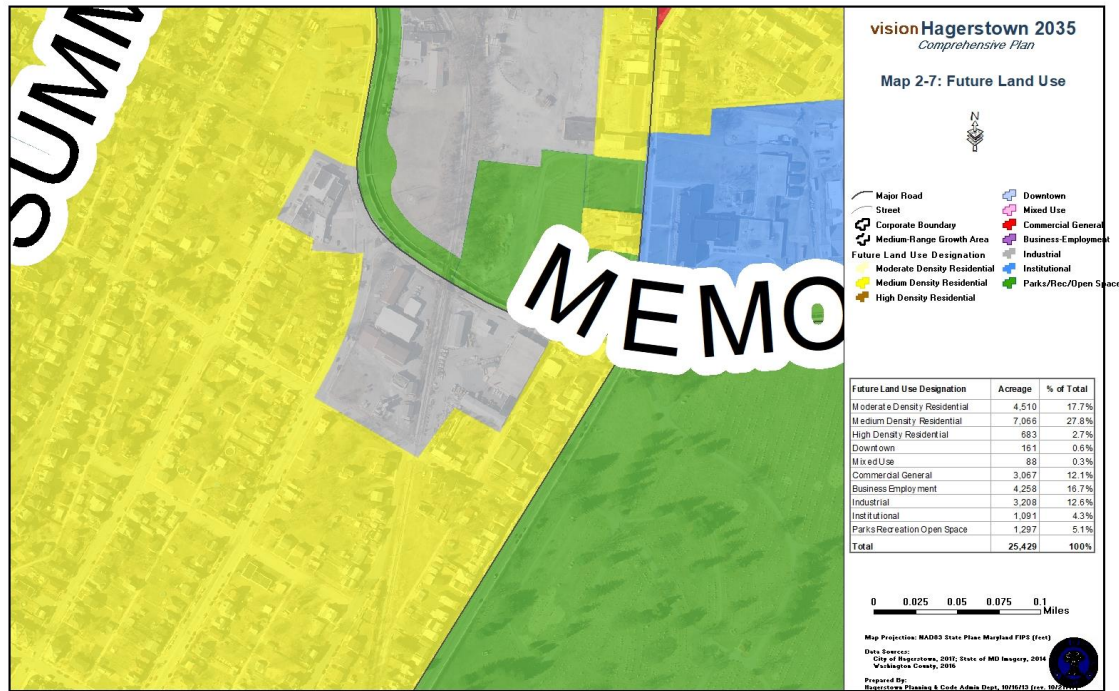


Proposed Future Land Use: Commercial General

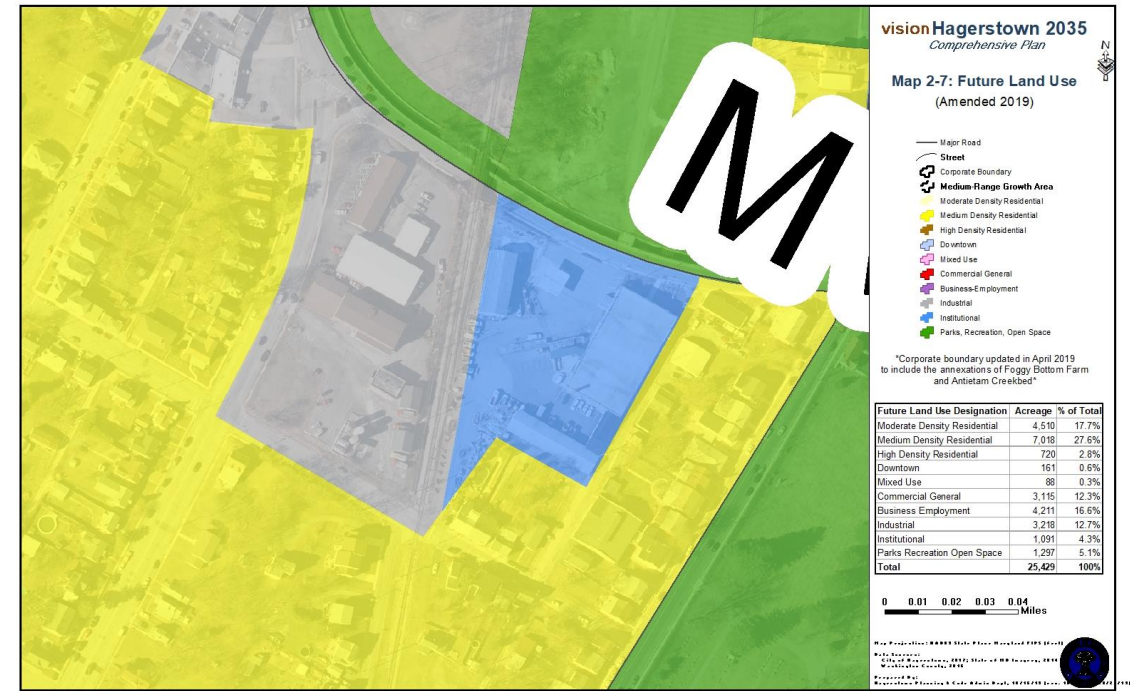


Hagerstown Water Department: from Industrial to Institutional

Existing Future Land Use: Industrial



Proposed Future Land Use: Institutional



Incorporation of the new Institutional Zoning District

In the Growth Management and Land Use chapter of the Comprehensive Plan, visionHagerstown 2035, staff recommends the newly created Institutional (INST) zoning district as a compatible zoning district for Institutional Uses and for Parks, Recreation, and Open Space.

Figure 2-9: Future Land Use Designations

of Maryland Ave, and the Wesel Boulevard corridor. In the Medium-Range Growth Area (MRGA), concentrations of industrial uses include the Mack/Volvo plant and nearby areas, as well as land along Oak Ridge Drive.

Institutional (INST)

Compatible Zoning Districts: ~~Any~~ INST

Average Residential Density: Not Applicable

These areas recognize land occupied by large public and quasi-public institutional uses, such as schools, hospitals, the YMCA property, and the Municipal Stadium, and include some large religious institutions. While existing schools are included in this land use, future school sites and other institutional uses may be located in areas with other land use designations – especially residential areas.



Central Library at S. Potomac St & W. Antietam St

Parks, Recreation, Open Space (PROS)

Compatible Zoning Districts: ~~Any~~ INST

Average Residential Density: Not Applicable



Fountain at Pangborn Park

Next Steps

- Public record remains open for 10 days (until December 27)
- Mayor & Council reviews amendments package and public input
- Comprehensive Plan amendments are adopted by resolution

<https://www.hagerstownmd.org/1468/Comp-Plan-Amendments>

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

Topic:

(November 5, 2019, November 6, 2019, November 12, 2019, November 19, 2019, November 26, 2019)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Minutes.pdf

Description

Motion - Minutes

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: December 17, 2019

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 November 5, 2019, November 6, 2019, November 12, 2019, November 19, 2019, and November 26, 2019.

DATE OF PASSAGE: December 17, 2019

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

Topic:

2020 and 2021 Pavement Preservation Program

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Consent.pdf

2020_pavement_preservation_program.2019.pdf

Description

Motion - Consent Agenda
2020 and 2021 Pavement
Preservation Program

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: December 17, 2019

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, MARYLAND

Department of Parks and Engineering

December 10, 2019

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer 
RE: 2020 and 2021 Pavement Preservation Program

1. Background

In December 2018 the Council endorsed a draft 2020 street list for pavement preservation, and now the City must finalize the 2020 street list and begin to establish a list of streets for pavement preservation in 2021. This would allow utilities to budget for and install main replacements as necessary. In addition, property owners who receive curb and sidewalk notices will have approximately 12 months to complete the required work prior to the 2021 pavement preservation work (see section 5 below).

2. Mayor & Council Action Requested

Staff requests that the Mayor & Council on December 17th approve the list of streets proposed for pavement preservation in 2020 and tentatively approve the list of streets for pavement preservation in 2021.

3. Pavement Preservation Program

In 2018, we completed a "pavement condition" survey that we use to determine future pavement preservation work. In both 2020 and 2021, we plan to mill/overlay, slurry seal, crackfill, and complete random patching based on the results of the pavement conditions survey.

A big factor in selecting streets is the condition of underground utilities and if the respective utility will upgrade prior to paving. We coordinate with the City utilities and Columbia Gas to assure us that their systems are in good condition in the proposed streets.

4. Budget

We will endeavor to budget \$1,200,000 annually for pavement preservation including all paving, milling, slurry seal, patching, crack filling, and pavement markings. If State Highway User Revenue falls short of this, we will postpone streets to stay within budget. In 2020, we will need to invest as much as possible in Wesel Boulevard, in partnership with the Northpoint Development.

5. Curb & Sidewalk Notices

Staff historically sends about 75 to 100 "Curb & Sidewalk" notices each year. Staff will follow the previous City Code and Council-approved policies to issue notices unless the "Stormwater Utility Program" is fully implemented and the City takes over the responsibility for curb and sidewalk replacement.

Staff will be available on Tuesday to discuss our Pavement Preservation Program.

Attachment: * 2020 Pavement Preservation list for approval
 * Proposed 2021 Pavement Preservation list for review

c: Jim Bender
 Eric Deike
 Delbert Horst
 Austin Allman
 Tim Young
 Nancy Hausrath

Pavement Preservation Program Summer 2021 (FY 22)

DRAFT – Mill and Overlay Streets *Last revised 12/3/2019*

<u>Year Last Paved</u>	<u>Street (PCI)</u>	<u>Location</u>	<u>Area</u>
1994	North Burhans Boulevard	Park Lane to Bridge WH051	6,880 sy
1999	North Mulberry Street	Broadway Ave to North Avenue	1,380 sy
1980	South Locust Street	Locust Point to Ray Street <u>and</u> Elm Street to Washington Street	5,530 sy
1984	Jefferson Blvd **	Cleveland Avenue to city line	6,200 sy
1992	Columbia Avenue	Valleybrook Drive to Pangborn Blvd.	2,150 sy
1985	Security Road**	Cleveland Avenue to Pangborn Blvd	10,970 sy
1966	Valley Road	Cross Street to dead end	1,810 sy
1966	Cross Street	Fairgrounds Avenue to Mulberry Street	1,065 sy
1966	Fairgrounds Avenue	Mulberry Street to Cross Street	580 sy
1988	Westwood Street	Jefferson Boulevard to Division Avenue	5,000 sy
1988	Morningside Avenue	Westwood Street to cul de sac	3,300 sy
1970	Moller Avenue	Marion Street to Virginia Avenue (less recent patch area)	3,650 sy
1994	Belview Avenue	Pennsylvania Avenue to Hillcrest Road	7,290 sy
1993	Park Lane	Burhans Blvd to CSX Railroad	2,300 sy
1993	Bryan Place	Washington Avenue to Salem Avenue	4,760 sy
1993	Interval Road	Brookline Avenue to city line	1,205 sy
1990	Chase Street	Burhans Boulevard to Ridge Avenue	1,200 sy
1997	Key Avenue	Church Street to city line on Daycotah Ave. <u>and</u> to Salem Avenue	8,020 sy
1985	Salem Avenue Extended	Salem Avenue to dead end	<u>430 sy</u>
TOTAL			73,720 SY

** Involves bridge deck, budget for waterproofing

**City of Hagerstown
Pavement Preservation Program
Summer 2020 (FY 21)**

FINAL – Mill and Overlay Streets *Last revised 12/2/2019*

<u>Year Last Paved</u>	<u>Street (PCI)</u>	<u>Location</u>	<u>Area</u>
1990	Wesel Boulevard	Burhans Blvd to City Line (Northpoint project)	57,000 sy
1996	Nottingham Road	Salem Avenue to Washington Street	9,780 sy
1960	Hamilton Lane	Charles Street to Forest Drive	1,610 sy
1973	Center Street	Burhans Blvd to Ridge Avenue	970 sy
1992	Cypress Street	Oak Hill Avenue to Potomac Avenue	3,785 sy
1992	East Irvin Avenue	Valleybrook Drive to Eastern Boulevard	11,460 sy
1991	East Hillcrest Road	Potomac Avenue to View Street	4,510 sy
1998	Sumans Avenue	North Street to Charles Street	2,260 sy
1998	Charles Street	North Potomac Street to Wheaton Park dead end	3,920 sy
1990	East Lee Street	Locust Street to Mulberry Street	1,510 sy
1989	Hampton Circle	Kasinof Avenue to cul de sac	2,400 sy
1968	Jackson Avenue	Monroe Avenue to Westwood Street	<u>2,215 sy</u>
TOTAL			101,420 SY

Slurry Seal Streets: TBD from 2018 Condition survey

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

Topic:

Stormwater Utility Phase III Implementation Contract – Wood, Inc. (Chantilly, VA) \$41,596.00

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Consent_-_Stormwater_Utility_Phase_III_Implementation.pdf

Description

Consent - Stormwater Utility
Phase III Implementation



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 17, 2019

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer *RT*
RE: **Stormwater Utility – Phase III Implementation**

Based on the feedback from Mayor and City Council on December 3, we are moving forward with Phase III of the stormwater program development. As we presented, one last step is to engage *Wood* to complete final implementation which includes additional public education, master account file development and integration, staff training and customer service training.

We recommend approving *Wood*'s phase III proposal in the amount of \$41,596 to complete the project:

- About half of this cost is assisting staff in setting up the critical Master Account File that will take parcel-based impervious layer data from our Geographic Information System (GIS) and match it with the accounts in Utility Billing to create the mechanism to bill the fee. It must also have a way to apply credits.
- Another quarter of the cost is the equally critical public education efforts that they will assist us with.

Funding for the work is from the "stormwater utility fee study" operating budget.

All this will be completed in anticipation of a July 1, 2020 "go-live" date.

Staff will be present on Tuesday to discuss.

Attachments: Purchase form

cc: David Bulova, *Wood*
Michelle Hepburn
Jim Snyder
David Gordon
Eric Deike
Jason Morton

**City of Hagerstown
Mayor and Council
Purchase / Contract Information
Meeting of December 17, 2019**

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

Originating Department: Parks and Engineering		By: Rodney Tissue, City Engineer	
Account Number: 0124009 53092 0124009 530902		Account / Project Name: Stormwater Utility Fee Study	Parks and Engineering
Budget Amount: \$66,000	Account Balance: -0-	Year: FY 19/20	CIP Control No. N/A
Unbudgeted: See back		Source of Funds: Operating budget/General Fund	

Quantity	Description	Value
1	Phase III Stormwater Utility Development (public outreach, GIS work, credit policy)	\$41,596.00

TOTAL VALUE OF PROJECT: \$41,596.00

ABOVE TO BE USED FOR:

Continue process to establish a stormwater utility. Utility will be an enterprise fund responsible for addressing all stormwater related issues in the City to comply with State-issued MS4/NPDES permit.

Phase II includes public education and outreach, establishing Master Account File for billing, and credit policy Implementation.

Recommended Vendor:

Business Name: Wood Environment & Infrastructure, Inc.

Address: PO Box 74008618

City, State: Chicago, IL 60674-8618

Bid/Proposal/Quote No.: RFP-17-UF-17

OTHER VENDORS:

Firm	City/State	Phase I Total Amount
NOTE: prices are in the range of what they quoted for Phase III in their original proposal for Phase I.		

(1) Department Manager

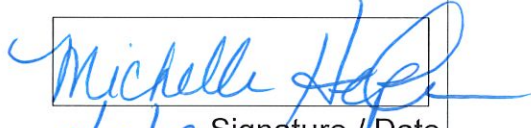
Staff recommends an extra work change order to RFP-17-UF-17 to Wood Environment & Infrastructure, Inc. in the Phase III amount of \$41,596.00 for work described on front of this sheet. It is anticipated funds will be transferred to the accounts.

 12/13/19

Signature / Date

(2) Purchasing Agent:

Approve


12/13/19

Signature / Date

(3) Finance Manager:

Recommend approval to continue our SWM process. Funding will be covered as follows:

GF Contingency - 21,000

0124009.530902 - 19,471

Overall GF budget - 1,125


12/13/19

Signature / Date

(4) City Administrator's Recommendation:

Recommend Approval

 12/13/19

Signature / Date

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

Topic:

Light - Substation Class Vacuum Circuit Breakers - Siemens Industry, Inc. (Wendell, NC)
\$62,741.00

Mayor and City Council Action Required:

Electric Division requests approval to purchase Vacuum Circuit Breakers from Siemens Industry, Inc in the amount of \$62,741.00

Discussion:

Required to provide overcurrent protection to the 34.5 kilovolt substation transformer and the subtransmission system.

Financial Impact:

\$4,790 available in FY20 between CIP C0776 - Breaker Replacement and CIP C0778 - Substation Upgrades. Cash reserves may be used or there are FY20 funds available in the amount of \$80,000, allocated to CIP C0842 - Circuit Upgrades, that may be reallocated to cover the remaining unbudgeted expense.

Recommendation:

Recommend purchase directly through the Hagerstown Light Department's approved manufacturer for 34.5 kV protection devices, Siemens Industry, Inc. In addition to the initial purchase, this will be a blanket order through the end of the fiscal year where prices are subject to quarterly adjustments and total cost could be higher or lower based on quantities ordered.

Motion:

Action Dates:

Regular Session 12/17/2019

ATTACHMENTS:

File Name

Consent_-_Vacuum_Circuit_Breaker.pdf

Description

Signed Consent - Vacuum
Circuit Breakers

AMOUNT

(1) DEPARTMENT MANAGER:

Recommend purchase directly through the HLD approved manufacturer, Siemens Industry, Inc.

Purchases will be on an as needed basis and for improvements to the Wesel Substation. Cash reserves may be used or there are FY20 funds available in the amount of \$80,000 allocated to CIP C0842 - Circuit Upgrades, that may be reallocated to cover the remaining unbudgeted expense.

This will be a blanket order through the end of the fiscal year where prices are subject to quarterly adjustments and total cost could be higher or lower based on quantities ordered.

Nathan Entinger

12/4/2019

SIGNATURE/DATE

(2) PURCHASING AGENT:

Recommend Approval.

Jason T. Miller

12/5/19

SIGNATURE/DATE

(3) FINANCE MANAGER:

Approve → funding has been identified in the FY20 approved budget under CIP C0842 which will be moved to cover this purchase.

Michelle Aiken

SIGNATURE/DATE

12/5/19

(4) CITY ADMINISTRATOR:

Recommend Approval

Scott Nicewander

12/5/19

SIGNATURE/DATE

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

Topic:

Wastewater – Miscellaneous Facility Repairs – Synagro – WWT, Inc. (Baltimore, MD)
\$37,219.18

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Consent_-_Miscellaneous_Facility_Repairs.pdf

WW_Division_Consent_Agenda_for_C0711_12-17-19.pdf

Description

Signed Consent -
Miscellaneous Facility
Repairs

WW Division Consent
Agenda for C0711 12/17/19

Approval For:	
Consent Agenda:	X
New Business:	

Originating Department: <u>Wastewater Department</u>		By: <u>Joseph Moss</u>	
Account Number: <u>54-85001-5830-C0711</u>		Account/Project Name: <u>Solids Processing-Pelletizer Improvements</u>	
Account Number: _____		Account/Project Name: _____	
Budget Amount: FY20 \$ <u>100,000</u>		Account Balance: \$ <u>60,233</u> Year <u>FY20</u> CIP Control No.: <u>C0711</u>	
FY20 _____		Account Balance: _____ Year <u>FY20</u> CIP Control No.: _____	
Unbudgeted: _____		Source Of Funds: <u>Wastewater Funds</u>	

Quantity	Description	Value
As Described	Stage 1 and 2 Odor Control Scrubber initial inspection charge	\$ 3,450.00
	Materials to rebuild the decking and frame of the truck scales	\$ 6,103.51
	Replace the slide gate on bottom of recycle bin	\$ 4,350.63
	Repair roof leaks on Pelletizer Building	\$ 3,037.35
	Paint for miscellaneous steel throughout Pelletizer Building	\$ 277.69
	Contingency for other repairs and improvements to Pelletizer Building	\$ 20,000.00

Above To Be Used For:	TOTAL	\$	37,219.18
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During the rehabilitation of our Solids Processing Facilities at the Wastewater Treatment Plant, Synagro will be completing needed improvements to the interior of the building and ancillary pieces of equipment that are not being completely replaced under the scope of the Pelletizer Improvements project. In accordance with the current Contract with City, Synagro is responsible to maintain the Pelletizer Facility and is entitled to reimbursement plus 15% markup from the City for completing this work since the Facility is owned by the City.

Business Name: Synagro - WWT, Inc
Address: 435Williams Court, Suite 100
City, State: Baltimore, MD

Bid/Proposal/Quote No.: N/A

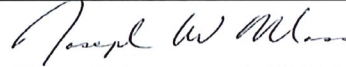
Other Vendors: Sole Source

[illegible]

Comments

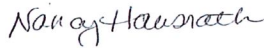
Department Manager (required on all unbudgeted items):

In addition to its day to day operations and maintenance responsibilities, Synagro, in accordance with the execution of the their Third Extension Agreement dated September 24, 2013, is responsible to complete the work of designing, procuring, and constructing needed major capital improvements to the Facility, including immediate capital improvements and subsequent capital improvements throughout the Third Extension Term. Most of those Capital Improvements are included in the Solids Processing-Pelletizer Improvements Project currently in progress. C0711 is intended to pay for other necessary improvement to the Pelletizing Facility that can be completed while the Facility is not in service.



Water Operations Manager

December 17, 2019



Director of Utilities

December 17, 2019

Date

Finance Department:

All vendor information complete & established in Mfunis.



Signature

12/5/19

Date

Finance Manager:

approve



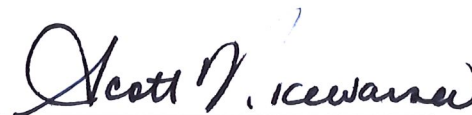
Signature

12/5/19

Date

City Administrator's Recommendation:

Recommend Approval



Signature

12/5/19

Date

Approval For:	
Consent Agenda:	X
New Business:	

Quantity	Description	Value
As Described	Stage 1 and 2 Odor Control Scrubber initial inspection charge	\$ 3,450.00
	Materials to rebuild the decking and frame of the truck scales	\$ 6,103.51
	Replace the slide gate on bottom of recycle bin	\$ 4,350.63
	Repair roof leaks on Pelletizer Building	\$ 3,037.35
	Paint for miscellaneous steel throughout Pelletizer Building	\$ 277.69
	Contingency for other repairs and improvements to Pelletizer Building	\$ 20,000.00

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Other Vendors: Sole Source

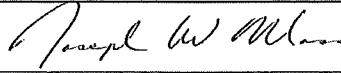
Amount

[illegible]

Comments

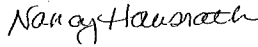
Department Manager (required on all unbudgeted items):

In addition to its day to day operations and maintenance responsibilities, Synagro, in accordance with the execution of the their Third Extension Agreement dated September 24, 2013, is responsible to complete the work of designing, procuring, and constructing needed major capital improvements to the Facility, including immediate capital improvements and subsequent capital improvements throughout the Third Extension Term. Most of those Capital Improvements are included in the Solids Processing-Pelletizer Improvements Project currently in progress. C0711 is intended to pay for other necessary improvement to the Pelletizing Facility that can be completed while the Facility is not in service.



Water Operations Manager

December 17, 2019



Director of Utilities

December 17, 2019

Date

Finance Department:

Signature

Date

Finance Manager:

Signature

Date

City Administrator's Recommendation:

Signature

Date

Authorization for Expenditure

Hagerstown Waste Water Treatment Plant

Request Number HAG 005 -19

Dewatering/Heat Drying/Pelletizing Facility

Estimated date asset will be placed into service: 9/19/19

Synagro Operated

Was low bid selected? Yes If not, Why?

1 Clean Water Circle

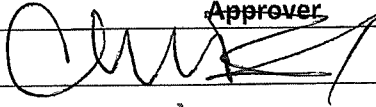
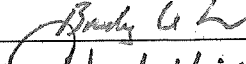
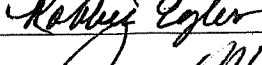
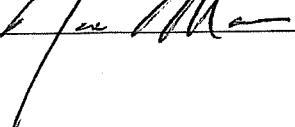
Hagerstown, MD 21740

Project: HAGERSTOWN DRYER REBUILD

Asset Description/Justification
- THIS AFE IS FOR THE SCRUBBER INSPECTION PERFORMED BY RPS IN NOVEMBER 2017.
THE INSPECTION CHARGE WAS TO BE WAIVED BY RPS IF THEY DID THE WORK. L&L
REPAIR AND SERVICES CAME IN UNDER 1/2 THE PRICE OF RPS FOR THE SAME SCOPE
OF WORK.
- L&L WILL PERFORM THE SCRUBBER REPAIRS, SO RPS IS BILLING FOR THE INSPECTION.

Competitive Quote Attachment #1

OEM Specific no match available
Others of lesser quality or run life
Time factor imperative

				Italics indicate estimated or budgetary cost		
Vendor	Description	QTY	Unit price	Extended price	Shipping	Line total
RPS COMPOSITES	SCRUBBER INSPECTION	1				3000. ⁰⁰
SYNAGRO	PROFIT AND OVERHEAD	1				450. ⁰⁰
	Totals					3450. ⁰⁰
Approval Status						
	Level	Approver				Date
Requested by:	Synagro Plant Manager					9/19/19
Approved by:	Wastewater Asst. Superintendent					9/23/19
Approved by:	Wastewater Superintendent					9/24/19
Approved by:	Wastewater Maintenance Supv.					9/25/19
Approved by:	Wastewater Division Manager					9/30/19

Authorization for Expenditure

Hagerstown Waste Water Treatment Plant

Request Number HAG 004 -19

Dewatering/Heat Drying/Pelletizing Facility

Estimated date asset will be placed into service: 11/1/19

Synagro Operated

Was low bid selected? Yes ^{CH} If not, Why?

1 Clean Water Circle

USING SYNAGRO APPROVED VENDORS & SYNAGRO LABOR

Hagerstown, MD 21740

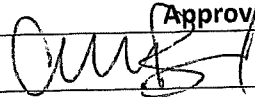
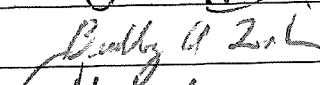
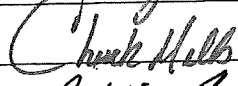
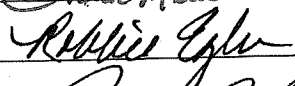
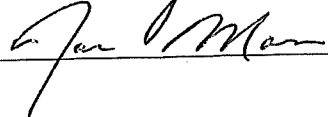
Project: HAGERSTOWN DRYER REBUILD - SCALE

Asset Description/Justification
- THE SCALE DECKING AND DECKING FRAME ARE CORRODED AND REQUIRE REPLACEMENT.
- DECKING ALREADY PURCHASED AND ON-SITE
- THIS QUOTE IS FOR THE FRAME THAT THE DECKING IS WELDED TO. IT WAS NOTED WHEN STARTING THE JOB THAT THE FRAME IS CORRODED.
- ALSO REQUIRED CONSUMABLES ^{ARE} INCLUDED IN AFE FOR THIS PROJECT.
(SEE ATTACHED BREAKDOWN OF CONSUMABLES)

Competitive Quote Attachment #1

OEM Specific no match available
Others of lesser quality or run life
Time factor imperative

				Italics indicate estimated or budgetary cost		
Vendor	Description	QTY	Unit price	Extended price	Shipping	Line total
DURRETT SHEPPARD	ANGLE IRON I BEAMS	1				3527.00
PRAXAIR	WELDING ROD	1				1076.00
GRAINGER	WELDING CONSUMABLES	1				122.70
GRAINGER	INDUSTRIAL PRIMER	1				581.70
SYNAGRO	PROFIT & OVERHEAD	1				796.11
	Totals					6103.51

Approval Status			
	Level	Approver	Date
Requested by:	Synagro Plant Manager		9/19/19
Approved by:	Wastewater Asst. Superintendent		9/23/19
Approved by:	Wastewater Superintendent		9/24/19
Approved by:	Wastewater Maintenance Supv.		9/23/19
Approved by:	Wastewater Division Manager		9/30/19

Authorization for Expenditure

Hagerstown Waste Water Treatment Plant

Request Number HAG 003 -19

Dewatering/Heat Drying/Pelletizing Facility

Estimated date asset will be placed into service:

Synagro Operated

Was low bid selected? Yes If not, Why?

1 Clean Water Circle

Hagerstown, MD 21740

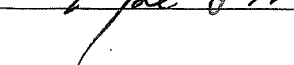
Project: HAGERSTOWN DRYER REBUILD

Asset Description/Justification
THE SLIDE GATE ON THE BOTTOM OF THE RECYCLE BIN IS SEVERELY CORRODED AND WILL NOT OPERATE.
FROM AN OPERABLE SLIDE GATE IS REQUIRED IN ORDER TO ISOLATE THE RECYCLE BIN MATERIAL FROM THE ATTACHED CONVEYOR DURING MAINTENANCE.
QUOTE IS FOR EQUIPMENT ONLY. WORK TO BE DONE BY SYNAGRO MECHANIC WITH NO ADDITIONAL BILLING/MARKUP.

Competitive Quote Attachment #1

OEM Specific no match available
Others of lesser quality or run life
Time factor imperative

				Italics indicate estimated or budgetary cost		
Vendor	Description	QTY	Unit price	Extended price	Shipping	Line total
APPLIED	SLIDE GATE	1				3783.16
SYNAGRO	PROFIT AND OVERHEAD	1				567.47
	Totals					4350.63

Approval Status				
	Level	Approver	Date	Time
Requested by:	Synagro Plant Manager		8/9/19	11:34 AM
Approved by:	Wastewater Asst. Superintendent		8/14/19	10:35 AM
Approved by:	Wastewater Superintendent			
Approved by:	Wastewater Maintenance Supv.		8/13/19	1:06 PM
Approved by:	Wastewater Division Manager		9-4-19	11:25 AM

Authorization for Expenditure

Hagerstown Waste Water Treatment Plant

Request Number HAG 007 -19

Dewatering/Heat Drying/Pelletizing Facility

Estimated date asset will be placed into service: 10/7/19

Synagro Operated

Was low bid selected? Yes ^{NO} If not, Why?

1 Clean Water Circle

CLEAN CUT IS PREFERRED VENDOR FOR METAL ROOF WORK.

Hagerstown, MD 21740

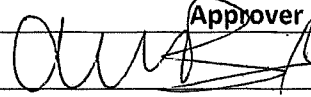
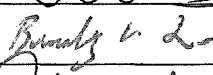
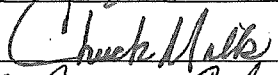
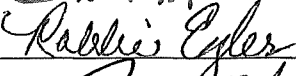
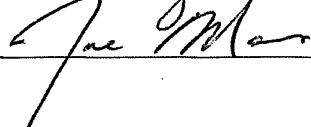
Project: PELLETIZER BUILDING ROOF REPAIRS

Asset Description/Justification
- THE PELLETIZER BUILDING HAS SEVERAL ROOF LEAKS BOTH OUT IN THE PLANT & ABOVE THE OFFICE/CONTROL ROOM AREAS.
- THESE LEAKS NEED TO BE FIXED BEFORE SEPARATOR CAN INSTALLATION AND PRIOR TO OFFICE REHAB. WORK.

Competitive Quote Attachment #1

OEM Specific no match available
Others of lesser quality or run life
Time factor imperative

				Italics indicate estimated or budgetary cost		
Vendor	Description	QTY	Unit price	Extended price	Shipping	Line total
CLEAN CUT	REPAIR ROOF LEAKS	1				2641.18
SYNAGRO	PROFIT AND OVERHEAD	1				396.17
	Totals					3,037.35

Approval Status			
	Level	Approver	Date
Requested by:	Synagro Plant Manager		Alvin Royard 9/25/19
Approved by:	Wastewater Asst. Superintendent		Brad Luhn 9/26/19
Approved by:	Wastewater Superintendent		Chuck Miller 9/25/19
Approved by:	Wastewater Maintenance Supv.		Robbie Eyles 9/25/19
Approved by:	Wastewater Division Manager		Joe Moran 9/30/19

Authorization for Expenditure

Hagerstown Waste Water Treatment Plant

Request Number HAG 010 -19

Dewatering/Heat Drying/Pelletizing Facility

Estimated date asset will be placed into service: 30 NOV 19

Synagro Operated

Was low bid selected? Yes No If not, Why?

1 Clean Water Circle

SHERWIN WILLIAMS IS OUR ONLY APPROVED VENDOR

Hagerstown, MD 21740

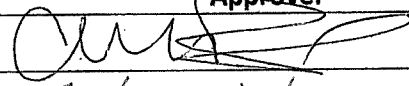
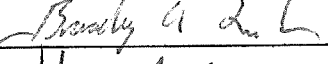
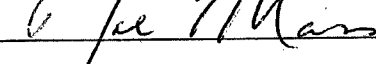
Project: PLANT PAINTING DURING REBUILD

Asset Description/Justification
5 GALLONS OF SHERWIN WILLIAMS "BAKER-ROLLMAN GREY" PAINT FOR
PLANT AND SCALE METAL PAINTING.

Competitive Quote Attachment #1

OEM Specific no match available
Others of lesser quality or run life
Time factor imperative

				Italics indicate estimated or budgetary cost		
Vendor	Description	QTY	Unit price	Extended price	Shipping	Line total
SHERWIN WILLIAMS	5 GAL FINISH COAT	1				241.47
SYNAGRO	PROFIT AND OVERHEAD	1				36.22
	Totals					277.69

Approval Status			
	Level	Approver	Date
Requested by:	Synagro Plant Manager	 Mike Bonnet	11/8/19
Approved by:	Wastewater Asst. Superintendent	 Brad Luhn	11/12/19
Approved by:	Wastewater Superintendent	 Chuck Mills	11/18/19
Approved by:	Wastewater Maintenance Supv.	 Robbie Eyles	11/18/19
Approved by:	Wastewater Division Manager	 Joe Wloss	11/22/19

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

Topic:

Water – Hydrofluorosilicic Acid – George S. Coyne Chemical Co., Inc. (Croydon, PA)
\$51,763.50

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Consent_-_Hydrofluorosilicic_Acid.pdf

Award_letter_Coyne.pdf

Description

Signed Consent -
Hydrofluorosilicic Acid
Hydrofluosilicic Acid

Approval For:	
Consent Agenda:	X
New Business:	

Quantity	Description	Value
15,000 Gallons	Water - Chemicals - Hydrfluorisilicic Acid (Coyne Chemical)	\$ 51,763.50
	TOTAL	\$ 51,763.50

No Other Bids

Comments

Department Manager (required on all unbudgeted items):

The above chemicals are used in the water treatment process. This will span two fiscal years.



Water Operations Manager

12/1/2019

Date

Finance Department:

Recommend Approval.



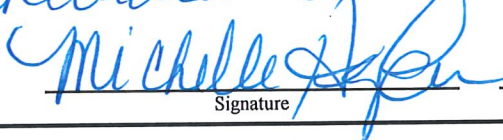
Signature

12/5/19

Date

Finance Manager:

Recommend approval for needed Chemicals.
This purchase will cross fiscal years is
anticipated to be included in the FY21 budget.



Signature

12/5/19

Date

City Administrator's Recommendation:

Recommend Approval



Signature

12/5/19

Date



CITY OF HAGERSTOWN, MARYLAND

Finance Department

November 20, 2019

Mr. Donald C. Helwig, Vice President/CFO
George S. Coyne Chemical Co., Inc.
3015 State Rd.
Croydon, PA 19021

Re: B1702.20 Delivery of Hydrofluosilicic Acid (H₂SiF₆) 30%

Mr. Helwig,

The purpose of this letter is to thank you for your interest in the above referenced bid and to inform you that the contract is being awarded to George S Coyne Chemical Co., Inc. (pending Mayor and Council approval on December 17, 2019). This is an official notice of award, not a purchase order. Please submit the following to proceed with the contract:

- Current Certificate of Insurance (COI) naming the "City of Hagerstown" as an additional insured party.
- W9

Pricing submitted by George S Coyne Chemical Co., Inc. is attached to this award letter.

Once again, thank you for your interest in this contract. If you have any questions, please feel free to contact me at 301-739-8577, ext. 188.

Sincerely,

A handwritten signature in black ink that reads "Tyler French". The signature is written in a cursive, flowing style.

Tyler French
Procurement Administrator

Bid B1702.20

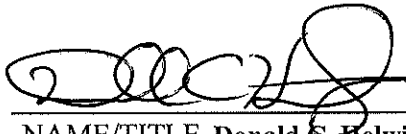
Delivery of Hydrofluosilicic Acid (H₂SiF₆) 30%

BID SUBMITTAL FORM

(SUBMIT 3 COPIES)

Price Per Gallon (in numbers): \$ 3.4509/gal

(in words): Three Dollars and Four thousand five hundred nine ten-thousandths Cents



NAME/TITLE Donald C. Helwig, Vice President/CFO

George S. Coyne Chemical Co., Inc.

COMPANY NAME

3015 State Road

ADDRESS

Croydon, PA 19021

CITY/STATE/ZIP

215-785-3000

PHONE NUMBER

George S. Coyne Chemical Co., Inc.
3015 State Road
Croydon, PA 19021-6997
Phone: 215-785-3000 Fax: 215-785-1585

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

Topic:

Approval of an Ordinance: Chapter 64 Building Construction, Article III

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Approval_of_an_Ordinance_-
_Chapter_64_Building_Construction__Article_III.pdf

Description

Ordinance: Chapter 64
Building Construction,
Article III

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

December 17, 2019

TOPIC: **Approval of Ordinance:** Chapter 64 Building Construction, Article III

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

MOTION: I hereby move for the Mayor and City Council to approve an Ordinance to amend the Code of the City of Hagerstown, Chapter 64, Article III, Property Maintenance, to update the Nuisance Ice and Snow requirements to provide more time to clear public sidewalks. This update will establish the same standards for the City. This amendment will provide a community/business friendly approach and be more consistent with neighboring communities.

DATE OF INTRODUCTION:	11/26/2019
DATE OF PASSAGE:	12/17/2019
EFFECTIVE DATE:	1/17/2020

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE
PROPERTY MAINTENANCE CODE OF THE CITY OF HAGERSTOWN,
SECTION 202 THEREOF ENTITLED
GENERAL DEFINITIONS
TO AMEND THE DEFINITIONS REGARDING
REFUSE STORAGE**

RECITALS

WHEREAS, the Mayor and Council have a responsibility to promote the health, safety and welfare of the citizens of the City; and

WHEREAS, the Mayor and Council have a responsibility to reduce blight and promote an aesthetically pleasing atmosphere within the City; and

WHEREAS, the Property Maintenance Code of the City of Hagerstown assists Mayor and Council in accomplishing the above-referenced responsibilities; and

WHEREAS, it has come to the attention of the Mayor and Council that Section 302.3.1 of the Property Maintenance Code, *Nuisance Ice and Snow Conditions* requires updating in order to improve the ease and consistency of enforcement; and

WHEREAS, the Mayor and Council find it in the best interests of the citizens to amend the Property Maintenance Code;

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

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by repealing Section 302.3.1 of the Property Maintenance Code, *Nuisance Ice and Snow Conditions*, and re-enacting Section 302.3.1 of the Property Maintenance Code, *Nuisance Ice and Snow Conditions* in its entirety to read as follows:

Nuisance Snow and Ice Conditions. All public sidewalks shall be maintained free from accumulations of ice and snow. It shall be the responsibility of the abutting property owner to maintain a clear and unobstructed sidewalk for either the width of the sidewalk or 48 inches, whichever is less. The public sidewalks shall be maintained as stated above within 24 hours after the storm subsides. Ice and snow conditions that remain unabated in excess of the above time restrictions are hereby declared a nuisance and are subject to

abatement by the City or its contractors. All costs associated with the abatement of said nuisances shall be the responsibility of the property owner and be billed and collected as per the City Code.

3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: 11/26/2019
Date of Passage: 12/17/2019
Effective Date: 1/17/2020

PREPARED BY
SALVATORE & MORTON, LLC,
CITY ATTORNEY

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

Topic:

Approval of a Resolution: Parking Lease for the University District Parking Deck with the State of Maryland

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name	Description
Motion_and_Resolution_-_Parking_Lease_for_University_District_Parking_Deck_with_State_of_Maryland.pdf	Motion and Resolution Maryland Standard Lease Agreement
2020_lease_11-22-19_State_of_MD_DJS.pdf	Memo on DJS Parking Lease Agreement
Parking_Lease_Agreement_Memo_with_State_of_MD_Dept_of_the_Juvenile_Services_2020_-_2023.pdf	Motion Sheet for DJS Parking Lease
Motion_Sheet_for_parking_lot_lease_with_State_of_MD_DJS_2020_-_2022.pdf	

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: Approval of a Parking Lease for the University District Parking Deck with the State of Maryland

Charter Amendment

Code Amendment

Ordinance

✓ Resolution

Other

MOTION: I hereby move for the approval of a resolution to approve a parking lease agreement between the City of Hagerstown and the State of Maryland for the rental of fourteen (14) parking spaces in the University District Parking Deck for use by the Department of Juvenile Services.

The term of the lease is three (3) years and commences on July 1, 2020. The annual rent to be paid to the City is Eleven Thousand Seven Hundred Sixty Dollars and No Cents (\$11,760.00).

DATE OF PASSAGE: December 17, 2019

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE
CITY OF HAGERSTOWN TO ENTER INTO A
PARKING LEASE AGREEMENT WITH THE STATE OF MARYLAND
TO THE USE OF THE DEPARTMENT OF JUVENILE SERVICES**

RECITALS

WHEREAS, the City of Hagerstown hereinafter referred to as “City” is the owner of a parking garage at 25 North Potomac Street, Hagerstown, Maryland, and

WHEREAS, the State of Maryland to the Use of the Department of Juvenile Services (“the State”) entered into a Parking Lease Agreement (“Original Agreement”) for the rental of fourteen (14) parking spaces in University District Parking Deck on June 5, 2018;

WHEREAS, the parties wish to amend the Original Agreement by: (1) extending the lease term for an additional three (3) years, i.e. to June 30, 2023; (2) extinguishing the State’s two (2) options to renew; and (3) increasing the rental rate from \$62 per space to \$70 per space, effective July 1, 2020. All other terms of the Original Agreement shall remain in full force and effect;

WHEREAS, at the conclusion of the new lease term (i.e. June 30, 2023), the parties may renew the lease for an additional three (3) years, under the same terms and conditions, except for the rental rate, which shall be subject to renegotiation and approval by the Board of Public Works and memorialized in an additional writing; and

WHEREAS, the City believes it is in the best interest of the citizens of the City to enter into the State of Maryland Supplemental Lease Agreement and Standard State of Maryland Parking Lease General Terms and Conditions, a copies of which are attached hereto and incorporated herein.

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

1. That the above recitals are incorporated herein.
2. That the City be and is hereby authorized to enter into the attached State of Maryland Supplemental Lease Agreement and Standard State of Maryland Parking Lease General Terms and Conditions (collectively “the Agreement”) with the State of Maryland to the Use of the Department of Juvenile Services.
3. That the Mayor, City Clerk and/or City Administrator be and are hereby authorized to execute the foregoing Agreement and all other documents necessary to effectuate the purpose of this Resolution.

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey II, Mayor

Date of Introduction: December 17, 2019
Date of Passage: December 17, 2019
Effective Date: December 17, 2019

STATE OF MARYLAND SUPPLEMENTAL LEASE AGREEMENT DGS Form 680-3A	Supplemental Agreement No. 1	Date: November 15, 2019
	To Lease Dated: June 5, 2018	
25 N. Potomac Street, Hagerstown, MD 21740		

THIS AGREEMENT, (the "Agreement") is made and entered into this date by and between the Mayor and City Council of Hagerstown, Maryland, whose address is 1 East Franklin Street, Hagerstown, MD, hereinafter called the Lessor, and the State of Maryland, hereinafter called the Lessee, to the use of the Department of Juvenile Services.

WHEREAS, the parties entered into a parking lease agreement dated June 5, 2018 (the "Original Lease") at a rental rate of \$62.00 per month per parking space for fourteen (14) parking spaces in Lessor's parking deck, known as the University District Parking Deck, 25 N. Potomac Street, Hagerstown, MD 21740 (the "Parking Lease Premises"); and

WHEREAS, the parties agree to amend the Original Lease by extending the term of the lease for an additional three (3) years, which will extinguish one of the Lessee's two (2) options to renew under section 2.1 of the Lease; and

WHEREAS, The Lessee and Lessor agree to increase the monthly rental rate per parking space from \$62.00 to \$70.00 in the Parking Space Premises;

NOW, THEREFORE, the above recitals being made a substantive part of this Agreement, the parties for the consideration hereinafter mentioned covenant and agree that the said Original Lease is amended as follows:

1. Paragraph 2 of the lease is deleted in its entirety and replaced with the following: "The term of this Agreement is three (3) years and zero (0) months (the "Term") and commences on July 1, 2020 and ends on June 30, 2023."
2. Paragraph 2.1 is deleted in its entirety and replaced with the following: "The Parking Lease as amended by this Agreement may be renewed for an additional three (3) years (the "Revised Renewal Term") under the same terms and conditions except for the rental rate. The rental rate for the Revised Renewal Term shall be renegotiated subject to approval by the Board of Public Works. The parties shall enter into a second supplemental lease agreement to memorialize the new terms."
3. Paragraph 3 is deleted in its entirety and replaced with the following: "Rent: The rent due from the Lessee to the Lessor for the Parking Leases Premises as described in Section 1 above shall be Eleven Thousand Seven Hundred Sixty Dollars and Zero Cents (11,760.00) per annum payable in advanced of equal monthly installments of Nine Hundred Eighty Dollars and Zero Cents (\$980.00)."

All other terms and conditions of the Original Lease shall remain in full force and effect.
The Original Lease as amended by this Agreement shall be deemed the Parking Lease.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

**LESSOR: MAYOR AND CITY COUNCIL OF
HAGERSTOWN**

WITNESS

By: _____ (SEAL)
Robert E. Bruchey II, Mayor

**LESSEE: STATE OF MARYLAND,
to the use of the Department of Juvenile
Services**

WITNESS

By: _____ (SEAL)
Sam J. Abed, Secretary

CERTIFICATION BY BOARD OF PUBLIC WORKS

Execution of the above Supplemental Lease Agreement is hereby authorized and approved by the Board of Public Works at a meeting held _____ Item ____-LT on the Department of General Services Agenda.

Office of Real Estate

This lease is hereby approved for form and legal sufficiency by, Robert A. McFarland, Assistant Attorney General, on _____.

Assistant Attorney General

**STANDARD STATE OF MARYLAND
PARKING LEASE GENERAL TERMS AND CONDITIONS
(FORM DGS-680-3D-1)
(Revised July 2019)**

1. Rent Invoices. Lessee will not automatically pay the rent; Lessor must send a bill for each monthly payment to each State Unit (hereinafter referred to as "Unit(s)") listed in this Parking Lease for the amounts set forth in this Parking Lease.
2. Rent Payments. Except as otherwise provided in this Lease, the Rent shall be payable by check or electronic wire in accordance State payment systems at the office of Lessor during normal business hours and shall be due and payable on the first day of the month.
3. Form and content of Invoices. All invoices shall be made out to Lessee and must contain the following information: state "Invoice" on the bill; reference the Board of Public Works item number and agenda date indicated at the end of this Parking Lease; indicate that the invoice is billing for "Rent"; state Lessor's Federal Employer Identification Number; and additional information as may be specifically required elsewhere in this Parking Lease. [SF 15-102]
4. Payments by the State. Payments to Lessor pursuant to this Parking Lease shall be made no later than 30 days after Lessee's receipt of a proper invoice from Lessor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited. [COMAR 21.07.01.18; SF 15-103, 104]
5. Interest on Late Payments. Except for rent or other expenses submitted for payment pursuant to this Parking Lease, the Lessor hereby agrees that, notwithstanding the provisions of State Finance and Procurement Article of the Annotated Code of Maryland, Title 15, Subtitle 1, interest on any payments due under this Parking Lease shall not be payable unless such payments remain unpaid for more than 45 days after receipt of a proper invoice and such payments shall accrue interest from the 31st day after receipt of a proper invoice. [SF 15-104]
6. Use of Spaces by Lessee. Lessee will allocate the use of the Parking Leased Premises to the Units identified in the Parking Lease Term Sheet.
7. Use of Spaces by Other Units. Use of a parking space included in the Parking Lease by a Unit of the State other than the Units designated in the Parking Lease shall not constitute an assignment or a subletting and may be done at the discretion of Lessee.
8. Assignment by Lessee. Lessee may assign any or all of the parking spaces included in the Parking Leased Premises upon written consent of Lessor, whose consent shall not be unreasonably withheld, conditioned or delayed.

9. Maintenance of Parking Leased Premises. Lessor shall maintain the Parking Leased Premises in reasonably good condition and provide for snow removal or plowing during the winter months.

10. Availability of Parking Leased Premises. Lessor guarantees that there will be made available for Lessee's use as provided in the Parking Lease, on the days and between the hours specified in the Parking Lease, the parking spaces described in the Parking Lease Term Sheet.

11. Lessor Liability for Damage. Lessor shall not be responsible for the loss of or damage to the vehicles or to articles of personal property left in vehicles using the Parking Leased Premises other than loss or damage caused by the negligence or intentional act or omission of Lessor, its employees or agents.

12. Vehicle Identification. Lessor will issue identification in a form to be agreed to by Lessor and Lessee, which may be in the form of an electronic mechanism, for controlling access to and departure from the Parking Leased Premises. Lessor shall assure that only authorized vehicles assigned by Lessee are parked in the Parking Leased Premises.

13. Payment of Taxes. Lessee exercises its right of not paying local taxes and Lessor (the owner of the property subject to this Parking Lease) agrees to claim this exemption with respect to parking spaces leased to Lessee.

14. Damage to Parking Leased Premises - Casualty. If the Parking Leased Premises or related structures are damaged by fire or other casualty (the "Casualty") during the Term, Lessor, at its expense, shall restore the Parking Leased Premises with reasonable promptness but in no event later than 60 calendar days after the date of the Casualty to substantially the same condition of the Parking Leased Premises immediately before such Casualty, and may temporarily enter and possess any or all of the Parking Leased Premises for such purpose. The times for commencement and completion of any such restoration shall be extended for a period not to exceed 60 calendar days if any delays are caused by an event or circumstance beyond Lessor's reasonable control. If such restoration is not accomplished within the 60 calendar day period and any extension period, Lessee may terminate this Parking Lease by giving Notice to Lessor within 30 days after the expiration of such period or extension. If such Notice is given, the rights and obligations of the parties shall cease as of the date of the Casualty and the Rent shall be adjusted as of the date of the Casualty.

15. Rent Abatement. As long as Lessee is prohibited from the use of any or all of the Parking Leased Premises on account of such Casualty, the Rent and any other obligations of the Lessee shall be abated in proportion to the usable area of the Parking Leased Premises that are rendered substantially unfit for use or occupancy by such Casualty, unless, in Lessee's sole judgment, such Casualty renders the undamaged part of the Parking Leased Premises materially unsuitable for use or occupancy by Lessee for the uses contemplated by this Parking Lease, in which event the Rent shall be abated entirely during such period of non-use or non-occupancy.

16. Destruction/Damage to the Building. Anything in this Section to the contrary notwithstanding, if it is determined by either party that the Parking Leased Premises or

associated improvements is so damaged by Casualty that either the Parking Leased Premises or (whether or not the Parking Leased Premises are damaged) the associated improvements is rendered substantially unfit for use or occupancy and the Lessor will be unable to restore the Parking Leased Premises or associated improvements within 90 days after such Casualty, then either party may elect to terminate this Parking Lease as of the date of the Casualty by giving Notice thereof to the other party within 30 days after such Casualty. If such Notice is given, the rights and obligations of the parties shall cease as of the date of the Casualty and the Rent shall be adjusted as of the Casualty.

17. Lessor's Responsibility for Repairs. All repairs to the Parking Leased Premises including repairs to all associated improvements, no matter how caused are to be made and paid for by the Lessor.

18. Lessee's Responsibility for Repairs. The Lessee shall only be responsible for the financial reimbursement to the Lessor of the actual costs for repairs made by the Lessor or its agent to the Parking Leased Premises caused by the gross negligence of the Lessee, its agents, employees or invitees. Lessor shall provide to the Lessee copies of the actual invoices for work caused by the gross negligence of the Lessee, its agents, employees or invitees. Notwithstanding anything to the contrary, Lessee's liability for the reimbursement of said costs shall be contingent upon Lessor obtaining written consent for reimbursement and approval of costs from Department of General Services Office of Real Estate (DGS) prior to the commencement of any work.

19. Failure to Repair. In the event the Lessor fails to a) replace promptly any broken item; b) make necessary repairs; or c) maintain the Parking Leased Premises and associated improvements as herein provided for, the Lessee is herewith empowered and authorized, but not obligated to, after written notice has been given the Lessor, to make all necessary repairs or perform the required maintenance, charging the Lessor for the making of such repairs or performing said maintenance and deducting the cost thereof from any subsequent payment or payments of Rent due under the terms of the Parking Lease or by such other legal process it might elect. In the event Lessor fails to repair or perform maintenance and Lessee elects not to repair or perform the maintenance, DGS, on behalf of the Lessee, shall have the right to withhold (abate) payment of Rent until such time as Lessor completes said repairs or maintenance in a manner satisfactory to DGS Office of Real Estate.

20. Expiration of Parking Lease Term. This Parking Lease shall cease and terminate at the end of the term, or any renewal term, without the necessity of any further notice from either Lessor or Lessee to terminate the same and the continued occupancy of the Parking Leased Premises by Lessee after the expiration of said term shall not operate to renew this Parking Lease for said term or any part thereof or render Lessee liable for double rent. Notwithstanding the foregoing the Lessee reserves the absolute right to extend for a period not to exceed six (6) months. In the event of an extension by the Lessee, the Lessee shall be and remain liable to the Lessor for rent for the Parking Leased Premises for the time the same are actually occupied by the Lessee, said rent to be at the monthly rate required of Lessee during the immediate preceding term prior to the beginning of the extension period; but nothing herein shall confer upon the Lessee any right to remain on the Parking Leased Premises beyond six (6) months after termination, except with the consent of the Lessor.

21. Termination for Default. If the Lessor fails to fulfill its obligation under this Parking Lease properly and on time, or otherwise violates any provision of the Parking Lease, the Lessee may terminate the Parking Lease by written notice to the Lessor. The notice shall specify the acts or omissions relied upon as cause for termination. The Lessee shall pay the Lessor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Lessor's breach. If the damages are more than the compensation payable to the Lessor, the Lessor will remain liable after termination and the Lessee can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the applicable provisions of COMAR 21.07.01.11B.

22. Cure Period. Unless another remedy or cure period is specifically provided elsewhere herein, the remedies in this provision shall apply. In the event that Lessor defaults in any obligation hereunder, Lessor shall have 10 business days from the date of receipt of the written notice to cure the same (provided, however, that such 10-business day period shall be extended as reasonably required if the cure requires in excess of 10 business days and Lessor is diligently pursuing the same). There shall be no cure period if, in the reasonable discretion of the Lessee, the default threatens the health, safety, or welfare of Lessee's employees, guest, and/or invitees. If Lessor fails to cure the default within the applicable specified period, Lessee may expend such sums as are necessary to cure the default and Lessor shall be liable to Lessee for same. Written notice to cure may be done by electronic mail.

23. Termination for Convenience. Intentionally Deleted.

24. Multi-Year Parking Leases Contingent Upon Appropriations -- Termination for Nonappropriation. Multi-year Parking Leases are contingent upon appropriations. If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Parking Lease succeeding the first fiscal period, this Parking Lease shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either Lessee's rights or Lessor's rights under any termination clause in this Parking Lease. The effect of termination of the Parking Lease hereunder will be to discharge both Lessor and Lessee from future performance of the Parking Lease, but not from their rights and obligations existing at the time of termination. Lessor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Parking Lease. Lessee shall notify Lessor as soon as it has knowledge that funds may not be available for the continuation of this Parking Lease for each succeeding fiscal period beyond the first. COMAR 21.07.01.10; SF 13-217 (d), (e)]

25. Condition Upon Termination. Lessee will, at the expiration or sooner termination of the Term, deliver up the Demised Premises in the same condition they were in at the beginning of the tenancy, reasonable wear and tear, and such damage as cannot be attributed to the carelessness or neglect of the Lessee, its employees, agents or invitees excepted.

26. Suspension of Performance. The Procurement Officer unilaterally may order Lessor in

writing to suspend, delay or interrupt all or any part of the performance required by this Parking Lease for such period of time as the Procurement Officer may determine to be appropriate for the convenience of Lessee.

27. Waiver of Rights. The waiver at any time by Lessor or Lessee of any covenant or condition of the Parking Lease shall extend to the particular case only, for the particular time and in the particular manner specified, and such waiver shall not be construed or understood as waiving any further or other covenants, conditions, or rights.

28. Accessibility and Safety. Lessor guarantees that the Parking Leased Premises comply in all respects with:

- A. The Americans with Disabilities Act of 1990 (42 United States Code, §§ 12101 et seq.); and
- B. The Occupational Safety and Health Standards of the State and the United States, including but not limited to standards relating to the presence of friable asbestos and other hazardous materials or chemicals.

29. Time is of the Essence. Time is of the essence and occupancy on the date specified in this Parking Lease is the essence of this Parking Lease to Lessee. If, due to its own fault or negligence, Lessor does not have the Parking Leased Premises available for use by Lessee on the date specified in this Agreement, Lessor agrees to pay damages to Lessee in an amount equal to the Rent for the Parking Leased Premises during the period that the Demised Premises are unavailable to the Lessee, and in addition the Rent due from Lessee and any other obligations to be performed by Lessee shall be abated until occupancy.

30. Delays. Lessor agrees to prosecute performance of this Parking Lease continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the performance specified in this Parking Lease.

31. Extensions of Time Due to Delays. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of Lessor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Lessor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either Lessor or the subcontractors or suppliers.

32. Nonhiring of State Officials and Employees. No official or employee of the State of Maryland, as defined under General Provisions Article § 5-101, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Parking Lease, shall during the pendency and term of this Parking Lease and while

serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this Parking Lease.

33. Maryland Law Prevails. The provisions of this Parking Lease shall be governed by the laws of the State of Maryland and the parties hereby expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder.

34. Nondiscrimination. Lessor agrees:

- A. Not to discriminate in any manner against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test;
- B. To include a provision similar to that contained in subsection A, above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and
- C. To post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
[COMAR 21.07.01.08; SF 13-219]

35. Preexisting Regulations. In accordance with the provisions of § 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the applicable regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Parking Lease are applicable to this Parking Lease. [COMAR 21.07.01.17; SF 13-218(c); SF 11-206]

36. Compliance with State Recycling Plan. The Lessor understands that the Parking Lease is subject to the provisions of Section 9-1706 of the Environment Article, Annotated Code of Maryland (Recycling Plan for State Government). Lessor shall ensure and facilitate the Lessee's participation in applicable State recycling plans and shall collect and properly recycle recyclable materials. Lessor warrants that it has sufficient recyclable materials collection and/or transfer room(s), facility(ies), and/or equipment ("Lessor's Recycling Facilities") to ensure Lessee's compliance with Section 9-1706 And proper recycling of collected recyclable materials.

37. Retention of Records. Lessor shall retain and maintain all records and documents relating to this Parking Lease for three years after final payment by Lessee hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the Procurement Officer or designee, at all reasonable times.

38. Lessor Representations and Warranties. Lessor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or Unit thereof, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Parking Lease.
- C. It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Parking Lease; and
- D. It shall obtain at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Parking Lease.

39. Commercial Nondiscrimination.

- A. As a condition of entering into this Agreement, Lessor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Lessor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information, or an individual's refusal to submit to a genetic test or make available the results of a genetic test, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Lessor retaliate against any person for reporting instances of such discrimination. Lessor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Lessor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Lessor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
[COMAR 21.07.01.26 (A)]
- B. As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Lessor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Lessor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Lessor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Lessor on each subcontract or supply contract.

Lessor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Lessor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions. [COMAR 21.07.01.26 (B)]

40. Complete Agreement. This Parking Lease contains, in writing, the full and complete understanding of the parties and the parties stipulate that there are no oral terms of this Parking Lease.

41. Amendment. This Parking Lease may be amended, but only in writing, signed and executed with all formalities and signatures with which this Parking Lease is signed and executed.

42. Incorporated Affidavits. This Parking Lease contains additional provisions set forth on the following Attachments which are incorporated into and made a part of this Parking Lease:

A. Attachment A -- Lessor's executed Contract Affidavit.

43. Quiet Enjoyment. The Lessor covenants that it has full right, power and authority to enter into the Parking Lease and Lessor agrees to permit the Lessee quiet enjoyment of possession of the premises for the use stated herein during the Term and any extension herein of the Parking Lease, or for so long as Lessee shall not be in default hereunder, without hindrance, ejection or molestation by any person lawfully claiming by, through or under the Lessor.

44. Attornment. If any proceedings are commenced for the foreclosure of any mortgage or deed of trust encumbering the Building, Land or the Property of which the Parking Leased Premises are a part, or if Lessor sells, assigns or conveys all or a portion of the Property, Lessee may consider but shall not be obligated to attorn to the purchaser. The Lessee retains the right and shall be entitled to negotiate any benefits associated with the attornment of its rights and interests.

45. Subordination. Upon the request of the Lessor, the Lessee may consider but shall not be obligated to subordinate its rights hereunder to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, in force against the Land, Building, or Property at the time of the request of which the Parking Leased Premises are a part. The Lessee retains the right and shall be entitled to negotiate any benefits associated with the subordination of its rights and interests.

46. Estoppel Certificates. Lessee agrees at any time and from time to time in a format approved by the State, upon not less than fifteen (15) days prior notice by Lessor to execute, acknowledge and deliver to Lessor a statement in writing representing, among other matters, that this Parking Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent and other charges have been paid in advance, if any, and stating whether or not, to the

best knowledge of the signer of such a statement, Lessor is in default in performance of any covenant, agreement or condition contained in this Parking Lease and, if so, specify each such default of which the signer may have knowledge, it being intended that any such statement delivered hereunder may be relied upon by any third party not a party to this Parking Lease. The foregoing notwithstanding, Lessee shall not be estopped from asserting its rights and remedies regarding any default existing on or before the date hereof which Lessee did not have actual knowledge on the date of execution thereof.

47. Execution and Effectiveness. This Parking Lease shall only be effective and binding upon the State with full execution by the parties and approval by the Maryland Board of Public Works. Lessor has no right to institute any action or proceedings to compel the State to present this Parking Lease to the Board of Public Works or to compel the Board of Public Works to approve this Parking Lease. In the event this Parking Lease is not fully executed or approved by the State, Lessor's only remedy shall be to declare this Parking Lease null and void.

48. Conflict. In the event of any conflict between this Standard Parking Lease Form DGS-680-3D and any other document attached hereto, incorporated by reference, or otherwise made part of this Parking Lease, the provisions of this Standard Parking Lease Form DGS-680-3D shall prevail.

Affidavit
(Authorized Representative and Affiant)
(Revised 1/9/19)

A. Authority

I HEREBY AFFIRM THAT:

I, (print name) _____, possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or

conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)-(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
 - (a) § 7201, Attempt to Evade or Defeat Tax;

- (b) § 7203, Willful Failure to File Return, Supply Information, or Pay Tax,
- (c) § 7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
- (d) § 7206, Fraud and False Statements, or
- (e) § 7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. § 286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. § 287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. § 371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)-(14) of this regulation, except as follows (indicate reasons why

the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, § 17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, § 17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, § 17-702, Annotated Code of Maryland.

(2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: _____

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, § 14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 CFR § 260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

O. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

- (1) Corporation - ☐ domestic or ☐ foreign;
- (2) Limited Liability Company - ☐ domestic or ☐ foreign;
- (3) Partnership - ☐ domestic or ☐ foreign;
- (4) Statutory Trust - ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) _____ in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number: _____

Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____;

Address: _____

P. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, § 13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

Q. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

R. DRUG AND ALCOHOL FREE WORKPLACE

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), of this regulation;

(h) Notify its employees in the statement required by §E(2)(b), of this regulation, that as a condition of continued employment on the contract, the employee shall:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §B(2)(a)-(j), of this regulation.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

(printed name of Authorized Representative and affiant)

By: _____

(signature of Authorized Representative and affiant)

STATE OF MARYLAND SUPPLEMENTAL LEASE AGREEMENT DGS Form 680-3A	Supplemental Agreement No. 1	Date: November 15, 2019
	To Lease Dated: June 5, 2018	
25 N. Potomac Street, Hagerstown, MD 21740		

THIS AGREEMENT, (the "Agreement") is made and entered into this date by and between the Mayor and City Council of Hagerstown, Maryland, whose address is 1 East Franklin Street, Hagerstown, MD, hereinafter called the Lessor, and the State of Maryland, hereinafter called the Lessee, to the use of the Department of Juvenile Services.

WHEREAS, the parties entered into a parking lease agreement dated June 5, 2018 (the "Original Lease") at a rental rate of \$62.00 per month per parking space for fourteen (14) parking spaces in Lessor's parking deck, known as the University District Parking Deck, 25 N. Potomac Street, Hagerstown, MD 21740 (the "Parking Lease Premises"); and

WHEREAS, the parties agree to amend the Original Lease by extending the term of the lease for an additional three (3) years, which will extinguish one of the Lessee's two (2) options to renew under section 2.1 of the Lease; and

WHEREAS, The Lessee and Lessor agree to increase the monthly rental rate per parking space from \$62.00 to \$70.00 in the Parking Space Premises;

NOW, THEREFORE, the above recitals being made a substantive part of this Agreement, the parties for the consideration hereinafter mentioned covenant and agree that the said Original Lease is amended as follows:

1. Paragraph 2 of the lease is deleted in its entirety and replaced with the following: "The term of this Agreement is three (3) years and zero (0) months (the "Term") and commences on July 1, 2020 and ends on June 30, 2023."
2. Paragraph 2.1 is deleted in its entirety and replaced with the following: "The Parking Lease as amended by this Agreement may be renewed for an additional three (3) years (the "Revised Renewal Term") under the same terms and conditions except for the rental rate. The rental rate for the Revised Renewal Term shall be renegotiated subject to approval by the Board of Public Works. The parties shall enter into a second supplemental lease agreement to memorialize the new terms."
3. Paragraph 3 is deleted in its entirety and replaced with the following: "Rent: The rent due from the Lessee to the Lessor for the Parking Leases Premises as described in Section 1 above shall be Eleven Thousand Seven Hundred Sixty Dollars and Zero Cents (11,760.00) per annum payable in advanced of equal monthly installments of Nine Hundred Eighty Dollars and Zero Cents (\$980.00)."

All other terms and conditions of the Original Lease shall remain in full force and effect.
The Original Lease as amended by this Agreement shall be deemed the Parking Lease.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

**LESSOR: MAYOR AND CITY COUNCIL OF
HAGERSTOWN**

WITNESS By: _____ (SEAL)
Robert E. Bruchey II, Mayor

**LESSEE: STATE OF MARYLAND,
to the use of the Department of Juvenile
Services**

WITNESS By: _____ (SEAL)
Sam J. Abed, Secretary

CERTIFICATION BY BOARD OF PUBLIC WORKS

Execution of the above Supplemental Lease Agreement is hereby authorized and approved by the Board of Public Works at a meeting held _____ Item ____-LT on the Department of General Services Agenda.

Office of Real Estate

This lease is hereby approved for form and legal sufficiency by, Robert A. McFarland, Assistant Attorney General, on _____.

Assistant Attorney General

**STANDARD STATE OF MARYLAND
PARKING LEASE GENERAL TERMS AND CONDITIONS
(FORM DGS-680-3D-1)
(Revised July 2019)**

1. Rent Invoices. Lessee will not automatically pay the rent; Lessor must send a bill for each monthly payment to each State Unit (hereinafter referred to as "Unit(s)") listed in this Parking Lease for the amounts set forth in this Parking Lease.
2. Rent Payments. Except as otherwise provided in this Lease, the Rent shall be payable by check or electronic wire in accordance State payment systems at the office of Lessor during normal business hours and shall be due and payable on the first day of the month.
3. Form and content of Invoices. All invoices shall be made out to Lessee and must contain the following information: state "Invoice" on the bill; reference the Board of Public Works item number and agenda date indicated at the end of this Parking Lease; indicate that the invoice is billing for "Rent"; state Lessor's Federal Employer Identification Number; and additional information as may be specifically required elsewhere in this Parking Lease. [SF 15-102]
4. Payments by the State. Payments to Lessor pursuant to this Parking Lease shall be made no later than 30 days after Lessee's receipt of a proper invoice from Lessor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited. [COMAR 21.07.01.18; SF 15-103, 104]
5. Interest on Late Payments. Except for rent or other expenses submitted for payment pursuant to this Parking Lease, the Lessor hereby agrees that, notwithstanding the provisions of State Finance and Procurement Article of the Annotated Code of Maryland, Title 15, Subtitle 1, interest on any payments due under this Parking Lease shall not be payable unless such payments remain unpaid for more than 45 days after receipt of a proper invoice and such payments shall accrue interest from the 31st day after receipt of a proper invoice. [SF 15-104]
6. Use of Spaces by Lessee. Lessee will allocate the use of the Parking Leased Premises to the Units identified in the Parking Lease Term Sheet.
7. Use of Spaces by Other Units. Use of a parking space included in the Parking Lease by a Unit of the State other than the Units designated in the Parking Lease shall not constitute an assignment or a subletting and may be done at the discretion of Lessee.
8. Assignment by Lessee. Lessee may assign any or all of the parking spaces included in the Parking Leased Premises upon written consent of Lessor, whose consent shall not be unreasonably withheld, conditioned or delayed.

9. Maintenance of Parking Leased Premises. Lessor shall maintain the Parking Leased Premises in reasonably good condition and provide for snow removal or plowing during the winter months.

10. Availability of Parking Leased Premises. Lessor guarantees that there will be made available for Lessee's use as provided in the Parking Lease, on the days and between the hours specified in the Parking Lease, the parking spaces described in the Parking Lease Term Sheet.

11. Lessor Liability for Damage. Lessor shall not be responsible for the loss of or damage to the vehicles or to articles of personal property left in vehicles using the Parking Leased Premises other than loss or damage caused by the negligence or intentional act or omission of Lessor, its employees or agents.

12. Vehicle Identification. Lessor will issue identification in a form to be agreed to by Lessor and Lessee, which may be in the form of an electronic mechanism, for controlling access to and departure from the Parking Leased Premises. Lessor shall assure that only authorized vehicles assigned by Lessee are parked in the Parking Leased Premises.

13. Payment of Taxes. Lessee exercises its right of not paying local taxes and Lessor (the owner of the property subject to this Parking Lease) agrees to claim this exemption with respect to parking spaces leased to Lessee.

14. Damage to Parking Leased Premises - Casualty. If the Parking Leased Premises or related structures are damaged by fire or other casualty (the "Casualty") during the Term, Lessor, at its expense, shall restore the Parking Leased Premises with reasonable promptness but in no event later than 60 calendar days after the date of the Casualty to substantially the same condition of the Parking Leased Premises immediately before such Casualty, and may temporarily enter and possess any or all of the Parking Leased Premises for such purpose. The times for commencement and completion of any such restoration shall be extended for a period not to exceed 60 calendar days if any delays are caused by an event or circumstance beyond Lessor's reasonable control. If such restoration is not accomplished within the 60 calendar day period and any extension period, Lessee may terminate this Parking Lease by giving Notice to Lessor within 30 days after the expiration of such period or extension. If such Notice is given, the rights and obligations of the parties shall cease as of the date of the Casualty and the Rent shall be adjusted as of the date of the Casualty.

15. Rent Abatement. As long as Lessee is prohibited from the use of any or all of the Parking Leased Premises on account of such Casualty, the Rent and any other obligations of the Lessee shall be abated in proportion to the usable area of the Parking Leased Premises that are rendered substantially unfit for use or occupancy by such Casualty, unless, in Lessee's sole judgment, such Casualty renders the undamaged part of the Parking Leased Premises materially unsuitable for use or occupancy by Lessee for the uses contemplated by this Parking Lease, in which event the Rent shall be abated entirely during such period of non-use or non-occupancy.

16. Destruction/Damage to the Building. Anything in this Section to the contrary notwithstanding, if it is determined by either party that the Parking Leased Premises or

associated improvements is so damaged by Casualty that either the Parking Leased Premises or (whether or not the Parking Leased Premises are damaged) the associated improvements is rendered substantially unfit for use or occupancy and the Lessor will be unable to restore the Parking Leased Premises or associated improvements within 90 days after such Casualty, then either party may elect to terminate this Parking Lease as of the date of the Casualty by giving Notice thereof to the other party within 30 days after such Casualty. If such Notice is given, the rights and obligations of the parties shall cease as of the date of the Casualty and the Rent shall be adjusted as of the Casualty.

17. Lessor's Responsibility for Repairs. All repairs to the Parking Leased Premises including repairs to all associated improvements, no matter how caused are to be made and paid for by the Lessor.

18. Lessee's Responsibility for Repairs. The Lessee shall only be responsible for the financial reimbursement to the Lessor of the actual costs for repairs made by the Lessor or its agent to the Parking Leased Premises caused by the gross negligence of the Lessee, its agents, employees or invitees. Lessor shall provide to the Lessee copies of the actual invoices for work caused by the gross negligence of the Lessee, its agents, employees or invitees. Notwithstanding anything to the contrary, Lessee's liability for the reimbursement of said costs shall be contingent upon Lessor obtaining written consent for reimbursement and approval of costs from Department of General Services Office of Real Estate (DGS) prior to the commencement of any work.

19. Failure to Repair. In the event the Lessor fails to a) replace promptly any broken item; b) make necessary repairs; or c) maintain the Parking Leased Premises and associated improvements as herein provided for, the Lessee is herewith empowered and authorized, but not obligated to, after written notice has been given the Lessor, to make all necessary repairs or perform the required maintenance, charging the Lessor for the making of such repairs or performing said maintenance and deducting the cost thereof from any subsequent payment or payments of Rent due under the terms of the Parking Lease or by such other legal process it might elect. In the event Lessor fails to repair or perform maintenance and Lessee elects not to repair or perform the maintenance, DGS, on behalf of the Lessee, shall have the right to withhold (abate) payment of Rent until such time as Lessor completes said repairs or maintenance in a manner satisfactory to DGS Office of Real Estate.

20. Expiration of Parking Lease Term. This Parking Lease shall cease and terminate at the end of the term, or any renewal term, without the necessity of any further notice from either Lessor or Lessee to terminate the same and the continued occupancy of the Parking Leased Premises by Lessee after the expiration of said term shall not operate to renew this Parking Lease for said term or any part thereof or render Lessee liable for double rent. Notwithstanding the foregoing the Lessee reserves the absolute right to extend for a period not to exceed six (6) months. In the event of an extension by the Lessee, the Lessee shall be and remain liable to the Lessor for rent for the Parking Leased Premises for the time the same are actually occupied by the Lessee, said rent to be at the monthly rate required of Lessee during the immediate preceding term prior to the beginning of the extension period; but nothing herein shall confer upon the Lessee any right to remain on the Parking Leased Premises beyond six (6) months after termination, except with the consent of the Lessor.

21. Termination for Default. If the Lessor fails to fulfill its obligation under this Parking Lease properly and on time, or otherwise violates any provision of the Parking Lease, the Lessee may terminate the Parking Lease by written notice to the Lessor. The notice shall specify the acts or omissions relied upon as cause for termination. The Lessee shall pay the Lessor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Lessor's breach. If the damages are more than the compensation payable to the Lessor, the Lessor will remain liable after termination and the Lessee can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the applicable provisions of COMAR 21.07.01.11B.

22. Cure Period. Unless another remedy or cure period is specifically provided elsewhere herein, the remedies in this provision shall apply. In the event that Lessor defaults in any obligation hereunder, Lessor shall have 10 business days from the date of receipt of the written notice to cure the same (provided, however, that such 10-business day period shall be extended as reasonably required if the cure requires in excess of 10 business days and Lessor is diligently pursuing the same). There shall be no cure period if, in the reasonable discretion of the Lessee, the default threatens the health, safety, or welfare of Lessee's employees, guest, and/or invitees. If Lessor fails to cure the default within the applicable specified period, Lessee may expend such sums as are necessary to cure the default and Lessor shall be liable to Lessee for same. Written notice to cure may be done by electronic mail.

23. Termination for Convenience. Intentionally Deleted.

24. Multi-Year Parking Leases Contingent Upon Appropriations -- Termination for Nonappropriation. Multi-year Parking Leases are contingent upon appropriations. If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Parking Lease succeeding the first fiscal period, this Parking Lease shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either Lessee's rights or Lessor's rights under any termination clause in this Parking Lease. The effect of termination of the Parking Lease hereunder will be to discharge both Lessor and Lessee from future performance of the Parking Lease, but not from their rights and obligations existing at the time of termination. Lessor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Parking Lease. Lessee shall notify Lessor as soon as it has knowledge that funds may not be available for the continuation of this Parking Lease for each succeeding fiscal period beyond the first. COMAR 21.07.01.10; SF 13-217 (d), (e)]

25. Condition Upon Termination. Lessee will, at the expiration or sooner termination of the Term, deliver up the Demised Premises in the same condition they were in at the beginning of the tenancy, reasonable wear and tear, and such damage as cannot be attributed to the carelessness or neglect of the Lessee, its employees, agents or invitees excepted.

26. Suspension of Performance. The Procurement Officer unilaterally may order Lessor in

writing to suspend, delay or interrupt all or any part of the performance required by this Parking Lease for such period of time as the Procurement Officer may determine to be appropriate for the convenience of Lessee.

27. Waiver of Rights. The waiver at any time by Lessor or Lessee of any covenant or condition of the Parking Lease shall extend to the particular case only, for the particular time and in the particular manner specified, and such waiver shall not be construed or understood as waiving any further or other covenants, conditions, or rights.

28. Accessibility and Safety. Lessor guarantees that the Parking Leased Premises comply in all respects with:

- A. The Americans with Disabilities Act of 1990 (42 United States Code, §§ 12101 et seq.); and
- B. The Occupational Safety and Health Standards of the State and the United States, including but not limited to standards relating to the presence of friable asbestos and other hazardous materials or chemicals.

29. Time is of the Essence. Time is of the essence and occupancy on the date specified in this Parking Lease is the essence of this Parking Lease to Lessee. If, due to its own fault or negligence, Lessor does not have the Parking Leased Premises available for use by Lessee on the date specified in this Agreement, Lessor agrees to pay damages to Lessee in an amount equal to the Rent for the Parking Leased Premises during the period that the Demised Premises are unavailable to the Lessee, and in addition the Rent due from Lessee and any other obligations to be performed by Lessee shall be abated until occupancy.

30. Delays. Lessor agrees to prosecute performance of this Parking Lease continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the performance specified in this Parking Lease.

31. Extensions of Time Due to Delays. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of Lessor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Lessor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either Lessor or the subcontractors or suppliers.

32. Nonhiring of State Officials and Employees. No official or employee of the State of Maryland, as defined under General Provisions Article § 5-101, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Parking Lease, shall during the pendency and term of this Parking Lease and while

serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this Parking Lease.

33. Maryland Law Prevails. The provisions of this Parking Lease shall be governed by the laws of the State of Maryland and the parties hereby expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder.

34. Nondiscrimination. Lessor agrees:

- A. Not to discriminate in any manner against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test;
- B. To include a provision similar to that contained in subsection A, above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and
- C. To post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
[COMAR 21.07.01.08; SF 13-219]

35. Preexisting Regulations. In accordance with the provisions of § 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the applicable regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Parking Lease are applicable to this Parking Lease. [COMAR 21.07.01.17; SF 13-218(c); SF 11-206]

36. Compliance with State Recycling Plan. The Lessor understands that the Parking Lease is subject to the provisions of Section 9-1706 of the Environment Article, Annotated Code of Maryland (Recycling Plan for State Government). Lessor shall ensure and facilitate the Lessee's participation in applicable State recycling plans and shall collect and properly recycle recyclable materials. Lessor warrants that it has sufficient recyclable materials collection and/or transfer room(s), facility(ies), and/or equipment ("Lessor's Recycling Facilities") to ensure Lessee's compliance with Section 9-1706 And proper recycling of collected recyclable materials.

37. Retention of Records. Lessor shall retain and maintain all records and documents relating to this Parking Lease for three years after final payment by Lessee hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State of Maryland, including the Procurement Officer or designee, at all reasonable times.

38. Lessor Representations and Warranties. Lessor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or Unit thereof, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Parking Lease.
- C. It shall comply with all federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Parking Lease; and
- D. It shall obtain at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Parking Lease.

39. Commercial Nondiscrimination.

- A. As a condition of entering into this Agreement, Lessor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Lessor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information, or an individual's refusal to submit to a genetic test or make available the results of a genetic test, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Lessor retaliate against any person for reporting instances of such discrimination. Lessor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Lessor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Lessor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
[COMAR 21.07.01.26 (A)]

- B. As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Lessor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Lessor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Lessor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Lessor on each subcontract or supply contract.

Lessor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Lessor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions. [COMAR 21.07.01.26 (B)]

40. Complete Agreement. This Parking Lease contains, in writing, the full and complete understanding of the parties and the parties stipulate that there are no oral terms of this Parking Lease.

41. Amendment. This Parking Lease may be amended, but only in writing, signed and executed with all formalities and signatures with which this Parking Lease is signed and executed.

42. Incorporated Affidavits. This Parking Lease contains additional provisions set forth on the following Attachments which are incorporated into and made a part of this Parking Lease:

A. Attachment A -- Lessor's executed Contract Affidavit.

43. Quiet Enjoyment. The Lessor covenants that it has full right, power and authority to enter into the Parking Lease and Lessor agrees to permit the Lessee quiet enjoyment of possession of the premises for the use stated herein during the Term and any extension herein of the Parking Lease, or for so long as Lessee shall not be in default hereunder, without hindrance, ejection or molestation by any person lawfully claiming by, through or under the Lessor.

44. Attornment. If any proceedings are commenced for the foreclosure of any mortgage or deed of trust encumbering the Building, Land or the Property of which the Parking Leased Premises are a part, or if Lessor sells, assigns or conveys all or a portion of the Property, Lessee may consider but shall not be obligated to attorn to the purchaser. The Lessee retains the right and shall be entitled to negotiate any benefits associated with the attornment of its rights and interests.

45. Subordination. Upon the request of the Lessor, the Lessee may consider but shall not be obligated to subordinate its rights hereunder to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, in force against the Land, Building, or Property at the time of the request of which the Parking Leased Premises are a part. The Lessee retains the right and shall be entitled to negotiate any benefits associated with the subordination of its rights and interests.

46. Estoppel Certificates. Lessee agrees at any time and from time to time in a format approved by the State, upon not less than fifteen (15) days prior notice by Lessor to execute, acknowledge and deliver to Lessor a statement in writing representing, among other matters, that this Parking Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent and other charges have been paid in advance, if any, and stating whether or not, to the

best knowledge of the signer of such a statement, Lessor is in default in performance of any covenant, agreement or condition contained in this Parking Lease and, if so, specify each such default of which the signer may have knowledge, it being intended that any such statement delivered hereunder may be relied upon by any third party not a party to this Parking Lease. The foregoing notwithstanding, Lessee shall not be estopped from asserting its rights and remedies regarding any default existing on or before the date hereof which Lessee did not have actual knowledge on the date of execution thereof.

47. Execution and Effectiveness. This Parking Lease shall only be effective and binding upon the State with full execution by the parties and approval by the Maryland Board of Public Works. Lessor has no right to institute any action or proceedings to compel the State to present this Parking Lease to the Board of Public Works or to compel the Board of Public Works to approve this Parking Lease. In the event this Parking Lease is not fully executed or approved by the State, Lessor's only remedy shall be to declare this Parking Lease null and void.

48. Conflict. In the event of any conflict between this Standard Parking Lease Form DGS-680-3D and any other document attached hereto, incorporated by reference, or otherwise made part of this Parking Lease, the provisions of this Standard Parking Lease Form DGS-680-3D shall prevail.

Affidavit
(Authorized Representative and Affiant)
(Revised 1/9/19)

A. Authority

I HEREBY AFFIRM THAT:

I, (print name) _____, possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or

conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)-(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) § 7201, Attempt to Evade or Defeat Tax;

- (b) § 7203, Willful Failure to File Return, Supply Information, or Pay Tax,
- (c) § 7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
- (d) § 7206, Fraud and False Statements, or
- (e) § 7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. § 286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. § 287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. § 371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)-(14) of this regulation, except as follows (indicate reasons why

the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, § 17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, § 17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, § 17-702, Annotated Code of Maryland.

(2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: _____

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, § 14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 CFR § 260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

O. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

- (1) Corporation - ☐ domestic or ☐ foreign;
- (2) Limited Liability Company - ☐ domestic or ☐ foreign;
- (3) Partnership - ☐ domestic or ☐ foreign;
- (4) Statutory Trust - ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) _____ in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number: _____

Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____;

Address: _____

P. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, § 13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

Q. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

R. DRUG AND ALCOHOL FREE WORKPLACE

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), of this regulation;

(h) Notify its employees in the statement required by §E(2)(b), of this regulation, that as a condition of continued employment on the contract, the employee shall:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)-(j), of this regulation.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

(printed name of Authorized Representative and affiant)

By: _____

(signature of Authorized Representative and affiant)



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

(301)739-8577 ext. 178

November 22, 2019

To: Scott Nicewarner, City Administrator

From: Eric B. Deike, Director of Public Works

RE: State of Maryland
Department of the Juvenile Services
Standard Parking Lease Agreement

RECOMMENDATION

Staff recommends that the Mayor and Council approve a standard parking lease agreement with the State of Maryland that allows for parking for the Maryland State Department of Juvenile Services. Parking privileges would be in the University District Parking Deck for a period of three (3) years with an option to renew for another three (3) year term where the rates could be renegotiated.

DISCUSSION

The Maryland State Department of the Juvenile Services operates out of an office in the city center. The agency currently parks in the University District Parking Deck and wishes to continue this arrangement.

The City of Hagerstown does not require lease agreements for utilizing the parking decks. The State of Maryland insists that a lease be signed due to obligatory requirements to their Board of Public Works. The State has provided a standard parking lease agreement that includes parking for fourteen (14) vehicles for this agency. The annual payment amount is \$11,760.00 or \$980 per month.

The attached agreement shows the term of the agreement commencing on July 1, 2020 and ending on June 30, 2023.

The City's attorneys have reviewed the agreement.

CONCLUSION

While not a requirement of the City of Hagerstown, signing of the standard parking lease agreement will satisfy obligations for the state agency of the Department of the Juvenile Services in regard to their budget processes. The recommendation is to sign the lease agreement with State. Staff is prepared to answer any questions regarding this agreement.

Cc: Jason Rodgers

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: **Approval of a Parking Lease for the University District Parking Deck with the State of Maryland**

Charter Amendment

Code Amendment

Ordinance

✓ Resolution

Other

MOTION: I hereby move for the approval of a resolution to approve a parking lease agreement between the City of Hagerstown and the State of Maryland for the rental of fourteen (14) parking spaces in the University District Parking Deck for use by the Department of Juvenile Services.

The term of the lease is three (3) years and commences on July 1, 2020. The annual rent to be paid to the City is Eleven Thousand Seven Hundred Sixty Dollars and No Cents (\$11,760.00).

DATE OF PASSAGE: December 17, 2019

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

Topic:

Approval of a Resolution: Amendment to a Commercial Lease Agreement with Fresh Academicz, LLC / Peter Arizmendi for the property located at 60 W. Washington Street

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Staff request Mayor & City Council approval of an amendment to the lease agreement with Fresh Academicz, LLC, the existing tenant operating at the 60 West Washington Street storefront space. Per the existing lease agreement, this amendment is required to extend the lease term and update the rent amount for the Fresh Academicz tenancy. Staff have worked the tenant and City Attorney Jason Morton to review all aspects of the proposed leases amendment. A copy of the draft lease amendment is attached

Motion:

I hereby move for Mayor and City Council to approve the attached resolution authorizing the execution of an amendment for the existing lease with Fresh Academicz, LLC / Peter Arizmendi for the property located at 60 W Washington St in Hagerstown, MD. The lease amendment will extend the lease term and update the rent amount for the existing lease agreement between the City of Hagerstown and Fresh Academicz, LLC / Peter Arizmendi. All other terms of the existing lease will remain in full force and effect.

Action Dates:

DATE OF INTRODUCTION:	12/17/2019
DATE OF PASSAGE:	12/17/2019
EFFECTIVE DATE:	12/17/2019

ATTACHMENTS:

File Name

Description

Motion: Resolution - Lease

Motion - Resolution -
_Lease_Agreement_with_Fresh_Academicz.pdf

Agreement with Fresh
Academicz

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: December 17, 2019

TOPIC: **Approval of a Resolution: Amendment to a Commercial Lease Agreement with Fresh Academicz, LLC/Peter Arizmendi for the property located at 60 W Washington Street, Hagerstown, Maryland.**

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

MOTION: I hereby move for Mayor and City Council to approve the attached resolution authorizing the execution of an amendment for the existing lease with Fresh Academicz, LLC / Peter Arizmendi for the property located at 60 W Washington St in Hagerstown, MD. The lease amendment will extend the lease term and update the rent amount for the existing lease agreement between the City of Hagerstown and Fresh Academicz, LLC / Peter Arizmendi. All other terms of the existing lease will remain in full force and effect.

DATE OF INTRODUCTION:	12/17/2019
DATE OF PASSAGE:	12/17/2019
EFFECTIVE DATE:	12/17/2019

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO ENTER INTO AN AMENDMENT TO LEASE AGREEMENT
WITH FRESH ACADEMICZ, LLC
FOR A PORTION OF THE PROPERTY KNOWN
AS 60 WEST WASHINGTON STREET**

RECITALS

WHEREAS, the City of Hagerstown owns property known as 60 West Washington Street in Hagerstown, Maryland; and

WHEREAS, a portion of the said property is currently presently leased by Fresh Academicz, LLC, a Maryland Limited Liability Company, the Tenant, pursuant to a Lease Agreement dated November 1, 2018;

WHEREAS, Fresh Academicz, LLC, desires to remain in the Premises for another year, beginning November 1, 2019 and ending on October 31, 2020;

WHEREAS, the City of Hagerstown desires to lease the Premises to Fresh Academicz, LLC for another year, with a rent increase of 3% over the current rental amount for said renewal term; 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 the Amendment to Lease Agreement with Fresh Academicz, LLC, for a portion of the property located at premises known as 60 West Washington Street, Hagerstown, Maryland, pursuant to the terms of the Amendment to 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 Amendment to 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: December 17, 2019
Date of Passage: December 17, 2019
Effective Date: December 17, 2019

Amendment to Lease Agreement

THIS AMENDMENT TO LEASE AGREEMENT made on the _____ day of December, 2019, between City of Hagerstown, Landlord, and Fresh Academicz, LLC, a Maryland limited liability company, Tenant.

WITNESSETH, that pursuant to a Lease Agreement dated November 1, 2018, the Landlord hereby leased to the Tenant and the Tenant hereby leased from the Landlord, a portion of the premises located at 60 West Washington Street, Hagerstown, Maryland 21740.

WITNESSETH, that the parties desire to amend said Lease Agreement *in only the following regards*:

1. **TERM.** This Lease shall be for a term of one year, beginning on the 1st day of November, 2019, and ending on the 31st day of October, 2020. Thereafter, the Tenant shall be considered a month-to-month, periodic Tenant, with said tenancy terminable by either party upon thirty (30) days' written notice to the other.
2. **RENT.**
 - A. For the period of November 1, 2019 to October 31, 2020, the annual rental shall be Seven Thousand Four Hundred Sixteen and 00/100 Dollars (\$7,416.00). Tenant shall pay in equal monthly installments of Six Hundred Eighteen and 00/100 Dollars (\$618.00) per month in advance on the first day of each month.
 - B. For each year thereafter, if any, Tenant's rent shall increase at the rate of 3% per year over the previous year's rent. Tenant shall pay said rent in equal monthly installments in advance on the first day of each month.
3. **IN ALL OTHER RESPECTS,** the Lease Agreement dated November 1, 2018, shall remain in full force and effect.

This Amendment to Lease Agreement contains the entire understanding between the parties hereto. There are no representations, warranties or agreements concerning the subject matter of this Amendment to Lease Agreement other than as expressly set forth herein.

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

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

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

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

**WITNESS AND ATTEST
AS TO CORPORATE SEAL**

CITY OF HAGERSTOWN

Donna Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

ATTEST

FRESH ACADEMICZ, LLC

BY: _____ (SEAL)
Peditro Arizmendi, Managing Member

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

Topic:

Approval of a Resolution: Alter Traffic Patterns in the Dale Street Neighborhood

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Dale_Street_Traffic_Patterns.2019.pdf

Description

Approval of a Resolution to
Alter Traffic Patterns in the
Dale Street Neighborhood

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: Approval of a Resolution to Alter Traffic Patterns in the Dale Street
Neighborhood

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

MOTION: I hereby move for the approval of a Resolution of the Hagerstown Police Department's security project and authorizing the closure of Alleys 1-66 and 1-67 and reversing the traffic flow of Dale Street and unit block of Alexander Street. I further authorize staff to implement the plan.

DATE OF PASSAGE: 12/17/19

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION TO IMPLEMENT THE HAGERSTOWN POLICE
DEPARTMENT SECURITY PROJECT AND AUTHORIZING THE CLOSURE
OF ALLEYS 1-66 AND 1-67 AND REVERSING THE TRAFFIC FLOW OF DALE
STREET AND UNIT BLOCK OF ALEXANDER STREET**

RECITALS

WHEREAS, pursuant to its police powers, the City of Hagerstown maintains a systems of streets, alleys and ways within the corporate limits of the City for the benefit of its citizenry; and

WHEREAS, this system of streets includes a streets known as (1) Dale Street, which street is located between Alexander Street and Westside Avenue, and (2) Alexander Street, which street is located between Dale Street and Washington Avenue; and

WHEREAS, this system of alleys includes alleys designated as (1) 1-67 which alley is located between Washington Street and Dale Street, and (2) 1-66, which alley is located between 1-67 and Alley 1-64; and

WHEREAS, safety issues have arisen in connection with public vehicular and pedestrian traffic utilizing alleys 1-67 and 1-66, Dale Street, and Alexander Street; and

WHEREAS, the Mayor and Council has determined that the continued use of the alleys for public vehicular and pedestrian traffic poses significant safety concerns for the general public; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the citizens of the City of Hagerstown to implement the plan to close the alleys and reverse the traffic flow on Dale Street and the unit block of Alexander Street thereto;

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 be and are incorporated herein as if restated verbatim.
2. The traffic flow on Dale Street be reversed from Alexander Street to West Side Avenue and on Alexander Street between Dale Street and Washington Avenue, as depicted on the Plan of Traffic Flow Changes attached hereto as Exhibit A and incorporated herein.

3. That Alley 1-66 and Alley 1-67 be closed to vehicular traffic by blocking the alley with appropriate devices as depicted in Exhibit A.
4. That the Hagerstown Police Department and any other department of the City of Hagerstown be and is hereby authorized to take such other and further action as may be necessary or advisable 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

Robert Bruchey, Mayor

Date of Introduction: December 17, 2019
Date of Passage: December 17, 2019
Effective Date: December 17, 2019

EXHIBIT 'A'



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

Topic:

Approval of Renewal of City-Wide Mowing Contract: 3/15/20-12/15/20

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

12.17.19_Motion_for_CityWide_Mowing_Contract_Extension_#2.pdf	Mowing Contract Extension #2
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REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: Approval to Renew City-Wide Mowing Contract: 3/15/20-12/15/20

Charter Amendment _____
Code Amendment _____
Ordinance _____
Resolution _____
Other X

MOTION:

I hereby move for the Mayor and Council to authorize and approve the renewal of the City-Wide Mowing Contract for the contract term of March 15, 2020 through December 15, 2020. This is year two (2) of two (2) optional one-year renewals. The total contract amount is \$120,399.16.

Department Name	Contractor Name	Department Total
Light Division	Servtec Custodial, Inc.	\$7,404.39
Parks Division	Servtec Custodial, Inc.	\$80,828.96
Water Division	East Coast Landscaping	\$16,950.00
Water Division Contingent Items (locations WC3 and WC10)	East Coast Landscaping	\$5,625.00
Police Department	Servtec Custodial, Inc and East Coast Landscaping	\$8,649.75
CDBG Homeownership Properties	Servtec Custodial, Inc.	\$941.06
Grand Total		\$120,399.16

DATE OF INTRODUCTION: 12/17/19
DATE OF PASSAGE: 12/17/19
EFFECTIVE DATE: 12/17/19

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

Topic:

Approval of a Resolution: User Agreement with Hagerstown Area Youth Soccer League (HAYSL)

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_and_Resolution_-_User_Agreement_with_Hagerstown_Area_Youth_Soccer_League_(HAYSL).pdf

HAYSL_user_agreement.2019.pdf

Description

Motion and Resolution User Agreement for Hagerstown Area Youth Soccer League (HAYSL)

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: Approval of User Agreement with Hagerstown Area Youth Soccer League (HAYSL)

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

MOTION: I hereby move for Mayor and Council approval of a Resolution to enter into a User Agreement with the Hagerstown Area Youth Soccer League (HAYSL). The HAYSL will have maintenance responsibility and non-exclusive but priority scheduling use of three (3) multi-purpose field in Fairgrounds Park. This agreement is for the period of January 1, 2020 through December 31, 2020. User shall have the right to renew this agreement for up to four (4) additional 1-year terms beginning January 1, 2021.

DATE OF PASSAGE: 12/17/2019

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE RENEWAL
OF THE USER AGREEMENT BETWEEN THE CITY OF HAGERSTOWN
AND HAGERSTOWN AREA YOUTH SOCCER LEAGUE
AT FAIRGROUNDS PARK**

RECITALS

WHEREAS, the City of Hagerstown owns certain property within its corporate boundaries known as Fairgrounds Park; and

WHEREAS, the City has developed said property for recreational use; and

WHEREAS, Hagerstown Area Youth Soccer League ("HAYSL") has previously used a portion of said property pursuant to a valid User Agreement, the term of which expires on December 31, 2019; and

WHEREAS, User has requested that the City allow HAYSL to continue to utilize a portion of Fairgrounds Park pursuant to the terms of the attached User Agreement; 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 above recitals are incorporated herein by reference; and
2. That the Mayor be and is hereby authorized to execute and deliver the HAYSL Fairgrounds Park User Agreement, a copy of which is attached hereto and incorporated herein; and
3. That the Mayor be and is hereby authorized to execute 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

By:_____
Robert E. Bruchey, II, Mayor

Date of Introduction: December 17, 2019
Date of Passage: December 17, 2019
Effective Date: December 17, 2019

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

City of Hagerstown
HAYSL Fairgrounds Park User Agreement

November , 2019

City of Hagerstown, Maryland, a municipal corporation, referred to in this agreement as "City", and the Hagerstown Area Youth Soccer League, a non-profit organization, referred to in this Agreement as "User", in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

1. **Description of Premises.** City agrees to allow User the non-exclusive use of a portion of the Hagerstown Fairgrounds constructed as three (3) multi-purpose fields and located in the north central part of the Fairgrounds Park, illustrated in attached Exhibit A, referred to in this Agreement as "Premises".

Non-exclusive use means that the User has priority scheduling status with the City but not sole use of the Premises. Prior to March 1st of each year of the term of this Agreement or any subsequent renewal term, User may schedule with the City all dates and times necessary to offer its recreational program and to maintain the Premises as required by this Agreement. The City may then schedule all remaining times on a first come, first served basis. The City reserves the right to schedule special events at the Premises. On dates and times not scheduled by the User, the City may authorize others to schedule use of the Premises and may permit the general public access to and use of the Premises.

2. **Term of Agreement.** This Agreement shall extend from January 1, 2020 to December 31, 2020.

Notwithstanding the foregoing, the City may terminate this agreement at any time upon giving User ninety (90) days written notice, only if the Mayor and Council are required by law, or have determined that it is in the best interests of the Citizens of the City, to utilize the Premises for purposes other than recreation or park uses. Said termination shall not take effect until the conclusion of the User's annual schedule and post-season play for the year in which the notice is given, unless otherwise required by law.

3. **Renewal.** User shall have the right to renew this agreement for up to four (4) additional 1-year terms beginning January 1, 2021. User must submit written request for renewal at least 90 days prior to the end of the then current term of the agreement. Any renewal is contingent upon User being in compliance with all lease terms, financial obligations, and the terms of any other agreement(s) between the Parties during the prior lease term, as determined by the City in its sole discretion. The City shall provide User with notice of non-renewal as a result of a violation of this contingency within thirty (30) days of receipt of User's notice to renew if it intends to enforce said contingency at that time.

4. **Rent.** City shall charge the User no monetary rent for the use of the Premises.

5. **Use of Premises.** User agrees that the Premises shall be used exclusively for User's soccer programs. User agrees to provide programs through leagues or clinics to teach field sports skills to area youth. User must obtain City approval for any other events or activities, including but not limited to carnivals, picnics and the use of outside vendors.
6. **Program Responsibility.** User has sole responsibility for the soccer program anticipated by this Agreement, including any equipment required. The recreational program offered by the User may not discriminate based on race, color, creed, national origin or gender. The City shall have no obligation to assist in the provision of services that the User intends to provide by virtue of this Agreement or to provide the services if the User terminates this Agreement.
7. **Concessions and Vendors.** User will be the primary operator of a food and merchandise concession at the Premises to raise funds for operating expenses of the Premises and the recreational program offered by the User. User must obtain and pay for any necessary permits and licenses and comply with all regulations pertaining to concession sales. User shall not sell or permit the sale of any product which may violate any agreement to which the City is a party.

User may allow private vendors to operate food concessions and soccer related concessions at the Premises, with prior approval of City staff. User shall ensure that any private vendor has general liability coverage in the amount of \$1,000,000 and User shall obtain a Certificate of Insurance from any private vendor naming both the User and the City as additional named insureds. It is User's responsibility to ensure that private food vendors are also in compliance with all terms and conditions regulating food sales and/or soccer related concessions.

8. **Fees Charged by User.**
 - A. User may not charge any fee to members of the public to watch events on the Premises.
 - B. User may charge entrance fees to participants in regular and special events sponsored by the User.
 - C. If requested by the City, User shall provide an annual accounting of revenues and expenses related to the use and operation of the facility.
9. **Ownership of Improvements.** All permanent improvements to the Premises including but not limited to restrooms, concession buildings, fencing, backstops, lighting, scoreboards, signs, and parking facilities are the property of the City. Permanent improvements or fixtures made or attached to the Premises by any party during the term of this Agreement shall become the property of the City when installed. User may request the City transfer title to the User of any fixture that it may wish to remove from the Premises. The decision to transfer title and permit removal is within the sole discretion of the City.

Non-permanent improvements including but not limited to refrigeration and cooking equipment purchased by or given to the User shall remain the property of the User unless User expressly transfers title thereto to the City.

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- A. **GROUND.** User shall maintain the grounds to City standards including mowing, seeding, fertilizing and watering. User is responsible for the normal maintenance of the Premises including, but not restricted to, the playing field surface, all turf, field lines, etc. User shall clean up trash and debris from the premises during periods of its use, but not during the winter or summer periods from approximately November 1 through March 31, or the start of the playing season, whichever is sooner, and from approximately June 15 through August 15. City will irrigate the playing fields as necessary. The City will remove leaves from the premises. City will maintain all trees including planting, trimming, and removal of dead trees and downed branches. City shall maintain and repair all paved trails, walkways, and roadways constructed for general public use.
- B. **RESTROOMS.** City shall clean and maintain any restrooms on the Premises that are open for general public use whenever the Fairground Park is open to the public. User shall clean and maintain any restrooms, on or off the Premises that the City and User agree will be open to the public only when User is using the Premises. In either case, City will be responsible for providing supplies, winterizing the restroom facilities, and maintaining plumbing and electrical systems. Restrooms will be provided and open in accordance with City Parks and Recreation season.
- C. **STORAGE AREA, CONCESSION STANDS, OTHER BUILDINGS AND STRUCTURES.** User shall clean and provide general janitorial maintenance of all facilities on the Premises except as noted in paragraph B above. User shall be responsible for any damage by the User to buildings and structures that exceeds normal wear and tear. Storage needs in excess of soccer pavilion located on Exhibit A is to be provided by the User. Should the User require additional storage the User may request the City to identify a location upon which the User at their expense may construct a storage facility. Said storage facility must be approved by the City and built to City specifications.
- D. **BLEACHERS.** If bleachers are constructed, User is responsible for all maintenance, repairs, and replacements of permanent bleachers. Any bleacher repair requires a City building permit and must be inspected by the City. Maintenance, repairs, and replacements of temporary bleachers are the responsibility of the owner of the temporary bleachers. User shall monitor all bleachers for safe conditions and shut down and prohibit use of any bleacher section which is not safe until repairs are made.
- E. **FIELD LIGHTING.** User is responsible for all maintenance, repairs and replacements for field lighting.

- F. **SCOREBOARDS AND SIGNS.** User is responsible for all maintenance, repairs, replacements for scoreboards and signs.
- G. **PARKING.** User is responsible for cleanup of trash and general debris in parking areas adjacent to its assigned fields on the Premises.
- H. **SAFETY.** User assumes full responsibility for inspecting, maintaining, and supervising all structures, facilities and grounds for which User is responsible, in a safe condition to minimize the risk of personal injury. The City reserves the right to inspect any structure or facility on City property and may issue a notice to the User for any structural or maintenance deficiencies. Upon receipt of such notice, User shall make the necessary improvements within 7 calendar days unless additional time is agreed to by the City. Upon written request of the User, the City will inspect the Premises to verify conformance with applicable City Codes and Regulations.
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Electricity-except field light	<u> X </u>	<u> </u>
Electricity- field lighting	<u> </u>	<u> X </u>
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Gas	<u> X </u>	<u> </u>
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or advertisements from the Premises that it has not approved and User agrees to pay the cost of any such removals. User shall be permitted to place approved advertising around the perimeter of the fields and structures on the Premises to generate income for the operation and maintenance of the Premises. City reserves the right to install signs on the Premises.

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15. **Hold Harmless.** User will indemnify and hold the City harmless from all loss, liability, cost or damages that may occur or be claimed with respect to any person or property on, in or about the Premises or to the Premises resulting from any act done or omission by or through the User, its agents, employees, volunteers, participants, invitees, or any other person on the Premises by reason of the User's use or occupancy of the Premises. User will additionally indemnify the City for all loss, liability, cost or damages occurring to the Premises as a result of the User's use or maintenance of the Premises
16. **Insurance.**
 - A. **BUILDINGS AND STRUCTURES.** The City shall provide building and structure insurance in the same manner and amount that it would for any City-owned park structure. Providing this insurance does not obligate the City to incur any cost in repair or replacement beyond the insurance coverage provided. User may carry additional insurance at User's cost if such insurance is available.
 - B. **GENERAL LIABILITY.** User shall provide general liability insurance in the amount of \$1,000,000 covering liability arising directly or indirectly from User's use and maintenance of the Premises. This insurance must also extend to the preparation and sale of any food on the Premises if food will be distributed or sold. User shall provide to the City a certificate of insurance in the amount specified above with the City listed as an additional named insured.

User agrees to immediately cease all use of the Premises if its general liability insurance is canceled or expired or if it has reason to believe the insurance is canceled or expired. The User must notify the City immediately in this case.

City agrees that during periods of time when user is not making use of the Premises the City's general liability insurance will provide coverage for any person using the facility who is not covered by the User's insurance.

- C. **CONTENTS.** User is solely responsible for insurance for personal property on the Premises if the User elects such coverage. The City will not provide insurance for any personal property not owned by the City.
17. **Damage to City Owned Property.** All damages to City of Hagerstown property caused by the User and/or User's volunteers, participants, contractors or invitees will be the responsibility of the User. User shall keep in a state of good repair, maintenance and cleanliness the interior of the Premises and the equipment therein, including but not limited to light bulbs, leaky faucets, sewer blockages caused by the User, air filters, and water filters, and shall promptly report any defects to the City. The City shall make every attempt to discern that the damage was caused by the User and/or the User's volunteers, participants, contractors or invitees.
18. **Damage to Personal Property.** User is responsible for all personal property kept, stored, or placed on the property in conjunction with the User's use of the Premises. City shall not be responsible for any loss or damage to personal property for any reason.
19. **Public Requirements.** User shall comply with all laws, orders, ordinances, park rules and regulations, permit regulations, and other public requirements in effect now or in the future affecting the Premises or the use of the Premises and hold the City harmless from expense or damages resulting from failure to do so. The Premises are not exempted from compliance with zoning or other municipal codes or ordinances nor from any other requirements of law due to title being in the name of the City.
20. **Assignment or Sublease.** User may not assign this agreement or sublease the Premises.
21. **Liens and Encumbrances.** User may not encumber the Premises, property, fixtures, or any improvements. User shall promptly pay when due all obligations or indebtedness incurred by virtue of this Agreement. This Agreement is subject to provisions of the City Charter, ordinances, and state statutes prohibiting alienation of title.
22. **City Assistance.** Nothing in this Agreement shall prohibit the User from requesting the City to provide additional services or support nor prohibit the City from providing additional services or support at the sole discretion of the City.
23. **Board Membership** – Intentionally Omitted
24. **Notices.** Any notices sent to the parties shall be to the following addresses:

City: City of Hagerstown
Director, Parks and Engineering
1 E. Franklin Street
Hagerstown, MD 21740

User: HAYSL
c/o AYSO Region 627
P. O. Box 4962
Hagerstown, MD 21742

And

City Hall
Mayor's Office
1 E. Franklin Street
Hagerstown, MD 21740

25. **Current User Information.** User will provide the City with a current list of all officers including name, title, home address, and telephone number. User shall identify the individual who has primary responsibility for scheduling use of the Premises. User will provide an updated list within 30 days of any changes and at the beginning of each calendar year.
26. **Default.** It shall constitute default if the User a) fails to use the premises for its intended purpose, or b) fails to abide by the terms of this Agreement, or c) fails to abide by its legally adopted by-laws, or d) in the City's sole judgment fails to provide equitable and fair coordination of the facility for its members and the general public. Upon receiving written notice from the City of default, the User shall have thirty (30) days to come into compliance with this Agreement, unless a longer period is agreed to by the parties. If the User fails to cure the default after receiving notice, the City may terminate this Agreement immediately.
27. **Keys.** Keys must be provided to the City of Hagerstown Parks and Recreation Department for all doors that have keyed lock and combinations. This is to assist in security, maintenance and pesticide spraying on the Premises.
28. **Parking.** Vehicles may not be driven or parked on the field(s) or in undesignated areas.

The Parties agree and represent to each other that the undersigned have the authority to accept and sign this Agreement.

ATTEST:

City of Hagerstown

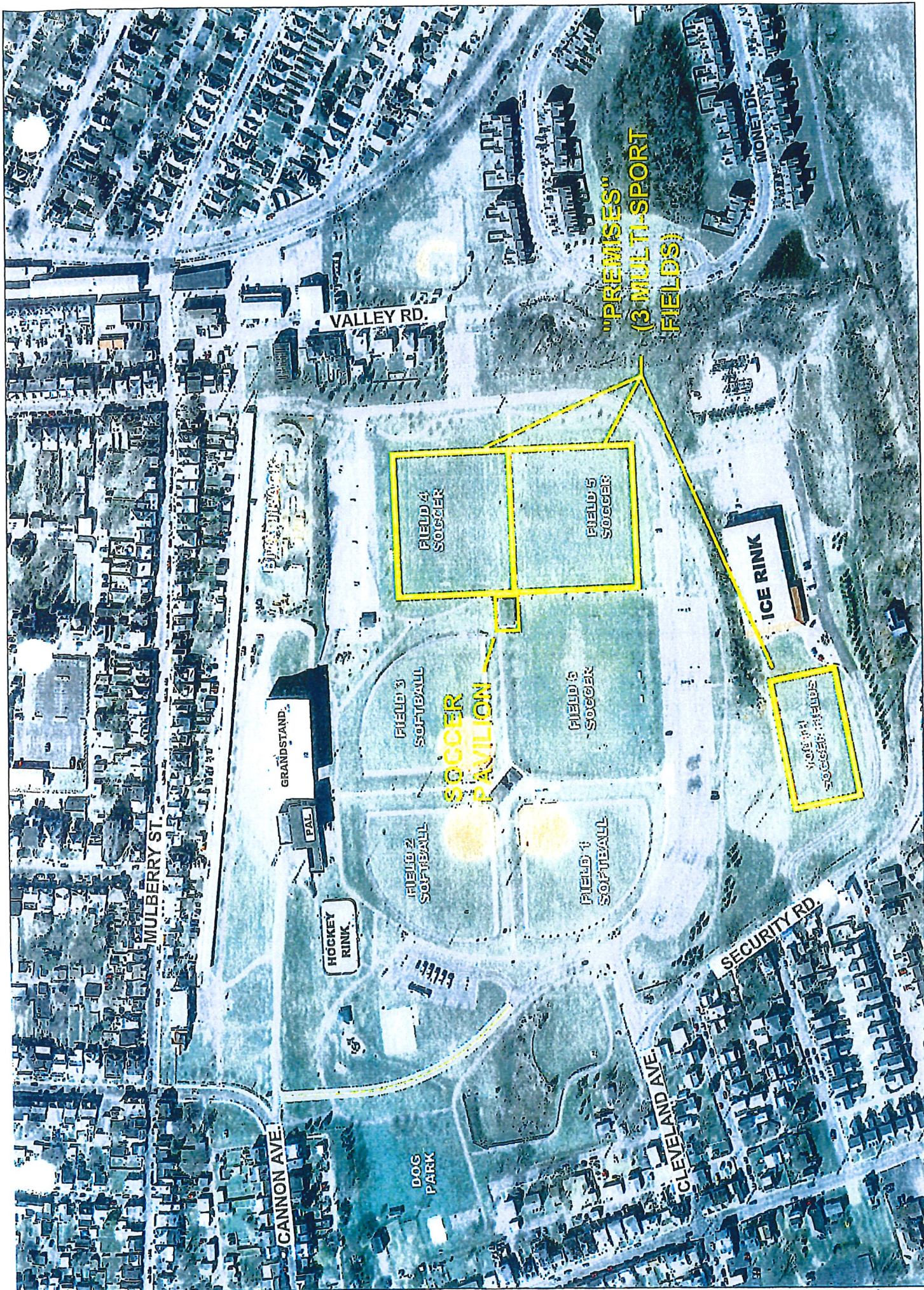
Donna Spickler, City Clerk

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

WITNESS:

USER
Hagerstown Area Youth Soccer League, Inc.

By: _____
Date



"PREMISES"
(3 MULTI-SPORT
FIELDS)



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 10, 2019

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer *Ran*
RE: User Agreement for Hagerstown Area Youth Soccer League (HAYSL)
Fairgrounds Park

=====

The User Agreement with this organization expires at the end of calendar year 2019. After reviewing with their staff, we feel it is appropriate for the City to extend the User Agreement for this multi-purpose field as indicated herein. Therefore attached is a final draft of a User Agreement with the HAYSL that will run through December 31, 2024 if approved.

Staff will be present on Tuesday to review. We anticipate Council voting on the agreement at the December 17th regular session.

Attachment * User Agreement
c: Mark Haddock
Amy Riley
Joe Rains, HAYSL

City of Hagerstown
HAYSL Fairgrounds Park User Agreement

November , 2019

City of Hagerstown, Maryland, a municipal corporation, referred to in this agreement as "City", and the Hagerstown Area Youth Soccer League, a non-profit organization, referred to in this Agreement as "User", in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

=====

1. **Description of Premises.** City agrees to allow User the non-exclusive use of a portion of the Hagerstown Fairgrounds constructed as three (3) multi-purpose fields and located in the north central part of the Fairgrounds Park, illustrated in attached Exhibit A, referred to in this Agreement as "Premises".

Non-exclusive use means that the User has priority scheduling status with the City but not sole use of the Premises. Prior to March 1st of each year of the term of this Agreement or any subsequent renewal term, User may schedule with the City all dates and times necessary to offer its recreational program and to maintain the Premises as required by this Agreement. The City may then schedule all remaining times on a first come, first served basis. The City reserves the right to schedule special events at the Premises. On dates and times not scheduled by the User, the City may authorize others to schedule use of the Premises and may permit the general public access to and use of the Premises.

2. **Term of Agreement.** This Agreement shall extend from January 1, 2020 to December 31, 2020.

Notwithstanding the foregoing, the City may terminate this agreement at any time upon giving User ninety (90) days written notice, only if the Mayor and Council are required by law, or have determined that it is in the best interests of the Citizens of the City, to utilize the Premises for purposes other than recreation or park uses. Said termination shall not take effect until the conclusion of the User's annual schedule and post-season play for the year in which the notice is given, unless otherwise required by law.

3. **Renewal.** User shall have the right to renew this agreement for up to four (4) additional 1-year terms beginning January 1, 2021. User must submit written request for renewal at least 90 days prior to the end of the then current term of the agreement. Any renewal is contingent upon User being in compliance with all lease terms, financial obligations, and the terms of any other agreement(s) between the Parties during the prior lease term, as determined by the City in its sole discretion. The City shall provide User with notice of non-renewal as a result of a violation of this contingency within thirty (30) days of receipt of User's notice to renew if it intends to enforce said contingency at that time.
4. **Rent.** City shall charge the User no monetary rent for the use of the Premises.

5. **Use of Premises.** User agrees that the Premises shall be used exclusively for User's soccer programs. User agrees to provide programs through leagues or clinics to teach field sports skills to area youth. User must obtain City approval for any other events or activities, including but not limited to carnivals, picnics and the use of outside vendors.
6. **Program Responsibility.** User has sole responsibility for the soccer program anticipated by this Agreement, including any equipment required. The recreational program offered by the User may not discriminate based on race, color, creed, national origin or gender. The City shall have no obligation to assist in the provision of services that the User intends to provide by virtue of this Agreement or to provide the services if the User terminates this Agreement.
7. **Concessions and Vendors.** User will be the primary operator of a food and merchandise concession at the Premises to raise funds for operating expenses of the Premises and the recreational program offered by the User. User must obtain and pay for any necessary permits and licenses and comply with all regulations pertaining to concession sales. User shall not sell or permit the sale of any product which may violate any agreement to which the City is a party.

User may allow private vendors to operate food concessions and soccer related concessions at the Premises, with prior approval of City staff. User shall ensure that any private vendor has general liability coverage in the amount of \$1,000,000 and User shall obtain a Certificate of Insurance from any private vendor naming both the User and the City as additional named insureds. It is User's responsibility to ensure that private food vendors are also in compliance with all terms and conditions regulating food sales and/or soccer related concessions.

8. **Fees Charged by User.**
 - A. User may not charge any fee to members of the public to watch events on the Premises.
 - B. User may charge entrance fees to participants in regular and special events sponsored by the User.
 - C. If requested by the City, User shall provide an annual accounting of revenues and expenses related to the use and operation of the facility.
9. **Ownership of Improvements.** All permanent improvements to the Premises including but not limited to restrooms, concession buildings, fencing, backstops, lighting, scoreboards, signs, and parking facilities are the property of the City. Permanent improvements or fixtures made or attached to the Premises by any party during the term of this Agreement shall become the property of the City when installed. User may request the City transfer title to the User of any fixture that it may wish to remove from the Premises. The decision to transfer title and permit removal is within the sole discretion of the City.

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Hagerstown, MD 21740

User: HAYSL
c/o AYSO Region 627
P. O. Box 4962
Hagerstown, MD 21742

And

City Hall
Mayor's Office
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Hagerstown, MD 21740

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The Parties agree and represent to each other that the undersigned have the authority to accept and sign this Agreement.

ATTEST:

City of Hagerstown

Donna Spickler, City Clerk

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

WITNESS:

USER
Hagerstown Area Youth Soccer League, Inc.

By: _____
Date

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

Topic:

Approval of a Resolution: User Agreement with Hagerstown YMCA

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_and_Resolution -
_User_Agreement_with_YMCA_of_Hagerstown.pdf
User_agreement_for_Hagerstown_YMCA.2019.pdf

Description

Motion and Resolution
User Agreement for
Hagerstown YMCA

REQUIRED MOTION

MAYOR & CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: December 17, 2019

TOPIC: Approval of User Agreement with YMCA of Hagerstown

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

MOTION: I hereby move for Mayor and Council approval of a Resolution to enter into a User Agreement with the YMCA of Hagerstown . The YMCA will have maintenance responsibility and non-exclusive but priority scheduling use of one (1) multi-purpose field in Fairgrounds Park. This agreement is for the period of January 1, 2020 through December 31, 2020. User shall have the right to renew this agreement for up to four (4) additional 1-year terms beginning January 1, 2021.

DATE OF PASSAGE: 12/17/2019

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE RENEWAL
OF THE USER AGREEMENT BETWEEN THE CITY OF HAGERSTOWN
AND YMCA OF HAGERSTOWN, INC. AT FAIRGROUNDS PARK**

RECITALS

WHEREAS, the City of Hagerstown owns certain property within its corporate boundaries known as Fairgrounds Park; and

WHEREAS, the City has developed said property for recreational use; and

WHEREAS, YMCA of Hagerstown, Inc. (the "YMCA") has previously used a portion of said property under a valid User Agreement, the term of which expires on December 31, 2019; and

WHEREAS, User has requested that the City allow the YMCA to continue to utilize a portion of Fairgrounds Park pursuant to the terms of the attached User Agreement; 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 above recitals are incorporated herein by reference; and
2. That the Mayor be and is hereby authorized to execute and deliver the YMCA Fairgrounds Park User Agreement, a copy of which is attached hereto and incorporated herein; and
3. That the Mayor be and is hereby authorized to execute 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

By: _____
Robert E. Bruchey, II, Mayor

Date of Introduction: December 17, 2019
Date of Passage: December 17, 2019
Effective Date: December 17, 2019

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

**City of Hagerstown
YMCA Fairgrounds Park User Agreement**

November , 2019

City of Hagerstown, Maryland, a municipal corporation, referred to in this agreement as "City", and the YMCA of Hagerstown Maryland, Inc., a non-profit organization, referred to in this Agreement as "User", in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby agree as follows:

- 1. Description of Premises.** City agrees to allow User the non-exclusive use of a portion of the Hagerstown Fairgrounds constructed as one (1) multi-purpose field and located in the north central part of the Fairgrounds Park, illustrated in attached Exhibit A, and referred to in this Agreement as "Premises".

Non-exclusive use means that the User has priority scheduling status with the City but not sole use of the Premises. Prior to March 1st of each year of the term of this Agreement or any subsequent renewal term, User may schedule with the City all dates and times necessary to offer its recreational program and to maintain the Premises as required by this Agreement. The City may then schedule all remaining times on a first come, first served basis. The City reserves the right to schedule special events at the Premises. On dates and times not scheduled by the User, the City may authorize others to schedule use of the Premises and may permit the general public access to and use of the Premises.

- 2. Term of Agreement.** This Agreement shall extend from January 1, 2020 to December 31, 2020.

Notwithstanding the foregoing, the City may terminate this agreement at any time upon giving User ninety (90) days written notice, only if the Mayor and Council are required by law, or have determined that it is in the best interests of the Citizens of the City, to utilize the Premises for purposes other than recreation or park uses. Said termination shall not take effect until the conclusion of the User's annual schedule and post-season play for the year in which the notice is given, unless otherwise required by law.

- 3. Renewal.** User shall have the right to renew this agreement for up to four (4) additional 1-year terms beginning January 1, 2021. User must submit written request for renewal at least 90 days prior to the end of the then current term of the agreement. Any renewal is contingent upon User being in compliance with all lease terms, financial obligations, and the terms of any other agreement(s) between the Parties during the prior lease term, as determined by the City in its sole discretion. The City shall provide User with notice of non-renewal as a result of a violation of this contingency within thirty (30) days of receipt of User's notice to renew if it intends to enforce said contingency at that time.

- 4. Rent.** City shall charge the User no monetary rent for the use of the Premises.

5. **Use of Premises.** User agrees that the Premises shall be used exclusively for User's recreational programs. User agrees to provide programs through leagues or clinics to teach field sports skills to area youth. User must obtain City approval for any other events or activities, including but not limited to carnivals, picnics and the use of outside vendors.
6. **Program Responsibility.** User has sole responsibility for the recreational program anticipated by this Agreement, including any equipment required. The recreational program offered by the User may not discriminate based on race, color, creed, national origin or gender. The City shall have no obligation to assist in the provision of services that the User intends to provide by virtue of this Agreement or to provide the services if the User terminates this Agreement.
7. **Fees Charged by User.**
 - A. User may not charge any fee to members of the public to watch events on the Premises.
 - B. User may charge entrance fees to participants in regular and special events sponsored by the User.
 - C. If requested by the City, User shall provide an annual accounting of revenues and expenses related to the use and operation of the facility.
8. **Ownership of Improvements.** All permanent improvements to the Premises including but not limited to restrooms, concession buildings, dugouts, fencing, backstops, lighting, scoreboards, signs, and parking facilities are the property of the City. Permanent improvements or fixtures made or attached to the Premises by any party during the term of this Agreement shall become the property of the City when installed. User may request the City transfer title to the User of any fixture that it may wish to remove from the Premises. The decision to transfer title and permit removal is within the sole discretion of the City.

Non-permanent improvements including but not limited to refrigeration and cooking equipment purchased by or given to the User shall remain the property of the User unless User expressly transfers title thereto to the City.

9. **Maintenance of Facility.**
 - A. **GROUNDS.** User shall maintain the grounds to City standards including mowing, seeding, fertilizing and watering. The City will provide hoses for watering purposes. User is responsible for the normal maintenance of the Premises including, but not restricted to, the playing field surface, all turf, field lines, etc. User shall clean up trash and debris from the premises during periods of its use, but not during the winter and summer periods from approximately November 1 through March 31, or the start of the playing season, whichever is sooner, and from approximately June 15 through August 15. City will irrigate the playing fields as necessary. The City will remove leaves from the premises. City will maintain all trees including planting, trimming, and removal of dead trees and

downed branches. City shall maintain and repair all paved trails, walkways, and roadways constructed for general public use.

- B. RESTROOMS. City shall clean and maintain any restrooms on the Premises that are open for general public use whenever the Fairground Park is open to the public. User shall clean and maintain any restrooms, on or off the Premises that the City and User agree will be open to the public only when User is using the Premises. In either case, City will be responsible for providing supplies, winterizing the restroom facilities, and maintaining plumbing and electrical systems. Restrooms will be provided and open in accordance with City Parks and Recreation season.
- C. STORAGE AREA, CONCESSION STANDS, OTHER BUILDINGS AND STRUCTURES. User shall clean and provide general janitorial maintenance of all facilities on the Premises except as noted in paragraph B above. User shall be responsible for any damage by the User to buildings and structures that exceeds normal wear and tear. The City shall furnish storage to the User in the west storage closet of the soccer pavilion identified on Exhibit A. Storage needs in excess of the west storage closet in the soccer pavilion is to be provided by the User. Should the User require additional storage the User may request the City to identify a location upon which the User at their expense may construct a storage facility. Said storage facility must be approved by the City and built to City specifications.
- D. BLEACHERS. If bleachers are constructed, User is responsible for all maintenance, repairs, and replacements of permanent bleachers. Any bleacher repair requires a City building permit and must be inspected by the City. Maintenance, repairs, and replacements of temporary bleachers are the responsibility of the owner of the temporary bleachers. User shall monitor all bleachers for safe conditions and shut down and prohibit use of any bleacher section which is not safe until repairs are made.
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- H. SAFETY. User assumes full responsibility for inspecting and maintaining all structures, facilities and grounds for which User is responsible, in a safe condition to minimize the risk of personal injury. The City reserves the right to inspect any structure or facility on City property and may issue a notice to the User for any structural or maintenance deficiencies. Upon receipt of such notice, User shall make the necessary improvements within 7 calendar days unless additional time is

agreed to by the City. Upon written request of the User, the City will inspect the Premises to verify conformance with applicable City Codes and Regulations.

- I. **EXTERIOR COLORS.** Colors used on exterior surfaces of buildings and structures must be approved by the City.

10. **Construction of Improvements.** User must obtain approval from the City for all permanent and temporary improvements to the Premises and obtain all necessary permits for the approved construction. No temporary structures including, but not limited to, concession trailers, storage trailers, and sheds shall be installed or parked on the Premises without approval of the City. User is solely responsible for its own equipment.

11. **Utilities and Services.** Utilities and services shall be provided and paid for the parties as indicated below.

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Electricity- field lighting	<u> </u>	<u> X </u>
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Trash Hauling	<u> X </u>	<u> </u>

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12. **Signs and Advertisements.** All signs or advertisements installed or displayed on the Premises must be approved by the City and conform to existing laws and ordinances. Approval will be based on size, materials, design, method of construction, content, location, visibility, and compatibility with sponsorships obtained by the City. No alcohol or tobacco advertising will be permitted. The City reserves the right to remove any signs or advertisements from the Premises that it has not approved and User agrees to pay the cost of any such removals. User shall be permitted to place approved advertising around the perimeter of the fields and structures on the Premises to generate income for the operation and maintenance of the Premises. City reserves the right to install signs on the Premises.

13. **Sponsorship Coordination and Approval.** All sponsorships to be advertised, posted or otherwise acknowledged on the Premises must be approved by the City. Sponsorships obtained by User and sales of merchandise and/or concessions by the User must conform to any applicable sponsorship agreements obtained by the City. No alcohol or tobacco sponsorships will be permitted. To allow for coordination of sponsorships for the Fairgrounds, including exclusive sponsorships sought by the City, the City requests potential regional and national sponsorships sought by the User, including but not limited

to restaurant franchises, beverages, athletic companies, utilities, and financial institutions, be reviewed by the City prior to solicitation by the User. The requirements of this section 13 do not extend to the sponsorship of individual teams.

14. **Hold Harmless.** User will indemnify and hold the City harmless from all loss, liability, cost or damages that may occur or be claimed with respect to any person or property on, in or about the Premises or to the Premises resulting from any act done or omission by or through the User, its agents, employees, volunteers, participants, invitees, or any other person on the Premises by reason of the User's use or occupancy of the Premises. User will additionally indemnify the City for all loss, liability, cost or damages occurring to the Premises as a result of the User's use or maintenance of the Premises

15. **Insurance.**

A. **BUILDINGS AND STRUCTURES.** The City shall provide building and structure insurance in the same manner and amount that it would for any City-owned park structure. Providing this insurance does not obligate the City to incur any cost in repair or replacement beyond the insurance coverage provided. User may carry additional insurance at User's cost if such insurance is available.

B. **GENERAL LIABILITY.** User shall provide general liability insurance in the amount of \$1,000,000 covering liability arising directly or indirectly from User's use and maintenance of the Premises. This insurance must also extend to the preparation and sale of any food on the Premises if food will be distributed or sold. User shall provide to the City a certificate of insurance in the amount specified above with the City listed as an additional named insured.

User agrees to immediately cease all use of the Premises if its general liability insurance is canceled or expired or if it has reason to believe the insurance is canceled or expired. The User must notify the City immediately in this case.

City agrees that during periods when User is not making use of the premises, the City's general liability insurance will provide coverage for any person using the facility who is not covered by the User's insurance.

C. **CONTENTS.** User is solely responsible for insurance for personal property on the Premises if the User elects such coverage. The City will not provide insurance for any personal property not owned by the City.

16. **Damage to City Owned Property.** All damages to City of Hagerstown property caused by the User and/or User's volunteers, participants, contractors or invitees will be the responsibility of the User. User shall keep in a state of good repair, maintenance and cleanliness the interior of the Premises and the equipment therein, including but not limited to light bulbs, leaky faucets, sewer blockages caused by the User, air filters, and water filters, and shall promptly report any defects to the City. The City shall make every attempt to discern whether the damage was caused by the User and/or the User's volunteers, participants, contractors or invitees.

17. **Damage to Personal Property.** User is responsible for all personal property kept, stored, or placed on the property in conjunction with the User's use of the Premises. City shall not be responsible for any loss or damage to personal property for any reason.
18. **Public Requirements.** User shall comply with all laws, orders, ordinances, park rules and regulations, permit regulations, and other public requirements in effect now or in the future affecting the Premises or the use of the Premises and hold the City harmless from expense or damages resulting from failure to do so. The Premises are not exempted from compliance with zoning or other municipal codes or ordinances nor from any other requirements of law due to title being in the name of the City.
19. **Assignment or Sublease.** User may not assign this agreement or sublease the Premises.
20. **Liens and Encumbrances.** User may not encumber the Premises, property, fixtures, or any improvements. User shall promptly pay when due all obligations or indebtedness incurred by virtue of this Agreement. This Agreement is subject to provisions of the City Charter, ordinances, and state statutes prohibiting alienation of title.
21. **City Assistance.** Nothing in this Agreement shall prohibit the User from requesting the City to provide additional services or support nor prohibit the City from providing additional services or support at the sole discretion of the City.
22. **Board Membership** – Intentionally Omitted
23. **Notices.** Any notices sent to the parties shall be to the following addresses:

City: City of Hagerstown
Director of Parks & Engineering
1 E. Franklin Street
Hagerstown, MD 21740

User: Hagerstown YMCA
c/o Maria Rubeling
P. O. Box 1857
Hagerstown, MD 21742

And

City Hall
Mayor's Office
1 E. Franklin Street
Hagerstown, MD 21740

24. **Current User Information.** User will provide the City with a current list of all officers including name, title, home address, and telephone number. User shall identify the individual who has primary responsibility for scheduling use of the Premises. User will provide an updated list within 30 days of any changes and at the beginning of each calendar year.

25. **Default.** It shall constitute default if the User a) fails to use the premises for its intended purpose, or b) fails to abide by the terms of this Agreement, or c) fails to abide by its legally adopted by-laws, or d) in the City's sole judgment fails to provide equitable and fair coordination of the facility for its members and the general public. Upon receiving written notice from the City of default, the User shall have thirty (30) days to come into compliance with this Agreement, unless a longer period is agreed to by the parties. If the User fails to cure the default after receiving notice, the City may terminate this Agreement immediately.
26. **Keys.** Keys must be provided to the City of Hagerstown Parks and Recreation Department for all doors that have keyed lock and combinations. This is to assist in security, maintenance and pesticide spraying on the Premises.
27. **Parking.** Vehicles may not be driven or parked on the field(s) or in undesignated areas.

The Parties agree and represent to each other that the undersigned have the authority to accept and sign this Agreement.

ATTEST:

City of Hagerstown

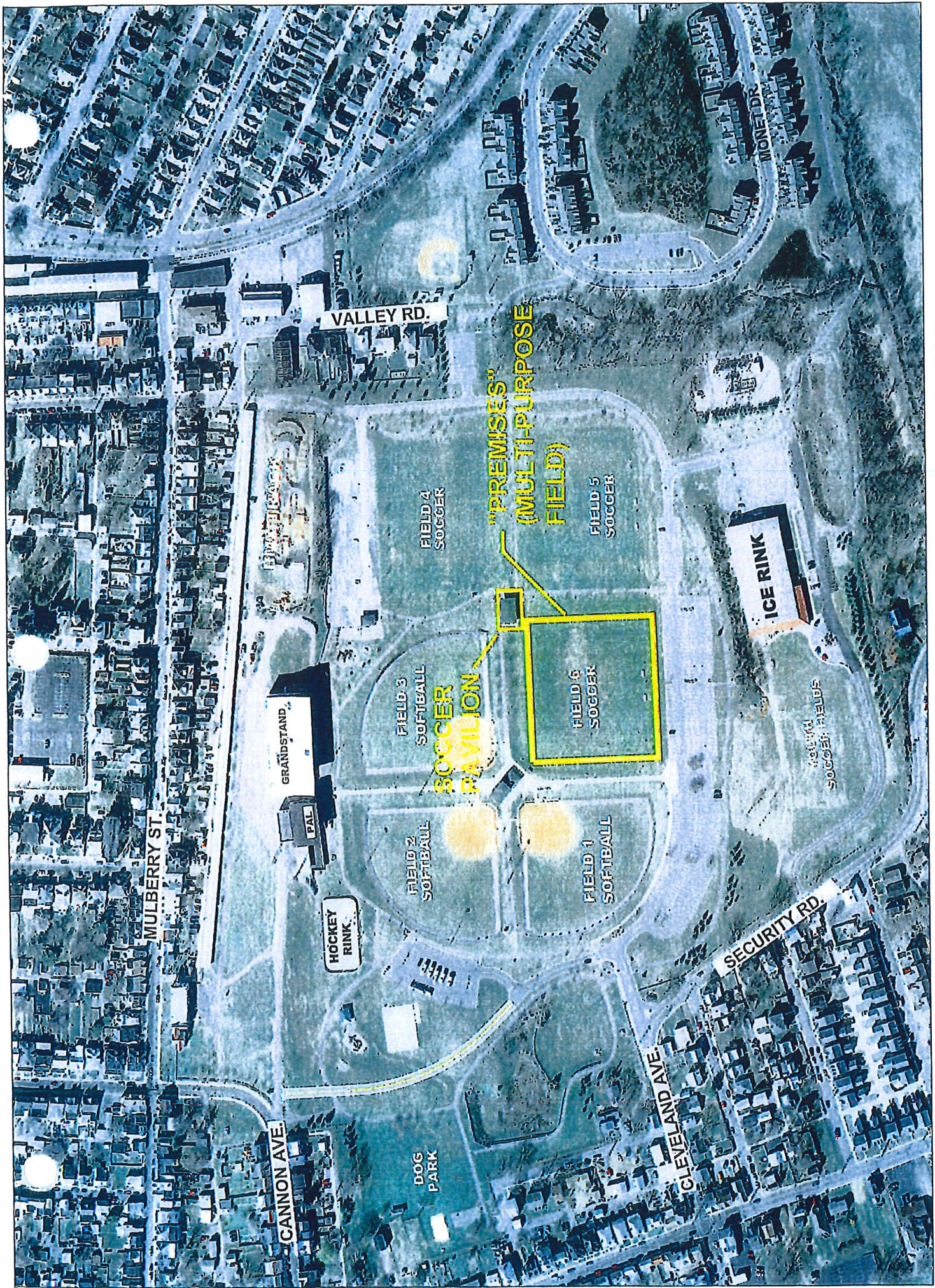
Donna Spickler, City Clerk

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

WITNESS:

USER
YMCA of Hagerstown Maryland, Inc.

By: _____
Date



YMCA USER AGREEMENT - ATTACHMENT "A"



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 10, 2019

TO: Scott Nicewarner, City Administrator
FROM: Rodney Tissue, City Engineer *Ron*
RE: User Agreement for Hagerstown YMCA
Fairgrounds Park

=====

The User Agreement with this organization expires at the end of calendar year 2019. After reviewing with their staff, we feel it is appropriate for the City to extend the User Agreement for this multi-purpose field as indicated herein. Therefore attached is a final draft of a User Agreement with the Hagerstown YMCA that will run through December 31, 2024 if approved.

Staff will be present on Tuesday to review. We anticipate Council voting on the agreement at the December 17th regular session.

Attachment * User Agreement

c: Mark Haddock
Amy Riley
Maria Rubling

**City of Hagerstown
YMCA Fairgrounds Park User Agreement**

November , 2019

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And

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The Parties agree and represent to each other that the undersigned have the authority to accept and sign this Agreement.

ATTEST:

City of Hagerstown

Donna Spickler, City Clerk

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

WITNESS:

USER
YMCA of Hagerstown Maryland, Inc.

By: _____
Date

