



# Mayor and City Council of Cumberland

*Mayor* Raymond M. Morriss  
*Councilman* Seth D. Bernard  
*Councilman* Richard J. "Rock" Cioni  
*Councilman* Eugene T. Frazier  
*Councilwoman* Laurie P. Marchini

City Administrator Jeffrey D. Rhodes  
City Solicitor Michael S. Cohen  
City Clerk Marjorie A. Woodring

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## AGENDA

M&CC Regular Public Meeting  
Cumberland City Hall, 57 N. Liberty St.

DATE: September 07, 2021

### OPEN SESSION

1. 6:15 p.m. - Reconvene into open session

### Pledge of Allegiance

### Roll Call

### Statement of Closed Meeting

1. Summary Statement of Closed Meetings

### Presentations

1. Recognition of Firefighter Isaiah Carrington, Firefighter Nathaniel Snyder, and Firefighter Samuel Martin upon their successful completion of the Firefighter Recruit Training approved by the Maryland Fire and Rescue Institute.

### Director's Reports

#### (A) Public Works

1. Maintenance Division monthly report for July, 2021

### Approval of Minutes

1. Approval of the Work Session Minutes of June 8, 2021

### New Business

#### (A) Ordinances

1. Ordinance 3896 (*1st reading*) - to repeal and reenact with amendments Article II of Chapter 14 pertaining to noise nuisances

- [2.](#) Ordinance 3897 (*1st reading*) - amending Section 11-93 of the City Code to except indoor shooting ranges from the general prohibition against the discharge of firearms in the city
- [3.](#) Ordinance 3898 (*1st reading*) - authorizing execution of a deed to convey surplus property at 455 Baltimore Avenue to Andrea C. Moore for the amount of \$3,111 with terms included to cause the property to revert back to the City should certain terms for rehabilitation not be met
- [4.](#) Ordinance 3899 (*1st reading*) - authorizing execution of a deed to convey surplus property at 424 Goethe Street to Sandesh Sreenivas for the amount of \$1,200 with terms included to cause the property to revert back to the City should certain terms for rehabilitation not be met

**(B) Orders (Consent Agenda)**

- [1.](#) Order 26,863 - granting a residential Special Taxing District exemption of \$372.59 to Robert and Rosario Chevez for 47 Baltimore Street for the tax years 2020-2021; and \$640.16 to JoAnn Circosta for 107 S. Centre Street for the tax years 2021-2022
- [2.](#) Order 26,864 - declaring certain computer equipment to be surplus property (3 Samsung 50" plasma monitors, and 1 Samsung 42" plasma monitor) and authorizing them to be scrapped or e-cycled
- [3.](#) Order 26,865 declaring a 1990 580K Backhoe (VIN: G0028571) surplus and authorizing it for scrap, sale or trade-in
- [4.](#) Order 26,866 - authorizing execution of a Memorandum of Understanding with the Allegany County Board of Elections outlining terms for their use of the City Hall Council Chambers as an alternate election office during peak election periods in the event of an emergency, effective July 1, 2021
- [5.](#) Order 26,867 - authorizing the City Solicitor and the City's opioid case attorneys to cast bankruptcy plan ballots for plan approvals and rejections, as recommended by the City's attorneys
- [6.](#) Order 26,868 - accepting a \$25,000 award from the Certified Local Government Sub-grant for the purpose of completing a Preservation Plan. Matching funds in the amount of \$25,000 have been budgeted for this project in the General Fund.
- [7.](#) Order 26,869 - approving the Evitts Creek Water Company's (ECWC) execution of a Public Access Program Cooperative Agreement with the PA Game Commission (PAC) providing terms by which ECWC land is made available to public use for hunting and, in exchange, the PAC patrols the land, provides law enforcement, and is granted certain right of entry and wildlife and habitat development rights
- [8.](#) Order 26,870 - authorizing execution of a Donation Agreement with Paula J. Barney and Donald T. Barney regarding the donation of 471 Goethe Street to the City

**Public Comments**

All public comments are limited to 5 minutes per person

## **Adjournment**

**File Attachments for Item:**

. Maintenance Division monthly report for July, 2021

**MAINTENANCE DIVISION REPORT**  
**July 2021**

**Street Maintenance Report**

**Parks & Recreation Maintenance Report**

**Fleet Maintenance Report**

**PUBLIC WORKS/MAINTENANCE  
STREET BRANCH  
MONTHLY REPORT  
JULY 2021**

- POTHoles AND COMPLAINTS
  - Patched potholes on 6 streets and 2 alleys using 11 tons of hot mix asphalt
  
- PERMANENT PATCH
  - Performed repairs @ Mason's Complex using 10 tons of hot mix asphalt, 949 Glenwood St. using 1 ton of hma, South St @ E Third St. using 1 ton of hma and N Centre St @ Baltimore St. using 1 ton of hma
  
- UTILITY HOLES
  - Performed repairs of 8 Water Dept. utility holes with 43 tons of hot mix asphalt
  - Performed repairs of 2 Sewer Dept. utility holes with 1.5 tons of hot mix asphalt and .5 cy of concrete
  
- TRAFFIC CONTROL SIGNS/STREET NAME SIGNS/CURB PAINTING
  - Repaired 1 Street Name sign
  
- STREET SWEEPING
  - 45 Loads
  - 639 miles
  
- MISCELLANEOUS
  - Completed 45 Work Orders
  - Cleaned Underpass, McMullen Bridge, Washington St Bridge, Fayette St Bridge, Cumberland St Bridge & Welch Ave. drainage ditch 5 times.
  - Picked up 10 dead animals
  - Picked up trash/discarded items on 4 occasions
  - Cleaned Municipal Center shop twice a week
  - Repaired brick sidewalk @ 33 N Centre St
  - Installed many thermo pavement markings on Queen City Dr., Harrison St. & S Centre St.
  - Set out traffic control for multiple events
  - Performed preventative maintenance on Loader
  - Worked OT for 4<sup>th</sup> of July Fireworks @ Constitution Park

<b>STREET MAINTENANCE - JULY 2021</b>		7/1-7/2	7/6-7/9	7/12-7/16	7/19-7/23	7/26-7/30	TOTAL
SERVICE REQUEST COMPLETED		2	6	9	12	19	48
PAVING PERFORMED	Tons						0
CONCRETE WORK	Cy						0
UTILITY HOLES REPAIRED	Water		1	1	3	3	8
	Sewer					2	2
	Cy					.5cy	.5cy
	Tons		3t	2t	11t	28.5t	44.5t
POTHoles FILLED	Streets	1			2	3	6
	Alleys					2	2
	Days	1			2	2	5
	Cold Mix						0
	Tons	1t			3.5t	6.5t	11t
PERMANENT PATCH	Cy						0
	Tons		10t	3t			13t
COMPLAINTS COMPLETED							0
	Cy						0
	Tons						0
TRAFFIC CONTROL SIGNS REPAIRED/INSTALLED							0
STREET NAME SIGNS REPAIRED/INSTALLED					1		1
HANDICAPPED SIGNS REPAIRED/INSTALLED/REMOVED							0
							0
							0
PAINTING PERFORMED	Blue						0
	Yellow						0
	Red						0
PAVEMENT MARKINGS INSTALLED	No.		2		2		4
STREET CLEANING	Loads	1	10	11	13	10	45
	Miles	32	144	156	176	131	639
SWEEPER DUMPS HAULED TO LANDFILL	Tons	10.41t				31.42t	41.83t
STREET MILLING	Days		3.0				3
CLEANED BALTIMORE ST. UNDERPASS	Days	1	1	1	1	1	5
SALT BARRELS	Days						0
SNOW REMOVAL	Days						0
CLEAN SNOW EQUIPMENT	Days						0
SHOVEL & SALT SIDEWALKS	Days						0
BRUSH REMOVAL/TREE WORK	Areas	1	4	3	3	6	17
CHECK DRAINS/CLEAR DEBRIS	Days				1		1
STREET TRACTOR MOWING	Days	1		4	2		7
LEAF PICK UP	Loads						0

Picked up trash/discarded furniture on 4 occasions

Picked up 10 dead animals

Repaired brick sidewalk @ 33 N Centre St

Set out traffic control, cones, No Parking signs for multiple events

Performed preventative maintenance and cleaned Loader @ Municipal Center

Worked OT for 4th of July fireworks @ Constitution Park

Installed many thermo pavement markings (crosswalks, stop bars)

Cleaned Municipal Center shop twice a week

**PUBLIC WORKS/MAINTENANCE  
PARKS & RECREATION  
MONTHLY REPORT  
JULY 2021**

- Constitution Park , Mason's Complex and Area Parklets
  - Cleaned up garbage 3 times a week
  
- Parks & Parklets Mowing
  - Constitution Park
    - Mowed 16 days
  - Mason's Complex
    - Mowed 12 days
  - Parklets
    - Mowed 13 days
  
- Ball Fields
  - Flynn Field
    - Mowed 2 times
    - Drug 1 time
    - Lined 7 times
  - Northcraft Field
    - Mowed 2 times
    - Drug 1 time
    - Lined 3 times
  - Nonneman Field
    - Mowed 3 times
    - Lined 1 time
  - Cavanaugh Field
    - Mowed 1 time
    - Lined 1 time
  - Abrams Field
    - Mowed 1 time
    - Lined 7 times
  - Long Field
    - Mowed 4 times
    - Drug 2 times
    - Lined 7 times



- JC Field
  - Mowed 2 times
- Bowers Fields
  - Mowed 3 times
  - Lined 6 times
- Galaxy Field
  - Mowed 3 times
  - Lined 1 time
- United Field
  - Mowed 2 times
- Miscellaneous Work
  - Performed basic housekeeping @ Municipal Building
  - Cleaned & disinfected the Craft House & Activities Building several times
  - Performed preventative maintenance on mowers, trimmers & blowers
  - Prepared feed & bedding for ducks & geese @ the Duck Pond
  - Cleaned & performed preventative maintenance on Park & Rec vehicles
  - Made repairs to bathrooms @ Mason's Complex & Constitution Park
  - Cleaned up graffiti and fixed vandalized equipment @ Constitution Park, Mason's Complex, JC Field
  - Worked OT on weekends for trash pick-up & pavilion readiness

**Fleet Maintenance  
July 2021**

<b>Total Fleet Maintenance Projects</b>	<b>140</b>
<b>Central Services</b>	<b>2</b>
<b>Community Development</b>	<b>2</b>
<b>DDC</b>	<b>0</b>
<b>Engineering</b>	<b>0</b>
<b>Fire</b>	<b>10</b>
<b>Flood</b>	<b>2</b>
<b>MPA</b>	<b>0</b>
<b>P &amp; R Maintenance</b>	<b>5</b>
<b>Police</b>	<b>19</b>
<b>Public Works</b>	<b>0</b>
<b>Sewer</b>	<b>6</b>
<b>Snow Removal</b>	<b>0</b>
<b>Street Maintenance</b>	<b>33</b>
<b>Vehicle Maintenance</b>	<b>11</b>
<b>Water Distribution</b>	<b>18</b>
<b>Water Filtration</b>	<b>0</b>
<b>WWTP</b>	<b>0</b>
<b>Scheduled Preventive Maintenance</b>	<b>27</b>
<b>Service Calls</b>	<b>5</b>
<b>Total Work Orders Submitted</b>	<b>16</b>
<b>Risk Management Claims</b>	<b>0</b>
<b>Fork Lift Inspections</b>	<b>0</b>

**File Attachments for Item:**

1. Approval of the Work Session Minutes of June 8, 2021

# Mayor and City Council of Cumberland

## WORK SESSION

City Hall Council Chambers  
57 N. Liberty Street  
Cumberland, MD 21502

Tuesday, June 8, 2021  
4:30 p.m.

**PRESENT:** Raymond M. Morriss, President; Council Members: Seth Bernard, Richard Cioni, and Laurie Marchini. Eugene Frazier was absent.

**ALSO PRESENT:** Ken Tressler, Interim City Administrator/Director of Administrative Services; Michael S. Cohen, City Solicitor; Marjorie Woodring, City Clerk; Mark Gandolfi, City Comptroller; Robert Smith, City Engineer; Matt Miller, CEDC Executive Director; Stu Czapski, Economic Development Specialist

### I. AGENDA REVIEW – JUNE 15, 2021

Mayor Morriss reviewed the Reports and Minutes on the agenda and called for any questions or comments. Being none, Mr. Tressler reviewed all items on the Consent Agenda:

**Order 26,812** - approving the sole source purchase of a new Ford F-250 Regular Cab Pickup Truck with Plow from Keystone Ford (truck) and Stephenson Equipment (up-fit of plow) in an amount not to exceed \$40,470, as obtained through CoStar pricing.

Mr. Tressler explained that this purchase is taking advantage of the PA co-op CoStar, which competitively bids vehicles

**Order 26,813** - approving the sole source purchase of a new Ford F-350 Super Cab Service Body Truck with lift gate from Keystone Ford (truck chassis) and Stephenson Equipment (up-fit of service body and lift gate) in an amount not to exceed \$54,271 as obtained through CoStar pricing.

Mr. Tressler advised this is the same competitive process as Order 26,812, and explained that these vehicle purchases were budgeted.

**Order 26,814** - approving the sole source contract with AquaLaw in the estimated cost of \$47,500 to provide consultation to determine what steps are needed to extend the 1998 Consent Order issued by MDE to address Combined Sewer Overflows (CSO's) by October, 2023.

Mr. Smith advised that this will allow the City to negotiate an extension with the state and said AquaLaw is currently under contract with the City to help navigate the National Pollutant Discharge Elimination System (NPDES) permit at the WWTP, which is the permit that allows the City to discharge water. He said this speaks to the City's long-term control plan, and said this Order is asking M&CC to consider a joint agreement with Allegany County, City of Frostburg, and the LaVale Sanitary Commission since these 3 entities and the City are all part of the consent order and all need to be a party to the extension. Mr. Smith also advised that the extension is partly due to Covid and partly due to the size of the projects the City is currently doing, and added that this will

help determine what future performance metrics will be. He advised that all 4 entities will pay their share.

**Order 26,815** - approving the price modification to the current contract with Burgmeier's Hauling for "Municipal Solid Waste Hauling Services for Curbside Garbage and Recycling Collection (22-18-M)" to a reduced annual cost of \$1,227,800.64 effective July 1, 2021, due to the recent commercial revenue reduction as a result of 155 units switching to private dumpster service.

Mr. Tressler advised that this will save the City approximately \$20K per year, and added that this goes into effect July 1, 2021.

**Order 26,816** - appointing Mason R. Reed as the student representative to the Parks and Recreation Board.

**Order 26,817** - accepting the sole source proposal from Wycliffe Technologies to provide additional Milestone XProtect Camera System licenses, network video recorder, cameras, and related equipment and software to add to the city's existing Milestone camera systems located at City Hall, the Public Safety Building, and the Municipal Services Center for the amount not to exceed \$74,461.

Mr. Tressler advised that this system was bid last year with the cameras for the parking garage, with the intent to expand cameras to City Hall, the Public Safety building, and the Municipal Service Center, which is why this is a sole source.

**Order 26,818** - authorizing the assignment of the tax sale certificate for 501 Regina Avenue to the City for the amount of \$7,165; authorizing the City Solicitor to complete the tax sale foreclosure so the City can take title and record the deed; and authorizing the abatement of City real estate taxes, contingent upon recordation of the deed.

Mr. Tressler advised that this property has received numerous complaints, has draining problems, has been vacant for a few years, and said the City has an agreement with the previous tax certificate holder to take the property. He added that it is a commercial building in a residential zone and said the City may be able to convert that through the "floating zone" to another commercial property.

**Order 26,819** - accepting the report from the City Administrator pertaining to the closure of a portion of a street known as Riverside Avenue, advising that there is no basis for assessing damages and awarding benefits to abutting property owners resulting from the aforesaid closing.

Mr. Tressler advised that the City Solicitor had noted there was no basis for assessing damages for this property, but said it had been visited and looked at anyway and there was found no reason for damages.

Mr. Tressler advised that there will be another Order added which will be for 3 City-owned surplus properties and said they are all vacant lots that adjacent owners have expressed interest in. He stated that they will be included on the next Surplus Property Sale. The properties don't have an address, but the areas are Quebec Avenue, the corner of Kentucky and New Hampshire Avenues, and Blackiston Avenue. He added that he hopes to have the next Surplus Property Sale ready by the end of the month.

## **II. CEDC – BALTIMORE STREET ACCESS PROJECT UPDATE**

Mr. Miller advised that on May 25, 2021 they received notification that the City was awarded \$250K through the DHCD's Strategic Demolition fund, which will go toward the sprinkler tap project. He said they also received notification that the funding request for \$125K for the FY21 broadband demonstration program has been approved, contingent upon the execution of an M.O.U. between the M&CC and the DHCD. He advised that City staff is investigating the stipulations attached to that money, which is a dollar for dollar match. He added though, that they have another grant application they feel confident about which will fund similar infrastructure, and doesn't need a City match; however, they want to keep the other possibility on the back burner. Mr. Smith explained the stipulations with the \$125K, and went over procurement requirements of the DHCD.

Mr. Miller advised that as part of their ongoing downtown business mitigation efforts the CEDC partnered with the DDC and the Western Maryland IT Center of Excellence and launched the registration portal for Re-Imagine Your Business, with registration now open, going through the month of June. Mr. Miller provided handouts, and advised that the program is a free series of virtual courses to assist any business in the downtown district, and Canal Place with developing or enhancing their online presence. He explained that the program will be divided into 4 courses and that participants will learn to build online marketing strategies, develop and maintain websites, create and manage social media accounts, etc., and said that each course will be 3-4 weeks long, running from July 5th through October of this year. He added that this program was funded totally by the EARN grant, through the IT Center of Excellence at Allegany College of Maryland.

Mr. Miller advised that they have reached out to municipalities with similar situations, and said that Ms. Kelliher, the DDC, and the CEDC are working closely together to put together a strategic program to help with mitigation efforts and to provide tools and resources for businesses. He also mentioned they are looking at creating access through Merchants' Alley and creating facades on the back sides of buildings. Mr. Miller added that they have a marketing subcommittee that is focused on getting large print-outs of the renderings and placing them at high traffic corners as tourism picks up, to show what is planned for downtown.

Mr. Miller advised that they have received correspondence from State Highway and said they expect to get comments back "shortly", and are cautiously optimistic. He stated that the State Highway review is not happening concurrently with the federal process, and added that they are getting some support from the local delegation to help expedite things.

City Engineer Robert Smith went over the timeline of the project, which is 2 phases, with Phase I being Columbia Gas replacing all their plastic piping. He said as soon as they get a number in, probably around mid-October, and M&CC decide to move forward, then he will need a month to assemble all the paperwork for State Highway, and they will about 3-6 months to approve to go out for bid. He advised that during this waiting period, Columbia Gas will be downtown working, and said as soon as M&CC gives the word to move forward, the project starts, and the wheels don't stop. He also discussed waivers needed, what comments will be returned from State Highway, and said a lot has already been reviewed.

Mr. Smith advised that there is some concern about the Liberty Street parklet, and said he received a memo from Central Services today. He said it's not a structural concern, but if M&CC are open to it, the plan is to install plywood on top of the existing pavilion deck, due to some deck boards that have rotted. He said it would be treated plywood, and can be painted in a month or so if they want, but said it will be torn down in a year with the construction project beginning. He

added that it should be done in a month or so if Council is in agreement. No objections were raised.

**IV. CEDC STRATEGIC PLAN RE-ASSESSMENT UPDATE**

Mr. Czapski advised that they received official notification that their ARC grant request was approved, and they are working through the acceptance process. He said he will be talking with the consultant on Friday on the next steps. He added that once he is available and engaged, they expect it to take about six months to complete the Plan.

In answer to a question from Mr. Gandolfi, Mr. Miller advised that the Plan will typically cover 5-7 years. He stated that it's been 6 years since the initial Strategic Plan, but with Covid and the economy disruption, he said it seemed like a good time to do it again.

**V. ADJOURNMENT**

With no further business at hand, the meeting adjourned at 5:06 p.m.

Respectfully submitted,

Marjorie A. Woodring  
City Clerk

Minutes approved \_\_\_\_\_

**File Attachments for Item:**

. Ordinance 3896 (*1st reading*) - to repeal and reenact with amendments Article II of Chapter 14 pertaining to noise nuisances



**ORDINANCE NO. 3896**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS ARTICLE II OF CHAPTER 14 (SECTIONS 14-30 TO 14-35) OF THE CUMBERLAND CITY CODE PERTAINING TO NOISE NUISANCES FOR THE PURPOSE OF SUBSTITUTING SUBJECTIVE STANDARDS WITH OBJECTIVE STANDARDS AND ENACTING PROVISIONS RELATED THERETO."

**WHEREAS** Article II of Chapter 14 (sections 14-30 to 14-35) pertaining to noise nuisances includes subjective standards for determining what is a noise nuisance;

**WHEREAS**, these provisions have been difficult to enforce as noises which are objectionable to some people are not objectionable to others;

**WHEREAS**, this Ordinance provides for the replacement of subjective standards with objective decibel measurements as the means for determining whether a noise constitutes a noise nuisance; and

**WHEREAS** sound is measurable by decibel meters.

**NOW, THEREFORE:**

**SECTION 1:** BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that Article II of Chapter 14 of the Cumberland City Code, i.e., Sections 14-30 to 14-35, inclusive, are repealed and reenacted, with amendments, to read as is set forth in the Exhibit A attached hereto.

**SECTION 2:** AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

## EXHIBIT A

### Sec. 14-30. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial Area* means any area within the corporate limits of the city which lies within any of the following zones: business local (B-L), business highway (B-H), central business district (B-CBD), business commercial (B-C), gateway-commercial (G-C), or gateway-industrial (G-I). Commercial uses which are adjacent to residential uses are deemed to be located within residential areas provided the residential property was in use as such before the commercial property was in use as such.

*Day or daytime hours* means 7 a.m. to 10 p.m. weekdays and 8:00 a.m. to 10:00 p.m. weekends.

*dBA* is the abbreviation for the sound level in decibels determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.

*Decibel (dB)* means a unit of measure equal to ten times the logarithm to the base ten (10) of the ratio of the square of the sound pressure to the square of a standard reference pressure. For the purpose of this subtitle, 20 micropascals shall be the standard reference pressure.

*Emergency* means (i) the restoration of public utilities and an occurrence or set of circumstances involving actual or imminent physical trauma, property damage or (ii) the restoration and repair of public utilities demanding immediate attention.

*Impulse noise* means a transient noise that arises as a result of a sudden release of energy into the atmosphere.

*Industrial area* means any area within the corporate limits of the City which lies within an industrial general (I-G) zone.

*Industrial area* means any area within the corporate limits of the City which lies within an industrial general (I-G) zone.

*Law enforcement officer* means any sworn police officer of the city, the sheriff's department of the State of Maryland.

*Night or nighttime hours* means 10:00 p.m. to 7:00 a.m. and 10:00 p.m. to 8:00 a.m. weekends.

*Noise* means the intensity, frequency, duration, and character of sound, including sound and vibration of sub-audible frequencies.

*Noise pollution* means the presence of noise of sufficient loudness, character, and duration, which whether from a single source or multiple sources, is, or may be predicted with reasonable certainty to be, injurious to health or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity. Only those noises which exceed the decibel measurements set forth hereinafter shall be deemed to be noise pollution.

*Residential area* means any area within the corporate limits of the city which lies within the following zoning districts: estate residential (R-E), suburban residential (R-S), a urban residential (R-U), a residential office (R-O) or a planned development floating zone (PD). Residential area also means property adjacent to a residential use, provided the residential use was occurring prior to the neighboring commercial or industrial use.

*Shooting range or range* means indoor shooting range.

*Sound* means a vibration of sufficient intensity to cause another person to be aware of such vibration by the sense of hearing.

*Substantial change in the nature of the use* means the current primary use of the range no longer represents the activity previously engaged in at the range. Substantial change in the nature of the use does not include: (i) a mere increase in the frequency or number of shots; (ii) the repair, remodeling, or reinforcement of a building or structure that is needed to ensure public safety or to secure the continued use of the building or structure; (iii) the expansion or increase in the membership or use of the shooting range, (iv) the reconstruction, repair, restoration, or resumption of the use of the range after it is damaged, provided the reconstruction, repair, restoration, or resumption of the use of the range is completed not more than one (1) year after the date of the damage to the building or the settlement of the property damage claim.

**Sec. 14-31. - Findings; declaration of nuisance.**

The activities proscribed under this article are deemed to be contrary to the health, safety and well-being of the residents of the city. All such activities are declared nuisances (and deemed to be noise pollution) which are to be controlled and abated pursuant to this article.

**Sec. 14-32. – Noise pollution standards.**

- (a) *General.* Except as otherwise provided in the following subsections, noise pollution is prohibited if the noise exceeds the limits set forth in the table below,

	In	Com	Resid
D		67	55
N			55

- (b) *Construction/demolition.* A person may not cause or permit noise levels emanating from construction or demolition site activities which exceed:
- (1) 90 dBA during daytime hours.
  - (2) The levels specified in Table 1 during nighttime hours.
  - (3) A person may not cause or permit the emission of prominent discrete tones and periodic noises which exceed a level which is 5 dBA lower than the applicable level listed in the table above.
- (c) *Vibration.* A person may not cause or permit, beyond the property line of a source, vibration of sufficient intensity to cause another person to be aware of the vibration by such direct means as sensation of touch or visual observation of moving objects. The observer shall be located at or within the property line of the receiving property when vibration determinations are made.
- (d) *Off-road vehicles.* A person may not operate or permit to be operated an off-road internal combustion engine powered recreational vehicle, including, but not limited to, a dirt bike, an all-terrain vehicle, a go-cart, a snowmobile, or a similar vehicle, on private property closer than 300 feet to a neighboring residence or the associated curtilage, without the written permission of the affected resident, unless the vehicle can be operated within the noise limits specified in the table set forth in subsection (a) above.

(e) *Residential areas.* Within any area abutting a property used for residential purposes unless the area is used for large-scale commercial or industrial uses, the following activities are prohibited if they produce audible sound beyond the property line of the property on which they are conducted or from the public right-of-way:

- (1) The operation of power tools or equipment during nighttime hours.
- (2) The operation of any device for killing, trapping, attracting or repelling insects or other pests during nighttime hours.
- (3) The sounding, of any bell, chime, siren, whistle or similar device during nighttime hours except:
  - a. To alert persons to the existence of any emergency, danger or attempted crime.
  - b. The use for noncommercial purposes of one (1) or more bells or chimes which do not exceed ninety (90) seconds in duration in an hour.
  - c. Whistles used in manufacturing purposes to alert workers of shift changes or other conditions within the work site.
- (4) The operation or playing of any radio, television, drum device for the playing of recorded music or musical instrument during nighttime hours
- (5) The construction, repair, remodeling, demolition, drilling or excavation work during nighttime hours.
- (6) The operation or use between of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds during nighttime hours.
- (7) The creation of a loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates or other containers.
- (8) Yelling, shouting, hooting, whistling and singing during nighttime hours.
- (9) The keeping of any animal or bird which disturbs the comfort or repose of any persons in the vicinity by causing frequent or long continued noise.

(d) *Exceptions.* The provisions of this section shall not apply to the following:

- (1) Shooting ranges.
- (2) Work necessitated by emergencies.
- (3) Sound made to alert persons to the existence of an emergency, danger or attempted crime.
- (4) Activities or operations of governmental units or agencies.
- (5) Motor vehicles on public roads.
- (6) Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of Natural Resources.
- (7) Sound, except those sounds that are electronically amplified, between 7 a.m. and midnight, created by:
  - a. Sporting events (except trap shooting, skeet shooting, or other target shooting);
  - b. Entertainment events; and
  - c. Other public gatherings operating under parades and special events permits.
- (8) Air conditioning or heat pump equipment used to cool or heat housing on residential property; for this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air conditioning equipment at receiving residential property and 75 dBA for heat pump equipment at receiving residential property.
- (9) Trash collection operations between the hours of 6 a.m. and 10 p.m.

### **Sec. 14-33. – Shooting ranges.**

- (a) *Operational requirements.*
- (1) *Permit required.* A permit shall be required in order to operate a shooting range. The issuance of the permit is contingent upon compliance with subsections (2), (3) and (4) hereinafter. Permits must be renewed annually.
  - (2) *Insurance.* Permit applicants must procure liability insurance in the amount of \$1,000,000 per claim and \$2,00,000 per occurrence. The City must be named as an additional insured on the insurance policy. The policy shall also provide that the City will be provided with no less than ten (10) days' advance notice of the cancellation or non-renewal, provided the insurer allows for such a provision.
  - (3) *Hours of operation.* Shooting ranges shall be allowed to operate between 9:00 a.m. and 9:00 p.m., except that the hours may be extended after sunset for purposes of subdued-lighting certification of law enforcement officers or for other purposes only when written consent is granted by the chief of police.
  - (4) Shooting ranges must comply with all applicable local, state and federal laws, ordinances, orders, rules and regulations.
- (b) *Noise standards.* Impulse noise may not exceed eighty (80) decibels more than one (1) time every thirty (30) minutes. The measurement shall be taken at the location on a complainant's property line which is closest to the shooting range. All sound level measuring devices must meet Type O, I, II, or S specifications under American National Standards Institute S1.4-198.
- (c) *No noise pollution injunctions against compliant ranges.* A person who operates a shooting range is not subject to an action for nuisance or trespass, and shall not be enjoined from the use or operation of shooting range on the basis of noise or noise pollution if the range is operating in compliance with the terms of this section of the code.
- (d) *No civil/criminal noise pollution liability for compliant ranges.* A person who operates or uses a shooting range shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution which results from the operation or use of a range operating in compliance with the terms of this section of the code.
- (e) *Preexisting ranges.* A person who acquires title to or an interest in real property adversely affected by the use of a shooting range after the date shooting range activities begin may not maintain a nuisance or trespass action against the owner or operator of the shooting range to restrain, enjoin, or impede the use of the range unless there has been a substantial change in the nature of its use. This section does not prohibit actions for negligence or recklessness in the operation of a sport shooting range or by a person using the range.
- (f) *Dormant shooting range.* If there has been no shooting activity at a range for a period of two (2) years, the range shall be treated as a newly established range upon the resumption of shooting.
- (g) *CPD shooting range.* The shooting range in the city public safety building shall be exempt from the terms of this section of the code provided it is used for law enforcement training purposes.

### **Sec. 14-34. - Responsibility for violation.**

Whenever noise or sound is made, created or continued in violation of the provisions of this article and the property upon which or from which the sound is emanating has two (2) or more occupants, and it cannot be determined which occupant is the violator, the owner of the property, if present, shall be presumed to be responsible for the violation. In the absence of the owner of the property, the tenant, subtenant, licensee, invitee or guest then in control of the property shall be presumed to be responsible for the violation. If it is impossible to determine the person then in control of the property, it shall be presumed that the owner of the property is

responsible and, if not present, all persons then on or in the property shall be ordered to disperse and leave the property and a failure to do so by any person shall itself be a municipal infraction punishable under the provisions of section 14-73.

**Sec. 14.35. - Enforcement.**

- (a) When a violation of this article occurs, a law enforcement officer shall undertake to notify the persons present in or on the property from which the sound or activity is emanating that they are in violation and notify them to cease and desist whatever is causing the violation. At this time the law enforcement officer shall also ascertain, if reasonably possible, the owner or tenant of the property in question. Notice under this section may be given orally by the officer to the owner or by posting a written notice on the premises where such violation is occurring. Any written notice posted shall contain a specific description as to the nature of the violation.
- (b) The continuation of such violation or any subsequent violation of the same proscription following receipt of the notice to cease and desist shall constitute a municipal infraction punishable as set forth in this article.
- (c) Nothing contained in this section is intended to nor shall this section be construed to preclude the right of any person to file in accordance with the laws of the state an application for a statement of charges for a violation of any provision of the Annotated Code of Maryland or other section of the city code where such violation is contrary to other applicable laws.

**Sec. 14-36. - Penalty.**

The violation of any of the provisions of this article is declared to be a municipal infraction punishable by a fine of up to three hundred dollars (\$300.00) if said violation is a first offense and a fine of up to five hundred dollars (\$500.00) if said violation is a repeat offense. Without regard to whether the violation is a first offense, in the event the fine is not paid within the period set forth in the citation, and no notice of intent to stand trial for said offense is filed, the city may double the fine not to exceed a total amount of up to one thousand dollars (\$1,000.00) pursuant to the provisions of section 6-110 of the Local Government Article of the Annotated Code of Maryland. Each day a violation continues shall constitute a separate offense.

**File Attachments for Item:**

. Ordinance 3897 (*1st reading*) - amending Section 11-93 of the City Code to except indoor shooting ranges from the general prohibition against the discharge of firearms in the city

**ORDINANCE NO. 3897**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO AMEND SECTION 11-93 OF THE CODE OF THE CITY OF CUMBERLAND (1991 EDITION) ENTITLED 'DISCHARGE OF FIREARMS' FOR THE PURPOSE OF EXCEPTING INDOOR SHOOTING RANGES FROM THE GENERAL PROHIBITION AGAINST THE DISCHARGE OF FIREARMS IN THE CITY."

WHEREAS, Section 11-93 of the City Code generally prohibits the discharge of firearms within the City and does not include an exception allowing for shooting ranges;

WHEREAS, a properly regulated indoor shooting range can provide a safe place for persons to practice firearm usage;

WHEREAS, the amendment of Section 14-93 and the enactment of Section 14-33 (as provided for in a separate ordinance) set forth conditions precedent to the establishment of and requirements relative to the operation of indoor shooting ranges which relate to safety and nuisance-free operations.

NOW, THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that Section 11-93 of the Code of the City of Cumberland (1991 Edition) be and is hereby amended, to read as follows:

**Sec. 11-93. - Discharge of firearms.**

No person shall discharge any cannon, gun, pistol or firearm within the city without a written permit from the chief of police; provided, however, that this section shall not apply to the use of firearms by law enforcement officers in the lawful discharge of their duties, nor shall it apply to persons in the lawful defense of themselves or others. A permit may only be granted to a shooting range, a bona fide charitable, educational, cultural or



governmental institution or organization, or an organization that is sponsoring an educational or cultural event. The chief of police shall give due consideration to safety concerns and the ability of the applicant to address those concerns in determining whether or not to issue the permit or to issue it subject to stated conditions the applicant shall be required to meet. The requirements for the issuance of permits for shooting ranges are separately set forth in section 14-33 of this code.<sup>i</sup>

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

<sup>i</sup> Amendment are set forth in **bold print underlined** text. The bold print and underlining should be removed in the codified text.

**File Attachments for Item:**

. Ordinance 3898 (*1st reading*) - authorizing execution of a deed to convey surplus property at 455 Baltimore Avenue to Andrea C. Moore for the amount of \$3,111 with terms included to cause the property to revert back to the City should certain terms for rehabilitation not be met

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A DEED FOR THE PURPOSE OF CONVEYING CERTAIN SURPLUS PROPERTY LOCATED AT 455 BALTIMORE AVENUE IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND TO ANDREA C. MOORE."

**WHEREAS**, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property and the improvements thereon located at 455 Baltimore Avenue, in the City of Cumberland, Allegany County, Maryland;

**WHEREAS**, the said property was declared to be surplus property under the terms of Order No. 26,757, passed by the Mayor and City Council on February 16, 2021;

**WHEREAS**, Andrea C. Moore desires to purchase the said property for the sum of \$3,111 and the Mayor and City Council agree to sell it to her for that sum, subject to the terms and conditions relative to the expeditious repair and revitalization of the said property set forth in the deed attached hereto as Exhibit A , it being the Mayor and City Council's desire so as to expeditiously improve its appearance and condition; and

**WHEREAS**, the Mayor and City Council of Cumberland deem improvement and appearance of the property in accordance with the foregoing terms and conditions to be in the City's best interests.

**NOW, THEREFORE**

**SECTION 1:** BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that, upon Andrea C. Moore's execution of a deed with the same substance as the deed attached hereto as Exhibit A, the Mayor and City Clerk be and they hereby are authorized to execute the said Deed, thereby effecting the conveyance of the real property and the improvements thereon located at 455 Baltimore

Avenue, Cumberland, MD 21502 to Andrea C. Moore for the purchase price in the amount of \$3,111; and

**SECTION 2:** BE IT FURTHER ORDAINED, that the City Solicitor be and he is hereby authorized to execute a closing statement and such other documents as may be required for the purpose of facilitating and completing the closing for the sale of the property identified herein; and

**SECTION 4:** BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

# EXHIBIT A

**THIS QUITCLAIM DEED**, made this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND (the “City”)**, a Maryland municipal corporation, and **ANDREA C. MOORE (the “Grantee”)**.

**WITNESSETH:**

That for and in consideration of the sum of Three Thousand One Hundred Eleven Dollars (\$3,111.00) and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the City does hereby quitclaim to the Grantee, her personal representatives, heirs and assigns, all of the City’s right, title, interest and estate in and to the following-described piece or parcel of real estate lying and being in the City of Cumberland, Allegany County, Maryland, to wit:

**ALL** that piece, parcel or tract of ground and premises situated in the Twenty Second Election District of Allegany County, Maryland, and described as follows:

**BEGINNING** for the same on the Easterly side of Baltimore Avenue at the end of the first line of Lot No. 21 in said Addition, and running thence with said Avenue, South 37 degrees West 39 feet; thence South 57 degrees 55 minutes East 115.6 feet to Alley D, and with it North 41 1/2 degrees East 33 1/4 feet to the end of the second line of said Lot No. 21 and reversing it, North 54 degrees 55 minutes West 118 feet to the beginning.

The improvements thereon being commonly known as 455 Baltimore Avenue, Cumberland, MD 21502.

**IT BEING** the same property described in the deed from Joseph D. Urban, Collector of Taxes, City of Cumberland, Maryland, to Mayor and City Council of Cumberland dated March 13, 2015 and recorded among the Land Records of Allegany County, Maryland in Book 2151, Page 427.

**TOGETHER** with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the above-described property unto Grantee, her successors and assigns in fee simple forever.

In connection with the foregoing conveyance, the City and the Grantee covenant and agree as follow:

1. The Grantee shall secure the dwelling on the property by replacing its doors and locks, as needed, no later than two (2) weeks from the date of this deed.

2. The Grantee shall remove all junk and debris from the yard and the dwelling on the property no later than two (2) months from the date of this deed.

3. Within two (2) months of the date of this deed, the Grantee shall perform the following repairs to and/or improvement of the dwelling, as needed, to ensure that the property is brought to code: (a) clean up the exterior of the property to include mowing, weeding and trash removal; and (b) repair any exterior property maintenance issues not requiring a permit. Thereafter, the exterior of the property shall be maintained free of violations of the Cumberland City Code relative to the foregoing.

4. Within three (3) months of the date of this deed, the Grantee shall obtain all permits required for the rehabilitation of the dwelling.

5. Within twelve (12) months of the date of this deed, the Grantee shall perform the following repairs to and/or improvement of the dwelling, as needed, to ensure that the property is brought to code: (a) repair or replace roof; (b) repair or replace windows and doors; (c) repair or replace exterior siding and trim; and (d) repair or replace porch, decking, railings and stairs. Within that same time frame, the Grantee shall repair, replace or remove any accessory structures. The foregoing work shall be performed to the reasonable satisfaction of the City

6. The Grantee shall complete the rehabilitation of the interior of the said dwelling and obtain a permit for its occupancy no later than twenty-four (24) months from the date of this deed.

7. The City and its designees shall have right to inspect the hereinbefore-described property from time to time in order to ensure that the work described in paragraphs 1 through 6 above is progressing and is being performed and completed in the manner described herein; provided, however, that the City shall endeavor to give the Grantee no less than seventy-two (72) hours advance notice of any such inspections. The Grantee shall fully cooperate with the City and its designees in regard to the scheduling and conduct of the inspections.

8. The Grantee may not convey the property described above or any interest therein (aside from a security interest granted subject to these covenants, restrictions and agreements) to a third party until all of the conditions set forth in paragraphs 1- 6 hereinbefore are completed in accordance with the terms and provisions set forth therein. Any such conveyance or attempt at such conveyance shall be null and void.

9. Should the Grantee fail to comply with the terms and provisions of paragraphs 1-6 hereinbefore, the title to the real property and improvements conveyed by the terms of this deed shall immediately and without the necessity of any further action on the part of the City, revert and re-vest in the City, and the Grantee shall lose and forfeit all of her rights, title and interest in and to the said property and to the improvements, fixtures, rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, and the City shall have the right of re-entry to the said property. Further, the Grantee shall execute a deed effecting the conveyance of the hereinbefore-described property, improvements, fixtures, etc. to the City in the event the requirements set forth in paragraph 1-6 above are not satisfied in a timely manner. In the event the City institutes litigation to enforce the terms of this paragraph, the Grantee shall be liable for the City's reasonable attorneys' fees.

10. In furtherance of the terms and provisions set forth in the preceding section:



A. If the Grantee is a natural person, he hereby appoints the City Administrator (or acting or interim City Administrator) of the City his true and lawful attorney-in-fact, with full power of substitution, hereby granting him full power and authority for the Grantee and in his stead to execute and deliver a deed or deeds to the hereinbefore-described property to the City in the event Grantee fails to comply with the terms and provisions set forth in paragraphs 1- 6 hereinbefore and to perform any and all acts required in order to effect the conveyance of the hereinbefore-described property to the City.

B. If the Grantee is not a natural person it hereby grants the City Administrator (or acting or interim City Administrator) of the City the power and authority and in its stead to execute and deliver a deed or deeds to the hereinbefore-described property to the City in the event the Grantee fails to comply with the terms and provisions set forth in paragraphs 1- 6 hereinbefore and to perform any and all acts required in order to effect the conveyance of the hereinbefore-described property to the City

11. The terms and provisions of the preceding two sections are irrevocable; however, they shall expire three (3) years from the date of this deed. Those terms and provisions shall not be affected by the disability or incapacity of the Grantee.

12. Once the requirements set forth in paragraphs 1- 6 above have been satisfied, upon the request of the Grantee, the City shall deliver a deed surrendering the rights of reverter described herein to the Grantee.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names and seals and duly attested all on the day and date first above written.

WITNESS/ATTEST:

**MAYOR AND CITY COUNCIL  
OF CUMBERLAND**

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

By: \_\_\_\_\_ (SEAL)  
Raymond M. Morriss, Mayor

**STATE OF MARYLAND,  
ALLEGANY COUNTY, TO WIT:**

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Raymond M. Morriss**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, the Mayor of Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland, and acknowledged the foregoing to be the act and deed of the said Mayor and City Council of Cumberland; and at the same time made oath he is duly authorized by it to make this acknowledgment; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$ 3,111; and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**File Attachments for Item:**

. Ordinance 3899 (*1st reading*) - authorizing execution of a deed to convey surplus property at 424 Goethe Street to Sandesh Sreenivas for the amount of \$1,200 with terms included to cause the property to revert back to the City should certain terms for rehabilitation not be met

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED "AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A DEED FOR THE PURPOSE OF CONVEYING CERTAIN SURPLUS PROPERTY LOCATED AT 424 GOETHE STREET IN THE CITY OF CUMBERLAND, ALLEGANY COUNTY, MARYLAND TO SANDESH SREENIVAS."

**WHEREAS**, Mayor and City Council of Cumberland is the fee simple owner of a certain parcel of real property and the improvements thereon located at 424 Goethe Street, in the City of Cumberland, Allegany County, Maryland;

**WHEREAS**, the said property was declared to be surplus property under the terms of Order No. 26,757, passed by the Mayor and City Council on February 16, 2021;

**WHEREAS**, Sandesh Sreenivas desires to purchase the said property for the sum of \$1,200 and the Mayor and City Council agree to sell it to him for that sum, subject to the terms and conditions relative to the expeditious repair and revitalization of the said property set forth in the deed attached hereto as Exhibit A, it being the Mayor and City Council's desire so as to expeditiously improve its appearance and condition; and

**WHEREAS**, the Mayor and City Council of Cumberland deem improvement and appearance of the property in accordance with the foregoing terms and conditions to be in the City's best interests.

**NOW, THEREFORE**

**SECTION 1:** BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that, upon Sandesh Sreenivas' execution of a deed with the same substance as the deed attached hereto as Exhibit A, the Mayor and City Clerk be and they hereby are authorized to execute the said Deed, thereby effecting the conveyance of the real property and the improvements thereon

located at 424 Goethe Street, Cumberland, MD 21502 to Sandesh Sreenivas for the purchase price in the amount of \$1,200; and

**SECTION 2:** BE IT FURTHER ORDAINED, that the City Solicitor be and he is hereby authorized to execute a closing statement and such other documents as may be required for the purpose of facilitating and completing the closing for the sale of the property identified herein; and

**SECTION 4:** BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

# EXHIBIT A

**THIS QUITCLAIM DEED**, made this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND (the “City”)**, a Maryland municipal corporation, and **SANDESH SREENIVAS (the “Grantee”)**.

**WITNESSETH:**

That for and in consideration of the sum of One Thousand Two Hundred Dollars (\$1,200.00) and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the City does hereby quitclaim to the Grantee, his personal representatives, heirs and assigns, all of the City’s right, title, interest and estate in and to the following-described piece or parcel of real estate lying and being in the City of Cumberland, Allegany County, Maryland, to wit:

**ALL** that lot or parcel of ground situated and lying on Goethe Street, in the City of Cumberland, Allegany County, Maryland, a plat of which said property is recorded in Liber 121, folio 608, among the Land Records of Allegany County, Maryland, and particularly described as follows, to -wit:

**BEGINNING** at a point on the westerly side of Goethe Street at the end of the fifth line of the deed from William H. Cole and James C. Powell, Trustees, to Martha M. Donahoe, dated July 28, 1905, and recorded in Liber No. 99, folio 53, one of the Land Records of said Allegany County, said beginning point being also distant south 34 degrees and 35 minutes west 51 feet from the northeast corner of the brick house located on said Donahoe lot, and known as the Darnell house, and running thence with the westerly side of Goethe Street, south 34 degrees and 35 minutes west 6 1/2 feet; south 40 degrees 20 minutes west 19 1/2 feet, then north 52 degrees and 25 minutes west 220 1/2 feet to the end of 124 feet on the fourth line of a deed from Rebecca E. Henderson and others to Lewis Weber, dated January 13, 1903, and recorded among the Land Records of Allegany County in Liber No. 93, folio 574 and reversing part of said fourth line as corrected by variation, north 40 degrees east 8 1/2 feet to the end of the fourth line of the aforesaid deed to Martha M. Donahoe and then with the fifth line of said Donahoe deed, as corrected, south 57 degrees east 221 feet to the beginning.

The improvements thereon being commonly known as 424 Goethe Street Avenue, Cumberland, MD 21502.

**IT BEING** the same property described in the deed from Friends Aware, Incorporated to Mayor and City Council of Cumberland, dated May 14, 2019, and recorded among the Land Records of Allegany County, Maryland, in Book 2479, Page 243.

**TOGETHER** with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the above-described property unto Grantee, his successors and assigns in fee simple forever.

In connection with the foregoing conveyance, the City and the Grantee covenant and agree as follow:

1. The Grantee shall secure the dwelling on the property by replacing its doors and locks, as needed, no later than two (2) weeks from the date of this deed.

2. The Grantee shall remove all junk and debris from the yard and the dwelling on the property no later than two (2) months from the date of this deed.

3. Within two (2) months of the date of this deed, the Grantee shall perform the following repairs to and/or improvement of the dwelling, as needed, to ensure that the property is brought to code: (a) clean up the exterior of the property to include mowing, weeding and trash removal; and (b) repair any exterior property maintenance issues not requiring a permit. Thereafter, the exterior of the property shall be maintained free of violations of the Cumberland City Code relative to the foregoing.

4. Within three (3) months of the date of this deed, the Grantee shall obtain all permits required for the rehabilitation of the dwelling.

5. Within twelve (12) months of the date of this deed, the Grantee shall perform the following repairs to and/or improvement of the dwelling, as needed, to ensure that the property is brought to code: (a) repair or replace roof; (b) repair or replace windows and doors; (c) repair or replace exterior siding and trim; and (d) repair or replace porch, decking, railings and stairs; (e) repair, replace or remove any accessory structures.



6. The Grantee shall complete the rehabilitation of the interior of the said dwelling and obtain a permit for its occupancy no later than twenty-four (24) months from the date of this deed.

7. The City and its designees shall have right to inspect the hereinbefore-described property from time to time in order to ensure that the work described in paragraphs 1 through 6 above is progressing and is being performed and completed in the manner described herein; provided, however, that the City shall endeavor to give the Grantee no less than seventy-two (72) hours advance notice of any such inspections. The Grantee shall fully cooperate with the City and its designees in regard to the scheduling and conduct of the inspections.

8. The Grantee may not convey the property described above or any interest therein (aside from a security interest granted subject to these covenants, restrictions and agreements) to a third party until all of the conditions set forth in paragraphs 1- 6 hereinbefore are completed in accordance with the terms and provisions set forth therein. Any such conveyance or attempt at such conveyance shall be null and void.

9. Should the Grantee fail to comply with the terms and provisions of paragraphs 1-6 hereinbefore, the title to the real property and improvements conveyed by the terms of this deed shall immediately and without the necessity of any further action on the part of the City, revert and revest in the City, and the Grantee shall lose and forfeit all of his rights, title and interest in and to the said property and to the improvements, fixtures, rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining, and the City shall have the right of re-entry to the said property. Further, the Grantee shall execute a deed effecting the conveyance of the hereinbefore-described property, improvements, fixtures, etc. to the City in the event the requirements set forth in paragraph 1-6 above are not satisfied in a timely manner. In the event

the City institutes litigation to enforce the terms of this paragraph, the Grantee shall be liable for the City's reasonable attorneys' fees.

10. In furtherance of the terms and provisions set forth in the preceding section:

A. If the Grantee is a natural person, he hereby appoints the City Administrator (or acting or interim City Administrator) of the City his true and lawful attorney-in-fact, with full power of substitution, hereby granting him full power and authority for the Grantee and in his stead to execute and deliver a deed or deeds to the hereinbefore-described property to the City in the event Grantee fails to comply with the terms and provisions set forth in paragraphs 1- 6 hereinbefore and to perform any and all acts required in order to effect the conveyance of the hereinbefore-described property to the City.

B. If the Grantee is not a natural person he hereby grants the City Administrator (or acting or interim City Administrator) of the City the power and authority in its stead to execute and deliver a deed or deeds to the hereinbefore-described property to the City in the event the Grantee fails to comply with the terms and provisions set forth in paragraphs 1- 6 hereinbefore and to perform any and all acts required in order to effect the conveyance of the hereinbefore-described property to the City

11. The terms and provisions of the preceding two sections are irrevocable; however, they shall expire three (3) years from the date of this deed. Those terms and provisions shall not be affected by the disability or incapacity of the Grantee.

12. Once the requirements set forth in paragraphs 1- 6 above have been satisfied, upon the request of the Grantee, the City shall deliver a deed surrendering the rights of reverter described herein to the Grantee.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed in their respective names and seals and duly attested all on the day and date first above written.

**WITNESS/ATTEST:**

**MAYOR AND CITY COUNCIL  
OF CUMBERLAND**

\_\_\_\_\_  
**Marjorie A. Woodring, City Clerk**

By: \_\_\_\_\_ (SEAL)  
**Raymond M. Morriss, Mayor**

**STATE OF MARYLAND,  
ALLEGANY COUNTY, TO WIT:**

**I HEREBY CERTIFY**, that on this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Raymond M. Morriss**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, the Mayor of Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland, and acknowledged the foregoing to be the act and deed of the said Mayor and City Council of Cumberland; and at the same time made oath he is duly authorized by it to make this acknowledgment; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$ 1,200; and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

**WITNESS** my hand and Notarial Seal.

\_\_\_\_\_  
**NOTARY PUBLIC**

**My Commission Expires:** \_\_\_\_\_

**File Attachments for Item:**

. Order 26,863 - granting a residential Special Taxing District exemption of \$372.59 to Robert and Rosario Chevez for 47 Baltimore Street for the tax years 2020-2021; and \$640.16 to JoAnn Circosta for 107 S. Centre Street for the tax years 2021-2022

**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

ORDER NO. 26,863

DATE: September 7, 2021

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

THAT, the following Residential Exemptions from the Special Taxing District Levy for the 2020-2021 and 2021-2022 tax years be and is hereby granted:

Property / Owner	Tax Year / Account No.	Exemption Amt.
47 Baltimore Street – Robert/Rosario Chevez	2020-2021 Tax No. 04-023226	\$372.59
107 S. Centre Street – JoAnn Circosta	2021-2022 Tax No. 04-031601	\$640.16

**BE IT FURTHER ORDERED,** that this exemption is hereby granted pursuant to the provisions of Section 235 of the City Charter.

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**Raymond M. Morriss, Mayor**

**File Attachments for Item:**

. Order 26,864 - declaring certain computer equipment to be surplus property (3 Samsung 50" plasma monitors, and 1 Samsung 42" plasma monitor) and authorizing them to be scrapped or e-cycled

**- ORDER -**  
*of the*  
**Mayor and City Council of Cumberland**  
**MARYLAND**

**ORDER NO. 26,864**

**DATE: September 7, 2021**

**WHEREAS**, the Mayor and City Council of Cumberland is the record owner of certain equipment that have been determined to be of no further value to the City; and

**WHEREAS**, the Mayor and City Council authorize this equipment to be scrapped or e-cycled;

**IT IS THEREFORE ORDERED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, THAT**, the following equipment is hereby declared to be surplus property and authorized to be scrapped or e-cycled:

**3 Samsung 50 inch plasma monitors**

**1 Samsung 42 inch plasma monitor**

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**Raymond M. Morriss, Mayor**

**File Attachments for Item:**

. Order 26,865 declaring a 1990 580K Backhoe (VIN: G0028571) surplus and authorizing it for scrap, sale or trade-in



**- ORDER -**  
*of the*  
**Mayor and City Council of Cumberland**  
**MARYLAND**

ORDER NO. 26,865

DATE: September 7, 2021

WHEREAS, the Mayor and City Council of Cumberland is the record owner of certain equipment that has been determined to be of no further value to the City; and

WHEREAS, the Mayor and City Council desire to dispose of said equipment;

IT IS THEREFORE ORDERED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, THAT, the following equipment is hereby declared to be surplus property and authorized for sale, scrap, or trade in:

1. 1990 Case 580K Backhoe VIN: G0028571

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**Raymond M. Morriss, Mayor**



Sherri Nicol <sherri.nicol@cumberlandmd.gov>

---

**Fwd: backhoe**

1 message

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**Margie Woodring** <margie.woodring@cumberlandmd.gov>  
To: Sherri Nicol <sherri.nicol@cumberlandmd.gov>

Thu, Aug 19, 2021 at 3:15 PM

This one also needs an order to declare it surplus. Thanks.

*Margie Woodring*

City Clerk / Asst. City Administrator  
**CITY OF CUMBERLAND**  
57 N. Liberty Street  
Cumberland, MD 21502  
Phone: 301-759-6447  
Email: [margie.woodring@cumberlandmd.gov](mailto:margie.woodring@cumberlandmd.gov)

----- Forwarded message -----

From: **Brian Broadwater** <[brian.broadwater@cumberlandmd.gov](mailto:brian.broadwater@cumberlandmd.gov)>  
Date: Fri, Aug 13, 2021 at 11:06 AM  
Subject: Re: backhoe  
To: Margie Woodring <[margie.woodring@cumberlandmd.gov](mailto:margie.woodring@cumberlandmd.gov)>

Margie,

Can we add this backhoe to a Mayor and City Council order for surplus? They dropped off the new Backhoe yesterday.

The Surplus Backhoe is  
1990 Case 580K Backhoe  
JJG0028571

The new Backhoe information.  
#316  
2021 Caterpillar 430 07A  
H8W00458  
Price \$109,858  
M&CC Order #26,787

Also, attached is an updated Fleet Master List. Let me know if you have any questions. I am not sure if it will need to have insurance added or not.

Thanks,  
Brian

On Fri, Jul 2, 2021 at 2:45 PM Margie Woodring <[margie.woodring@cumberlandmd.gov](mailto:margie.woodring@cumberlandmd.gov)> wrote:  
I'll just take it off the agenda for now and you tell me when you're ready for it to be on. Thanks!



CONSTRUCTION EQUIPMENT QUOTATION/OFFER TO SELL AND SECURITY AGREEMENT

TO: CITY OF CUMBERLAND
57 N LIBERTY ST
CUMBERLAND, MD 21502-2312

DATE: March 29, 2021

ATTENTION:

ONE (1) NEW CATERPILLAR 430 DCA1 430 07A BACKHOE LOADER DCA1 S/N N/A

430 07A BACKHOE LOADER CFG2
COUNTERWEIGHT, 1015 LBS
ENGINE, 86KW, C3.6 DITA, T5
STICK, EXTENDABLE, 16FT
RIDE CONTROL
CAB, DELUXE
AIR CONDITIONER, T5
SEAT, DELUXE FABRIC
HYDRAULICS, MP, 6FCN/8BNK, ST
PT, 4WD/2WS, POWERSHIFT
COLD WEATHER PACKAGE, 120V
BUCKET-HD, 24", 6.2 FT3

LINES, COMBINED AUX, E-STICK
PRODUCT LINK, CELLULAR, PLE643
LOADER BUCKET PINS
AUTO-UP STABILIZERS
BUCKET, HOE, (NONE)
BELT, SEAT, 2" SUSPENSION
TIRES, 340 80-18/500 70-24, MX
INSTRUCTIONS, ANSI
CUTTING EDGE, TWO PIECE, WIDE
STABILIZER PADS, FLIP-OVER
BUCKET-GP, 1.3 YD3, PO
COUPLER, PG, MAN.D.LOCK, BHL

Selling Price:

\$117,358.00

Warranty:

STANDARD WARRANTY: 12 MONTH/UNLIMITED HOUR (6 MONTH TRAVEL TIME & MILES INCLUDED)
3 YEAR/3,000 HOUR EXTENDED POWERTRAIN + HYD WARRANTY + TECH WARRANTY

Trades:

Model

1990 Case 580K

Total Trades:

Serial Number

JJG0028571

Amount

\$7,500.00

\$7,500.00

Finance Summary:

Selling Price

\$117,358.00

Total Trades

(\$7,500.00)

Net Selling Price

\$109,858.00

Remarks: AVAILABLE UNDER SOURCEWELL AGREEMENT #032119CAT

THE FOREGOING QUOTATION IS EFFECTIVE FOR 30 DAYS.

STANDARD TERMS: SUBJECT TO CREDIT APPROVAL: NET 10 DAYS. UCC-1 FINANCING STATEMENT WILL BE FILED AND A \$400.00 DOCUMENTATION FEE WILL BE CHARGED IF NOT PAID IN FULL ON OR BEFORE 15 DAYS FROM DELIVERY DATE UNLESS OTHERWISE NOTED ON THE SALES CONTRACT.

BY: Jason N Harper QN: S000120939

DELIVERY:

LEAD TIME: To be determined at the time of order

ATTENTION: THE TERMS AND CONDITIONS ON THE FACE AND REVERSE SIDE OF THIS QUOTATION/OFFER TO SELL - INCLUDING DISCLAIMERS OF WARRANTIES (INCLUDING MERCHANTABILITY), DISCLAIMERS OF TORT LIABILITY (INCLUDING NEGLIGENCE AND STRICT LIABILITY), LIMITATION OF REMEDIES AND EXCLUSIONS OF AND ANY ATTACHMENTS INCORPORATED HEREIN CONSTITUTE THE TERMS, CONDITIONS AND COVENANTS OF THIS QUOTATION/OFFER TO SELL.

**File Attachments for Item:**

. Order 26,866 - authorizing execution of a Memorandum of Understanding with the Allegany County Board of Elections outlining terms for their use of the City Hall Council Chambers as an alternate election office during peak election periods in the event of an emergency, effective July 1, 2021

**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

ORDER NO. 26,866

DATE: September 7, 2021

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

THAT, the Mayor be and is hereby authorized to execute a Memorandum of Understanding (MOU) by and between the Allegany County Board of Elections (BOE) and the Mayor and City Council of Cumberland outlining terms for the BOE's use of the City Hall Council Chambers as an alternate election office during peak election periods in the event of an emergency; and

BE IT FURTHER ORDERED, that the MOU shall commence on or about July 1, 2021, until terminated by either party with thirty (30) days written notice.

---

**Raymond M. Morriss, Mayor**

**Memorandum of Understanding  
Allegany County Board of Elections  
And  
City of Cumberland**

This Memorandum of Understanding (MOU) dated \_\_\_\_\_, and entitled Alternate Election Office is hereby entered into between the Allegany County Board of Elections and the City of Cumberland.

This MOU authorizes the Allegany County Board of Elections to use the Council Chamber at 57 N. Liberty Street, Cumberland, MD as their alternate election office during peak election periods. Peak election periods include the time that is one hundred (100) days before an election through thirty (30) days following an election.

**INFORMATION OF AGREEMENT**

The City of Cumberland hereby agrees to the following:

- Authorize permission for the Council Chamber to be open to the public during all hours required by the Allegany County Board of Elections to conduct business during peak election periods.
- Authorize permission for up to two Allegany County Board of Elections personnel to work out of the Council Chamber during all hours that the Allegany County Board of Elections' office deems necessary to conduct business.
- Authorize permission to access networkMD for MDVOTERS connectivity. Allegany County Board of Elections will provide their own workstations for the Allegany County Board of Elections' employees.
- Authorize permission to access the internet via the guest Wi-Fi account.
- Authorize permission to provide a phone line for the Allegany County Board of Elections use during peak election periods. If a phone line is not available, Allegany County Board of Elections' employees can have calls forwarded to their personal cell phones.

**TERM OF MEMORANDUM OF UNDERSTANDING**

The term of this Memorandum of Understanding is to commence on or about July 1, 2021 until terminated by either party at any time upon thirty (30) days written notice to the other.

**POINTS OF CONTACT**

The Point of Contact for the Allegany County Board of Elections shall be:

Diane Loibel  
Election Administrator  
701 Kelly Road, Suite 231  
Cumberland, MD 21502  
301-777-5931  
[dloibel@alleganygov.org](mailto:dloibel@alleganygov.org)



**File Attachments for Item:**

. Order 26,867 - authorizing the City Solicitor and the City's opioid case attorneys to cast bankruptcy plan ballots for plan approvals and rejections, as recommended by the City's attorneys



**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

ORDER NO. 26,867

DATE: September 7, 2021

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

THAT, the City Solicitor and the City's opioid case attorneys be and are hereby authorized to cast bankruptcy plan ballots for plan approvals and rejection as recommended by the City's attorneys.

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**Raymond M. Morriss, Mayor**

**File Attachments for Item:**

. Order 26,868 - accepting a \$25,000 award from the Certified Local Government Sub-grant for the purpose of completing a Preservation Plan. Matching funds in the amount of \$25,000 have been budgeted for this project in the General Fund.

**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

**ORDER NO. 26,868**

**DATE: September 7, 2021**

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

**THAT**, the Mayor be and is hereby authorized to accept a Certified Local Government Sub-grant from the Maryland Historical Trust in the amount of Twenty-five Thousand Dollars and No Cents (\$25,000.00), with a City match of Twenty-five Thousand Dollars and No Cents (\$25,000.00) for the purpose of the completion of a Preservation Plan.

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**Raymond M. Morriss, Mayor**

Budget: 001 080P 186

## CERTIFIED LOCAL GOVERNMENT GRANT AGREEMENT

This grant agreement (the “**Agreement**”) is entered into as of the Effective Date (as defined in Section 1.b below), by and between **MAYOR AND CITY COUNCIL OF CUMBERLAND**, (the “**Grantee**”) and the STATE OF MARYLAND (the “**State**”) acting by and through the MARYLAND HISTORICAL TRUST (“**MHT**”) an instrumentality of State government containing the Maryland State Historic Preservation Office (the “**SHPO**”).

### RECITALS

- A. The Certified Local Government (CLG) Program (the “**Program**”) established pursuant to The National Historic Preservation Act of 1966, as amended, and set forth at 36 CFR Part 61 (the “**Federal Regulations**”), enables the National Park Service of the United States Department of the Interior (“**NPS**”) to allocate funds (the “**CLG Funds**”) to SHPOs to make sub-grants to designated CLG jurisdictions or other appropriate entities to carry out eligible historic preservation activities;
- B. Pursuant to State Finance & Procurement Article §5A-318, Maryland Code Annotated (the “**Act**”), MHT is authorized to accept and disperse the federal CLG Funds for the purposes of the Program;
- C. Pursuant to a grant application dated 3/15/2021, the Grantee has applied to MHT for a CLG Funds for the project described herein (the “**Grant Application**”); and
- D. In reliance upon the information contained in the Grant Application, MHT has determined that the project is consistent with the provisions of the Program and the Federal Regulations, and has approved an award of CLG Funds for the project on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MHT and Grantee agree as follows:

#### 1. Grant Purpose; Project Terms; Administrators.

- a. Grant Purpose. The purpose of this Agreement is to provide the Grantee with CLG Funds in an amount not to exceed \$25,000.00 (the “**Grant**”). The Grantee shall use the Grant to carry out the historic preservation services or activities set forth in Exhibit A of this Agreement (the “**Project**”), as further described in Exhibit A - Grant Purpose/Scope of Work (the “**Project Scope**”). Grantee shall use the Grant only for the activities authorized in the Scope of Work, and shall operate the Project in accordance with the Federal Regulations, the Act, the NPS Historic Preservation Fund Grants Manual, June 2007 Release, chapter numbers 9(K), 12-14, 17 and 24, available online at [http://www.nps.gov/preservation-grants/HPF\\_Manual.pdf](http://www.nps.gov/preservation-grants/HPF_Manual.pdf), as amended by 2 CFR 200 (the “**HPF Grants Manual**”), the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic

Preservation" available online at [http://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm), and the terms and conditions of this Agreement.

- b. Grant Term. The Agreement is effective as of the date it is executed by MHT (the “**Effective Date**”), and shall terminate on the later of (i) September 30, 2021, or (ii) MHT’s receipt and approval of the Final Report described in Section 5 of this Agreement (the “**Termination Date**”), if not terminated earlier pursuant to the Agreement.
- c. Project Timetable. Grantee may commence the Project on 6/1/2021 (the “**Project Commencement Date**”) and shall complete the Project by 6/30/2022 (the “**Project Completion Date**”) as set forth in **Exhibit A - Project Timetable.**
- d. Extensions. At its discretion MHT may extend any date set forth in the Project Timetable, provided that the Grantee demonstrates to MHT’s satisfaction that the circumstances warrant such extension. An extension may be offered by MHT in writing or by email, and shall be deemed to be accepted by Grantee if Grantee fails to refuse the extension in writing or by email within ten (10) calendar days from the date the extension is offered. Should the Grantee at any time determine that the Project will not comply with any of the dates set forth in the Project Timetable, the Grantee shall immediately notify the Project Monitor identified below to determine what actions need to be taken.
- e. Administrators. Nell Ziehl, Chief, Office of Planning, Education and Outreach, shall serve as MHT’s Project Monitor and Ms. Kathy McKenney shall serve as Grantee’s Project Administrator. The Project Monitor and the Project Administrator will be the chief contacts for the parties with respect to all matters pertaining to this Agreement.

**2. Grantee’s Contribution; Nonfederal Funds.**

- a. If required by MHT, Grantee shall provide a contribution in cash to the Project as further described in **Exhibit A - Grantee’s Contribution** (the “**Grantee’s Contribution**”), Documentation of the Grantee’s Contribution must be satisfactory to MHT. Grantee's Contribution may include funds derived from other public or private sources; provided however, that no federal funds may be used for any part of the Grantee’s Contribution. Grantee’s Contribution shall be used to pay for authorized Project expenses, as further described in the budget attached in **Exhibit A - Project Budget.**

**3. Expenditure of Grant Proceeds.**

- a. Grantee may incur Project expenses commencing on the Project Commencement Date.
- b. All Grant funds shall be expended on or before the Project Completion Date.

- c. Project expenses incurred before the Project Commencement Date or after the Project Completion Date, and expenses submitted to MHT after the Final Report Due Date are not eligible for reimbursement from Grant proceeds.
- d. Grantee shall expend the Grant in accordance with the Project Budget.
- e. If the Project is completed for an amount less than that reflected in the Project Budget, the amount of the Grant may be reduced, and Grantee shall return all unexpended Grant funds to MHT.
- f. Grantee is permitted to make minor transfers between budget line items in the Project Budget totaling no more than 10% of the amount of the Grant. Changes in funds allocation that exceed 10% of the Grant amount must be approved pursuant to Section 20.
- g. Should the Grantee at any time determine that the Project will not comply with the Project Budget, the Grantee shall immediately notify the Project Monitor to determine what actions need to be taken.

#### **4. Grant Disbursements; Conditions.**

- a. Provided that Grantee is not in default under the Agreement, and subject to the satisfaction of the Special Conditions set forth in **Exhibit A - Special Conditions** and the availability of federal funds, Grant funds will be disbursed as the Project progresses for reimbursement of eligible Project costs. Disbursements shall be made based on requests for disbursement of the Grant (a “**Disbursement Request**”) submitted by Grantee through MHT’s online grants software system.
  - i. Disbursement Requests will be processed within approximately forty-five (45) days from MHT’s approval of a complete Disbursement Request. The Disbursement Requests shall not exceed the eligible costs approved by MHT.
  - ii. All Disbursement Requests shall be satisfactory in form and content to MHT, shall identify all costs incurred for which the disbursement is being sought, and shall have attached copies of the appropriate source documentation. Grantee shall provide such additional supporting documentation as may be requested by MHT from time to time.
  - iii. Where practicable, Disbursement Requests will be made on a quarterly basis and submitted with the progress reports described in Section 5. MHT may request the Grantee to accrue or estimate the expenditures for the last Disbursement Request of

the federal fiscal year ending September 30<sup>th</sup>, to meet Federal reporting requirements.

- b. With the exception of Program grants made to designated Third-Party Administrators, Grant funds shall be disbursed on a reimbursement basis; no funds shall be disbursed until Grantee has incurred eligible Project cost at its own expense. In no event shall MHT disburse funds for reimbursement that exceed the maximum amount of the Grant.
- c. Costs eligible for reimbursement shall be determined in accordance with the approved Project Budget and the HPF Grants Manual.
- d. The final disbursement of the Grant shall be made upon Grantee’s completion of the Project to the satisfaction of MHT, and Grantee’s submission of the following items, satisfactory in form and content to MHT, on or before the due dates set forth in **Exhibit A - Progress/Final Reports:**
  - i. The Final Report;
  - ii. The final Disbursement Request; and
  - iii. The final Project Deliverables.
- e. MHT has the right to withhold disbursements of Grant funds if at any time MHT determines in its sole discretion that:
  - i. Grantee is not performing or completing the Project in accordance with the terms of this Agreement, or in a manner satisfactory to MHT;
  - ii. Grantee has not expended the full amount of the Grant by the Project Completion Date;
  - iii. Grantee has failed to supply any material fact or documentation in a Disbursement Request;
  - iv. Grantee is otherwise in default under this Agreement; or
  - v. A Disbursement Request exceeds the maximum amount of the Grant.

5. **Reports; Deliverables; Inspection.**

- a. Progress Reports. Unless waived by MHT, the Grantee shall submit to MHT electronic progress reports using MHT’s online grants software system on the due dates set forth in **Exhibit A - Progress/Final Reports**. The progress reports must be satisfactory to MHT in form and content, identify work completed, work still in progress and work newly initiated during the report period, and assess whether time schedules are being met, or other performance goals are being achieved. These reports should compare, from Project commencement to date, actual accomplishments to established goals and actual costs incurred to the Project Budget by cost categories. Progress reports shall include a Disbursement Request, if applicable.
- b. Project Deliverables. At least forty-five (45) days prior to the Project Completion Date, the Grantee shall provide draft copies of all final Project deliverables described in **Exhibit A - Project Deliverables**, for MHT’s review and comment. Revised final Project Deliverables incorporating MHT’s comments shall be submitted with the Final Report.
- c. Final Report. Grantee shall submit to MHT an electronic final report using MHT’s online grants software system on the due date set forth in **Exhibit A - Progress/Final Reports**, including the final Project Deliverables.
- d. The progress reports, the final report, and the Project Deliverables shall be satisfactory to MHT in form and content.
- e. Project Inspection. The Grantee agrees to meet at MHT’s request for the purpose of reviewing the Project’s progress. Either party may request other meetings from time to time. The Grantee and any of its contractors or subcontractors will permit on-site inspections of the Project by representatives of MHT, NPS, the State, and the Secretary of the Interior of the United States (the “**Representatives**”), upon reasonable notice and during reasonable working hours, before, during, and after the period of time during which the Grant proceeds are expended.

**6. Grant Documents.**

The following documents shall be executed in connection with the Grant, which documents shall be satisfactory in form and substance to MHT:

- a. This Agreement, including all the exhibits thereto; and
- b. Any other document or written instrument that may be required by MHT.

**7. General and Special Covenants.**



- a. The Grantee shall directly supervise the Project. The Grantee shall ensure that a MHT representative is on the selection committee for the review of personnel to be employed on this Project. The MHT representative shall have the option to participate in all interviews.
- b. Following the Project Commencement Date, at its discretion MHT may contact the Grantee to set up an initial meeting between the Project Monitor, the Grantee and other appropriate parties. At this meeting, MHT will provide general assistance and guidance in setting up the Project and clarification of Agreement requirements, so that all products, schedules, services and bills will be mutually anticipated and understood as to content and result.
- d. The Grantee shall immediately notify the Project Monitor of a change in Grantee’s Project Administrator, or in any persons named or expressly identified to MHT as key Project personnel. Grantee shall fill a vacancy in the Project Administrator position within one month of the position becoming vacant.
- e. To the extent permitted by law, MHT will make available to the Grantee upon request pertinent information MHT has on file regarding the Project or the Grant. MHT will also assist the Grantee by making its staff available for consultation and technical advice. Grantee agrees to accept technical assistance from MHT if MHT deems it necessary.
- f. Grantee shall comply with all federal requirements governing grants including 2 CFR 200.
- g. The Grantee and/or its agents are responsible for complying with all federal, State, and local laws applicable to the Project, including the State provisions set forth in **Exhibit C - State Requirements**. This responsibility may include, but is not limited to, compliance with local zoning, building, and public safety codes, and federal and State licensing and permitting requirements.
- h. The Grantee shall be current on payment of all taxes and filings required by law.

**8. Default and Remedies.**

- a. A default under this Agreement shall occur if:
  - i. Grantee fails to comply with any of the terms or conditions in this Agreement, or under any other agreement related to the Project;
  - ii. At any time any representation or warranty made by Grantee in connection with the Grant, this Agreement, or the Grant Application shall be incorrect in any manner;
  - iii. Grantee knowingly makes or causes to be made any material misstatement of fact, including an understatement or overstatement of financial condition, in a statement or report affecting the Grant in general, or required under this Agreement, in the Grant Application, or in a Disbursement Request;

- iv. The Grant funds are not spent in accordance with the terms of this Agreement;
  - v. Grantee is not performing or completing the Project in accordance with the terms of this Agreement, or in a manner satisfactory to MHT; or
  - vi. Final Project Deliverables, Final Report or other services delivered or performed by Grantee in connection with the Project fail to comply with requirements set forth in the Agreement.
- b. MHT shall give Grantee written notice of default, and Grantee shall have thirty (30) days from the date of such notice to cure the default.
- c. Upon the occurrence of a default that continues beyond the 30-day cure period, MHT shall have the right to:
- i. Reduce the amount of the Grant or withhold disbursement of the Grant;
  - ii. Demand repayment of the Grant from Grantee in whole or in part; or
  - iii. Terminate this Agreement by written notice to Grantee.
- d. In the event of MHT's termination of the Agreement:
- i. Grantee's authority to request a disbursement of the Grant shall cease and Grantee shall have no right, title, or interest in or to any of the remaining undisbursed Grant funds;
  - ii. MHT may exercise any or all of its rights under this Agreement contemporaneously with any or all of its remedies, and all of such rights shall survive the termination of this Agreement;
  - iii. In addition to the rights and remedies contained in this Agreement, MHT may at any time proceed to protect and enforce all rights available to it or to MHT by suit in equity, action at law, or by any other appropriate proceedings, which rights and remedies shall survive the termination of this Agreement.
- e. A dispute arising between the parties to the Agreement as to any matter of form, substance or interpretation related to this Agreement (such as payments to the Grantee, time, schedule, or interpretation of contractual provisions) shall be referred to the Project Monitor and Project Administrator for resolution. If the Project Monitor and Project Administrator are unable to agree on a resolution, the Project Administrator may file a written appeal of the dispute to Elizabeth Hughes, the State Historic Preservation Officer, within 30 days following the date of the Project Monitor's decision. The decision of the State Historic Preservation Officer shall be final and binding on the parties.

**9. Standards of Work.** The Project activities and services carried out pursuant to this Agreement shall conform to relevant industry professional standards, the terms and conditions of this Agreement and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation" as well as the "Standards and Guidelines for Architectural and Historical Investigations in Maryland" ([https://mht.maryland.gov/documents/pdf/research/Survey\\_standards\\_architecture\\_web.pdf](https://mht.maryland.gov/documents/pdf/research/Survey_standards_architecture_web.pdf)) or the "Standards and Guidelines for Archeological Investigations in Maryland" ([https://mht.maryland.gov/documents/PDF/archeology/Archeology\\_standards\\_investigations.pdf](https://mht.maryland.gov/documents/PDF/archeology/Archeology_standards_investigations.pdf)), as applicable to the Project. Final Project Deliverables that do not conform to the above requirements will be deemed a default under the Agreement.

**10. Subcontracting.** The Grantee may not enter into a subcontract for any of the Project activities or services without MHT's prior written approval of Grantee's subcontractor.

- a. Any subcontract approved by MHT related to the performance of this Agreement shall contain such conditions and provisions as MHT deems necessary, in its discretion, to protect the interest of MHT and NPS. No provision of this Section and no approval by MHT of any subcontract shall have the effect of binding MHT for any amount above the total maximum amount of the Grant, and MHT shall not be responsible for fulfillment of the Grantee's obligations to any of its subcontractors.
- b. Grantee shall submit to the MHT evidence of Grantee's compliance with Federal competitive procurement requirements, if applicable. The Federal competitive procurement requirements are detailed in Chapter 17 of the HPF Manual, and are hereby incorporated by reference into this Agreement.
- c. MHT's prior written approval shall not be required for the purchase by the Grantee of articles, supplies, equipment, and services, which are either necessary for or merely incidental to the performance of the Project required under this Agreement. This Section does not prohibit contracts between the Grantee and other parties for the preparation, production, and printing of publications, maps, and other documents.

**11. Records.**

- a. Grantee and any subcontractors of Grantee shall maintain accurate books, accounts, and records in a form acceptable to MHT and NPS of all transactions relating to the receipt and expenditure of the Grant for the Project (the "**Records**"). The Records shall be retained and made available for inspection by the Representatives during reasonable working hours, until the later of: (i) three (3) years after final payment by MHT under this Agreement; or (ii) the date that all litigation, claims or audit findings involving the Records have been resolved and final action taken. Grantee shall make its administrative offices and

personnel, whether full-time, part-time, consultants, or volunteers, available to the Representatives upon request.

- b. Grantee and any of its contractors or subcontractors will effectively furnish, and require property owners, employees and board members, as may be applicable, to furnish such information as, in the judgment of the Representatives, may be relevant for the purposes of financial or programmatic audit and examination, and to ensure compliance with this Agreement and the effectiveness, legality and achievements of Project work.
- c. Upon request of MHT, Grantee shall provide MHT with copies of any audits relating to the Grant proceeds performed on Grantee's records by any other entity.
- d. In addition to the requirements set forth above, Grantee shall provide MHT with such additional records, reports, and other documentation as may be required by MHT.

12. **Audits.**

- a. If applicable to Grantee pursuant to federal regulations set forth in 2 CFR 200, the Grantee shall obtain the services of an Independent Certified Public Accountant to perform a single audit of the Grantee, which shall cover the entire operations of the Grantee, and shall comply with Government Auditing Standards issued by the Comptroller General of the United States.
- b. Grantees who have not and do not anticipate expending federal funds from any other granting authority and whose total federal fund expenditures do not exceed \$750,000 per annum are exempt from the requirements of the above audit requirement.
- c. If, following any audit of funds referred to in this Section, MHT or NPS disallows a claim for costs made by the Grantee for which claim the Grantee has received payment under this Agreement, then the Grantee shall reimburse MHT or NPS for the amount of the disallowed claim.

13. **Publication Requirements.**

- a. **Acknowledgement of Support.** Subject to the provisions of this Section and other pertinent provisions of the Agreement, it is understood and agreed that the Grantee has the right to publish and distribute information regarding and developed from the Project. An acknowledgement of support must be made in connection with the publication of any material based on, or developed under, any activity supported by Historic Preservation grant funds from the National Park Service made available by MHT. This acknowledgement shall read as follows:

[This publication/activity that is the subject of this publication] has been financed [in part/entirely] with Federal funds from the National Park Service, U.S.

Department of the Interior, made available through the Maryland Historical Trust. However, the contents and opinions do not necessarily reflect the views or policies of these agencies.

Should trade names or commercial products be cited by text or photograph, the following disclaimer must be added to the Acknowledgement of Support: "nor does the mention of trade names or commercial products constitute endorsement or recommendation by these agencies."

- b. Non-Discrimination Statement. All publications produced under this Agreement must include a statement of NPS's non-discrimination policy. This statement shall read as follows:

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office of Equal Opportunity, National Park Service, 1849 C Street, N.W., MS-2740 Washington, D.C. 20240-0001.

14. Lobbying. The Grantee warrants that no part of the Grant funds made available by this Agreement shall be used to influence a Member of Congress or legislation pending before Congress pursuant to the provisions of 18 USC 1913, which states:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

15. Grantee's Certifications. By executing the Agreement, Grantee certifies to MHT that:

- a. If applicable, Grantee is duly organized and validly exists under the laws of Maryland and has all requisite power and authority to enter into and carry out the transactions contemplated by this Agreement;
- b. This Agreement has been duly authorized, executed, and delivered by Grantee in such manner and form as to comply with all applicable laws to make this Agreement the valid and legally binding act and agreement of Grantee;
- c. The representations, statements, and other matters contained in the Grant Application and this Agreement are and remain materially true and complete in all material respects;
- d. If applicable, Grantee has obtained, or has reasonable assurances that it will obtain, all federal, State, and local government approvals, permits, and reviews which may be required for the Project;
- e. None of Grantee's assignees, designees, agents, members, officers, employees, consultants, or members of its governing body, or any local governmental authority exercising jurisdiction over the Project, and no other public official who exercises or has exercised any functions or responsibilities with respect to the Project during such person's tenure, or who is in a position to participate in a decision-making process or gain inside information with regard to the Project, has or shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for any work or any activity to be performed in connection with the Project, or receive any benefit therefrom, that is part of the Project at any time during or after such person's tenure. No officer, director, or member of Grantee will personally benefit from the Grant or the Project.
- f. Grantee has not been, nor currently is, the subject of an investigation by any federal, State, or local governmental entity for alleged criminal or civil violations of laws or regulations enforced by these entities.

16. **Nondiscrimination Provisions; Equal Opportunity Compliance.**

- a. Grantee may not discriminate, and certifies that it prohibits discrimination in leasing or otherwise providing dwelling or public accommodations or in any other aspect of the development, administration, or operation of the Project, or in any aspect of employment by the Grantee or Grantee of the Project, on the basis of:
  - i. Age or sex (except with respect to residents in elderly projects or when age or sex constitutes a bona fide occupational qualification), or
  - ii. Race, color, creed, political or religious opinion or affiliation, national origin, sex, sexual orientation, marital status, or physical or mental handicap of a qualified handicapped individual.

- b. Grantee shall comply with the requirements and provisions of the State Assurance of Compliance, attached hereto and incorporated herein to this Agreement as **Exhibit B - Assurance of Compliance**.
- c. Grantee shall comply with all applicable federal, State, and local laws and departmental policies and programs regarding discrimination and equal opportunity in employment, housing, and credit practices including:
  - i. Titles VI and VII of the Civil Rights Act of 1964, as amended;
  - ii. Title VIII of the Civil Rights Act of 1968, as amended;
  - iii. The Governor's Code of Fair Practices, as amended;
  - iv. Upon MHT's request, Grantee will submit to MHT information relating to its operations, with regard to political or religious opinion or affiliation, sexual orientation, marital status, physical or mental handicap, race, color, creed, sex, age, or national origin on a form to be prescribed by MHT; and
  - v. Governor's Executive Order 01.01.1989.18 regarding a drug-and alcohol-free workplace and any regulations promulgated thereunder.

17. **Equal Employment Opportunity.** The Grantee agrees that the following provision shall be included in all subcontracts and shall be posted by the Grantee and all subcontractors in conspicuous places available to employees and applicants for employment:

There shall be no discrimination against any employee who is employed in the work covered by this Contract, or against any applicant for such employment because of race, color, religion, creed, age, marital status, sex, sexual orientation, national origin, ancestry, or physical or mental disability unrelated in nature and extent so as reasonably to preclude the performance of such employment. This provision forbids all unlawful discrimination, including discrimination in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

18. **Notices.** All notices, requests, approvals, and consents of any kind made pursuant to this Agreement shall be delivered either in writing, or submitted electronically through MHT's grants management software system, as directed by MHT. Any written communication delivered by U.S mail shall be deemed effective as of the date it is mailed, postage prepaid, addressed as follows:

- a. Communications to MHT by mail shall be sent to the Project Monitor or such other person as may be designated by MHT:

Attn: Nell Ziehl  
Maryland Historical Trust  
100 Community Place  
Crownsville, Maryland 21032

b. Communications to Grantee shall be mailed to:

Attn: Ms. Kathy McKenney  
Mayor and City Council of Cumberland  
57 North Liberty Street  
Cumberland, MD 21502

19. **Further Assurances and Corrective Instruments.** Grantee agrees that it will, from time to time, execute and deliver, or cause to be delivered, such amendments hereto and such further instruments as may be required by MHT or NPS to comply with any existing or future State or federal regulations, directives, policies, procedures, and other requirements, or to further the general purposes of this Agreement.

20. **Entire Agreement; Amendment.**

- b. This Agreement constitutes the entire agreement between the parties, and supersedes all communications between the parties, whether written or oral, prior to its execution;
- c. Except as provided otherwise in Section 1.d of the Agreement, no amendment of this Agreement shall be binding upon either party unless such amendment is in writing duly executed by both parties hereto;
- d. Except as provided otherwise in Section 3.e of the Agreement, changes to the Project Scope or Project Budget are subject to MHT's determination that the proposed change is (i) warranted by the circumstances presented by Grantee; and (ii) in accordance with the Grant Purpose/Scope of Work, the Program and the HPF Grants Manual.
- e. The Project Monitor for MHT is authorized to execute amendments regarding changes to the Project Scope or Project Budget.
- e. Grantee hereby authorizes its Project Administrator to execute amendments to the Agreement on behalf of Grantee, unless Grantee notifies MHT in writing of a different authorized signatory for such amendments.

21. **Assignment.** This Agreement may not be assigned without MHT's prior written approval.

22. **Assignment of Claims.** The Grantee may not make an assignment of claims arising under this Agreement without obtaining the prior written consent of MHT or NPS. In the event such an assignment is



authorized, the Grantee, not the assignee, shall prepare and submit invoices. Where such an assignment has been made, the original invoice is to be mailed directly to the assignee.

23. **Severability.** The invalidity of any section, subsection, clause, or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions hereof.

24. **Pre-Existing Regulations.** In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the Effective Date of this Agreement are applicable to this Agreement.

25. **Governing Law.** This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Maryland (the “State”).

26. **Costs.** The Grantee shall bear all costs incident to the Grant, including without limitation Grantee's reasonable attorneys' fees, if any.

27. **Acceptance.** Grantee's acceptance of this Agreement shall constitute Grantee's unconditional agreement to comply with the terms and provisions herein, and shall be indicated by signing this Agreement in the place provided below and returning it to MHT to the attention of the Project Monitor.

28. **No Warranty or Representation.** Neither the approval by MHT, the State, or NPS, nor any subsequent inspections or approvals of the Project shall constitute a warranty or representation by them or any of their agents, representatives, or designees, as to the technical sufficiency or adequacy or safety of the improvements being constructed or any of their components or parts. All acts, including any failure to act, relating to the Project, by any agent representative or designee of MHT, the State, or NPS are performed solely for their benefit to assure the proper expenditure of the Grant, and are not for the benefit of any other person.

29. **Voluntary Termination.** MHT and Grantee shall have the right to terminate this Agreement for any reason upon thirty (30) days prior written notice to the other party. In the event of voluntary termination by MHT, Grantee's authority to request disbursements of the Grant shall cease, and Grantee shall have no right, title or interest in or to any of the remaining undisbursed Grant funds. At the time of termination, Grantee shall return to MHT any funds disbursed to Grantee but not yet expended by Grantee as authorized by this Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date.

**WITNESS**

**MAYOR AND CITY COUNCIL OF  
CUMBERLAND**

\_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Approved for form and legal sufficiency

\_\_\_\_\_

**WITNESS**

**MARYLAND HISTORICAL TRUST**

\_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Elizabeth Hughes  
Director, Maryland Historical Trust and  
State Historic Preservation Officer

\_\_\_\_\_  
Date executed by MHT: Effective Date

Approved for form and legal sufficiency  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Assistant Attorney General

Exhibits

Exhibit A – Project Scope of Work and Requirements

Exhibit B - Assurance of Compliance

Exhibit C - State Requirements

**EXHIBIT A**

**PROJECT SCOPE OF WORK AND REQUIREMENTS**

**TITLE:** Cumberland Historic Preservation Plan

**GRANT NUMBER:** P21AF11023-00

**CFDA NUMBER:** 15.904

**AREA AFFECTED BY PROJECT:** Cumberland, MD

**TOTAL PROJECT COST:** \$35,000.00

**FEDERAL SHARE:** \$25,000.00

**NONFEDERAL SHARE**

**/GRANTEE’S CONTRIBUTION:** \$10,000.00

**CONGRESSIONAL DISTRICT:** 6

**TYPE:** NEW [ X ] REVISION [ ]

**1. GRANTEE:**

Name: Mayor and City Council of Cumberland  
 Address: 57 North Liberty Street  
 Cumberland, MD 21502  
 Project Administrator: Ms. Kathy McKenney  
 Contact Email: [kathy.mckenney@cumberlandmd.gov](mailto:kathy.mckenney@cumberlandmd.gov)  
 Contact Phone: (301) 759-6431

**2. PROJECT BUDGET:**

<b>Project Budget</b>			
Expense Item (Description)	Grant Funds	Grantee Cash Match	Total Project Cost
Project Consultant	\$25,000.00	\$10,000.00	\$35,000.00
			\$0.00
<b>TOTALS</b>	<b>\$25,000.00</b>	<b>\$10,000.00</b>	<b>\$35,000.00</b>

**3. GRANT PURPOSE/SCOPE OF WORK:**

Grant will support the development and production of a Cumberland Historic Preservation Plan, which will identify and articulate community preservation goals, provide information about the local preservation ordinance, educate the public about the community’s history and heritage, and set priorities and metrics for the plan’s implementation and evaluation.

**4. SPECIAL CONDITIONS**

a. Grantee shall coordinate procurement of the Contractor with MHT, including, but not limited to, providing for review and approval (1) a draft Request for Proposals (RFP) to procure the Contractor prior to finalization and publication of the RFP and (2) qualifications of the preferred Contractor candidate prior to final selection.

**5. PROJECT TIMETABLE:**

Expenses for this project may be incurred from 6/1/2021 to 6/30/2022.

6. No program income will be generated.

**7. PROGRESS/FINAL REPORTS:**

a. Grantee shall electronically submit reports and materials on or before the following dates:

Schedule Date	Type
9/30/2021	Progress Report
12/31/2021	Progress Report
3/31/2022	Progress Report
5/15/2022	Last Date for Draft Submission
7/29/2022	Final Report

b. Progress Reports may include Disbursement Requests for costs incurred.

c. The Final Report will include the following:

- i. Completed Final Report form;
- ii. Completed final Disbursement Request form and supporting documentation; and
- iii. Final Project Deliverables, as described below.

**8. PROJECT DELIVERABLES:**

a. One hard copy of the Cumberland Historic Preservation Plan and one PDF copy uploaded to MHT’s online grants system as part of the final project report.

9. **ENVIRONMENTAL CERTIFICATION:**

Based upon a review of the Grant Application, proposal narrative, and the supporting documentation contained in the Grant Application, it has been determined that the proposed Project, Cumberland Historic Preservation Plan meets the criteria for categorical exclusion under 516 DM 6.

Applicable Categorical Exclusion A.4.a(10)

10. **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered, and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual June 2007 Release, available online at [http://www.nps.gov/preservation-grants/HPF\\_Manual.pdf](http://www.nps.gov/preservation-grants/HPF_Manual.pdf), and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation." All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B. 34.e. of NPS-49. These costs have been assessed by knowledgeable MHT staff and found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

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Elizabeth Hughes, Director, Maryland Historical Trust/  
State Historic Preservation Officer

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Date

**EXHIBIT B**

**ASSURANCE OF COMPLIANCE  
WITH EEO, CIVIL RIGHTS, AND DRUG AND ALCOHOL-FREE  
WORKPLACE REQUIREMENTS**

Mayor and City Council of Cumberland (hereinafter called "**Grantee**"), having its principal address at 57 N. Liberty Street, Cumberland MD 21502,

HEREBY AGREES THAT IT WILL COMPLY WITH:

A. Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended (78 Stat. 252; 42 U.S.C. §§2000d et seq.); Title V, Section 504 of the Rehabilitation Act of 1973, as amended (87 Stat. 394; 29 U.S.C. §794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §§6101 et seq.) (collectively, the "**Acts**"), to the end that, in accordance with the Acts, no person in the United States shall, on the grounds of race, color, sexual orientation, national origin, disabilities, religion, age or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Section 504 of the Rehabilitation Act of 1973, as amended, requires that no qualified disabled individual is solely, by reason of disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. Guidelines for the implementation of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended shall be carried out in accordance with relevant Department of the Interior regulations published in 43 CFR 17 and the instructions specified in Chapter 10 of the Historic Preservation Fund Grants Manual.

B. Title VII of the Civil Rights Act of 1964, as amended, to the end that, in accordance with Title VII of that Act, it shall be an unlawful employment practice for an employer:

1. to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, sexual orientation, national origin, disabilities, religion, age or sex;  
or

2. to limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, sexual orientation, national origin, disabilities, religion, age or sex;

C. Title VIII of the Civil Rights Act of 1968, as amended, to the end that, it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States;

D. State of Maryland Governor's Code of Fair Employment Practices, as amended.

E. Title 20 of the State Government Article of the Annotated Code of Maryland, as amended, which establishes the Commission on Civil Rights and prohibits discrimination in public accommodations, employment and residential housing practices;

F. State of Maryland Executive Order 01.01.1989.18 relating to drug-free and alcohol-free workplaces for non-State entities, promulgated November 28, 1989;

G. The State Policy on Equal Opportunity in receiving employment (Md. Code Ann., State Gov't Article § 20-602 (2014)), to the end that MHT shall not knowingly approve grants of financial or technical assistance to recipients who are engaged in discriminatory employment practices;

H. To the extent applicable, with local, State and federal laws regarding accessibility, including the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.), and Section 502 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 792), (87 Stat. 394; 29 U.S.C. §794), which require that buildings designed, constructed, or altered with Federal assistance be made accessible to the physically disabled. These Acts also require that public conveyances procured with Federal assistance be readily accessible to, and usable by, physically disabled persons. Minimum accessibility standards for facilities are contained in "Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Disabled" published by the American National Standards Institute (41 CFR 101-19.6, Appendix A). As well, grantees may follow the standards contained in the Americans with Disabilities Act Accessibility Guidelines (28 CFR 36, Appendix A). These provisions are applicable to building or facilities owned or occupied by grantees/subgrantees which are intended to be accessible to the general public and which receive NMHA grant assistance (Refer to 36 CFR 1150, 1190, and the Historic Preservation Fund Grants Manual);

I. Federal Executive Order 11246 — Equal Employment Opportunity, which appear at 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p.339, unless otherwise noted;

J. With all other State and Federal laws and regulations prohibiting discrimination on the grounds of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or disability.

GRANTEE HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in consideration of and for the purpose of obtaining, and shall continue for the period of, federal financial or technical assistance extended after the date hereof to or on behalf of Grantee by MHT. Grantee recognizes and agrees that such federal financial or technical assistance will be extended in reliance on the representations and agreements made in this Assurance. This Assurance is binding on Grantee, its successors, transferees, and assignees. Grantee further warrants that the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of Grantee.

WITNESS:

GRANTEE: MAYOR AND CITY COUNCIL OF  
CUMBERLAND

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## **EXHIBIT C**

### **STATE REQUIREMENTS**

**1. NON-HIRING OF EMPLOYEES:**

No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Agreement, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.

**2. DELAYS; FORCE MAJEURE:**

The Grantee agrees to prosecute the work 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 work specified in this Agreement. Time extensions may be granted for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Grantee, 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 contractor 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 the Grantee or the subcontractors or suppliers.

**3. RESPONSIBILITY OF GRANTEE:**

A. The Grantee shall perform the services with that standard of care skill, and diligence normally provided by a grantee in the performance of services similar to the services hereunder

B. Notwithstanding any review, approval, acceptance or payment for the services by MHT or NPS, the Grantee shall be responsible for the professional and technical accuracy of its work, design, drawings, specifications and other materials furnished by the Grantee under this Agreement.

**4. CORPORATE REGISTRATION AND TAX PAYMENT CERTIFICATIONS:**

Grantees that are corporations shall be in good standing, registered to do business in Maryland, and shall have the legal capacity and all necessary legal authority to incur the obligations involved with the Grant provided under the Program. Each invoice submitted hereunder must indicate a Federal tax identification number or a Social Security Number.

**5. COMPLIANCE WITH LAWS:**

The Grantee hereby represents and warrants that 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 but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Agreement.

**6. BANKRUPTCY:**

Upon the filing for any bankruptcy proceeding by or against the Grantee, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Grantee must notify MHT immediately. Upon learning of the actions herein identified, MHT reserves the right at its sole discretion either to cancel the Agreement or to affirm the Agreement and hold the Grantee responsible for damages. The exercise of this right is in addition to any other rights MHT may have as provided in this Agreement or by law.

**7. RESPONSIBILITY FOR CLAIMS AND LIABILITY:**

- A. The Grantee shall indemnify and hold harmless the State and MHT, their officers, agents and employees, from all liability which may be incurred by reason of distribution or circulation, data, documents, or materials pertaining in any way to this Agreement by the Grantee, its agents or employees.
- B. Subject to paragraph (C) below, the Grantee releases the State and MHT from, agrees that they shall not have any liability for, and agrees to protect, indemnify, and save harmless them from and against any and all liabilities, suits, actions, claims, demands, losses, expenses, and costs of every kind and nature incurred by, or asserted or imposed against, them, as a result of or in connection with the Grantee's performance of the services under this Agreement. All money expended by the SHPO, the State and MHT as a result of such liabilities, suits, actions, claims, demands, losses, expenses, or costs, shall constitute an indebtedness of the Grantee.
- C. Any indemnification provided under this Agreement may be enforced only if permitted by law and only to the extent the Mayor and City Council of Cumberland appropriates funds for such indemnification, and is subject to the notice requirements and damages limitations stated in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, et seq. (2006 Repl. Vol.) (the "LGTCA"); Md. Code Ann. Art. 25A, Sec. 1A (2005 Repl. Vol.); and Md. Code Ann., Cts. & Jud. Proc. Sec. 5-509 (2006 Repl. Vol.), (together the "Local Government Indemnification Statutes"), all as amended from time to time.

**8. FINANCIAL DISCLOSURE:**

The Grantee shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires 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 of State funding, shall within 30 days of the time when the aggregate value of these 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.

**9. POLITICAL CONTRIBUTION DISCLOSURE:**

The Grantee shall comply with the provisions of Election Law Article, §§14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, or a political subdivision of the State, including its agencies, during a calendar year in which the person receives in the aggregate \$200,000 or more, shall file with the State Administration Board of Elections Laws 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 twenty-four (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 or before: (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. Additional information is available on the State Board of Elections website:

[http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

# Council Agenda Summary

Meeting Date: September 7, 2021

Key Staff Contact: Kathy McKenney

**Item Title:** Certified Local Government FFY21 Award Acceptance of Funding

**Summary of project/issue/purchase/contract, etc for Council:** The Maryland Historical Trust has fully funded the City of Cumberland's FFY21 Certified Local Government Subgrant application for \$25,000 for the purpose of the completion of a Preservation Plan. According to the National Alliance of Preservation Commissions, "Preservation planning is a proactive way to provide for the protection of a community's historic resources and character. A community that includes a preservation component as part of long-range planning recognizes the importance of local heritage and the built environment..."

A \$25,000 match has been included in the FY22 General Fund for the purpose of completing this project.

**Amount of Award:** \$25,000

**Budget number:** 001 080P 186

**Grant, bond, etc. reference:** Certified Local Government Subgrant

**File Attachments for Item:**

. Order 26,869 - approving the Evitts Creek Water Company's (ECWC) execution of a Public Access Program Cooperative Agreement with the PA Game Commission (PAC) providing terms by which ECWC land is made available to public use for hunting and, in exchange, the PAC patrols the land, provides law enforcement, and is granted certain right of entry and wildlife and habitat development rights

**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

ORDER NO. 26,869

DATE: September 7, 2021

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

THAT, the Mayor and City Council approve the Evitts Creek Water Company's (ECWC) execution of a Public Access Program Cooperative Agreement with the Pennsylvania Game Commission (PGC) providing terms by which certain land owned by the ECWC (District 4-05-2) is made available to public use for hunting and, in exchange, the PGC patrols the land, provides law enforcement, and is granted certain rights of entry and wildlife and habitat development rights.

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**Raymond M. Morriss, Mayor**



PENNSYLVANIA GAME COMMISSION

HUNTER ACCESS PROGRAM COOPERATIVE AGREEMENT

Form PGC-PAP 04-2007

<b>FARM GAME COOPERATOR</b> <input type="checkbox"/>	Project No. _____	Restrictions on Species Open To Public Hunting. If Yes, Detail in Item 1 Below.  YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	Owner _____
<b>SAFETY ZONE COOPERATOR</b> <input checked="" type="checkbox"/>	Farm No. _____		New Owner _____
<b>FOREST GAME COOPERATOR</b> <input type="checkbox"/>	Property No. _____		Tenant _____
	Acres <u>3000</u>		Previous Identifier # or Code _____
	District No. _____		

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between EVITIS CREEK WATER CO.

residing at 57 N. LIBERTY ST. CUMBERLAND MD. 21502

telephone # 301-759-6607 email \_\_\_\_\_, his, her or their heirs, executors, administrators and assigns, hereinafter called the Cooperator, and the COMMONWEALTH OF PENNSYLVANIA, by the PENNSYLVANIA GAME COMMISSION, hereinafter called the Commission;

WHEREAS, under provisions of 34 Pa. C.S. Sections 101-2965, the Commission is authorized to cooperate with land owners who desire to aid in the conservation of game and other wildlife including hunting and trapping.

NOW, THEREFORE, this Agreement witnesseth that the Cooperator in consideration of the conditions herein set forth and the mutual advantages derived therefrom, does hereby grant to the Commission for a period of 5 years (not less than five years) from the date hereof, all the hunting rights, in, to and upon all that certain tract of land situated at LAKE GORDON WOOD (if different than residence), in the Township of CUMBERLAND VALLEY County of BEDFORD Commonwealth of Pennsylvania, containing 3000 acres, more or less, and with an address listed on the attached form if different from the above listed residence address, and described as listed, or as revised in future addendums made a part hereof and approved under established commission guidelines.

IT IS MUTUALLY AGREED THAT:

- 1. Public Hunting.** Any part or parts of said land not set apart as Safety Zones shall remain open to hunting by the public in accordance with all established annual seasons and bag limits, and laws of the Commonwealth. This right subject to species hunting restrictions as requested by the Cooperator herein.  
RESTRICTIONS: Big Game \_\_\_\_\_ Small Game \_\_\_\_\_ Turkey \_\_\_\_\_ Trapping
- 2. Right of Entry.** The Commission may, with the consent and approval of the Cooperator, develop or enhance wildlife food and habitat conditions on the area, (provided such improvements shall not interfere with normal operations of the tract).
- 3. Protection.** The Commission shall furnish such protection as lies within its powers and abilities, to the lands, fences, livestock and other property of the Cooperator.
- 4. Food and Cover Seedlings.** If suitable planting sites are available, the Commission may furnish food and cover seedlings beneficial to wildlife as agency funding permits.
- 5. Woodland Border and Hedgerow Cuttings.** If the Cooperator is willing, the Commission may perform wildlife habitat enhancement projects, that may include cutting woodland borders and hedgerows to enhance food and cover for wildlife.
- 6. Game News.** The Commission may supply Cooperator with a subscription to the Game News as agency funding permits.
- 7. Access.** A Cooperator may reasonably limit the number of users on the property in addition to the type of vehicles (if any) permitted on the property. Access may be denied on an individual basis under such conditions or circumstances, which in the view of a reasonably prudent person, would result in undue likelihood of accident or damage to property. The cooperator agrees not to place or post any type of signage indicating "No Trespassing " or that hunting is prohibited other than restrictions listed in item number 1.
- 8. Identification.** The cooperator agrees to post appropriate signage, as determined by the Commission, on the property identifying such property is enrolled in the Game Commission Hunter Access Program with a Commission generated identifying number on such signage. The cooperator also agrees to allow the Commission to provide property location information on such mapping as the Commission develops in the future and makes available to the public. No detailed cooperator name or mailing address information will be provided on such mapping.
- 9. DONATION.** The Cooperator is donating the value of hunting access rights and the conservation of wildlife on their property to the Commission for the term of this agreement. The cooperator may further choose to enter into an agreement with third parties to provide wildlife management enhancements and benefits for the public good on this property, separate from or in conjunction with Commission activities listed above, to improve wildlife habitat conditions on the property. Therefore, the cooperator may be entitled to certain federal income tax deductions available under current or future Internal Revenue Service rules and regulations. The Commission agrees to provide documentation upon request of the cooperator that they are currently involved in its Hunter Access Program.

**Cancellation.** This agreement may be cancelled upon sixty (60) days written notice if the Cooperator becomes dissatisfied, or when in the judgment of the Commission, the use of the land is no longer needed or desired, or if the owner or owners desire to sell the property.

**Renewal.** It is further agreed that the Commission shall extend the period of this agreement indefinitely, on a year to year basis beyond the expiration date of this agreement, until either party shall give sixty (60) days previous notice in writing to the other of an intention to terminate the agreement.

IN WITNESS WHEREOF, the Cooperator and the Commission have caused this agreement to be duly executed.

COMMISSION WITNESS (TITLE):  
\_\_\_\_\_  
\_\_\_\_\_

COOPERATOR:  
\_\_\_\_\_  
\_\_\_\_\_

\* Attach Sheet Listing Additional Required Signatories

LOCATION INFORMATION: PGC Use Only

LATITUDE \_\_\_\_\_

LONGITUDE \_\_\_\_\_

  
\_\_\_\_\_  
Director, Bureau of Wildlife Habitat Management  
Pennsylvania Game Commission

COOPERATOR COPY

**File Attachments for Item:**

. Order 26,870 - authorizing execution of a Donation Agreement with Paula J. Barney and Donald T. Barney regarding the donation of 471 Goethe Street to the City



**- Order -**  
*of the*  
**Mayor and City Council of Cumberland**  
MARYLAND

ORDER NO. 26,870

DATE: September 7, 2021

**ORDERED, By the Mayor and City Council of Cumberland, Maryland**

**THAT**, the Mayor be and is hereby authorized to execute a Donation Agreement by and between the Mayor and City Council of Cumberland and Paula J. Barney and Donald T. Barney regarding the donation of 471 Goethe Street to the City.

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**Raymond M. Morriss, Mayor**

## DONATION AGREEMENT

**THIS DONATION AGREEMENT** (“Agreement”), is made by and between **Paula J. Barney and Donald T. Barney** (the "Barneys") and the **Mayor and City Council of Cumberland** (the “City”), a Maryland municipal corporation, and is effective upon the date of its completed execution, which date is hereinafter referred to as the “Effective Date.”.

### RECITALS

**WHEREAS**, the Barneys own the parcel of real property together with the improvements thereon, if any, described as follows and hereinafter collectively referred to as the “Property”:

Tax Id No. 23-011867 (471 Goethe Street, Cumberland, MD 21502); described in the deed recorded in the Land Records of Allegany County, Maryland in Book 595, Page 900; and

**WHEREAS**, the Barneys have offered to donate the Property to the City and the City has agreed to accept that donation subject to the terms and conditions of this Agreement; and

**WHEREAS**, the parties deem the entry into this Agreement to be in their respective best interests.

### WITNESSETH:

**NOW THEREFORE**, in consideration of the sum of \$1.00, in hand paid, the receipt of which is hereby acknowledged, and in consideration of these premises and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The Recitals set forth above are not merely prefatory. They are incorporated by reference in this Agreement as though they were set forth in full herein.

2. **Donation.** Subject to the terms and conditions of this Agreement, the Barneys agree to donate the Property together with the buildings and improvements thereon, if any, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining to the City, and the City agrees to accept that donation. The closing for the donation shall be held no later than sixty (60) days from the Effective Date unless said time frame is extended by written agreement of the parties.

3. **Estate/Condition.** The Property shall be conveyed to the City in fee simple and in “AS IS” condition. The Barneys shall convey the Property to the City by

means of a deed containing covenants of special warranty and further assurances. Said deed shall be delivered to the City at closing.

4. **Contingencies.** Closing and the City's acceptance of the deed for the Property shall be subject to the following contingencies:

4.1. **Title.** Title to the Property shall be good and merchantable, free of liens and encumbrances except use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property are located and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the Property.

5. **Appraisal.** The Barneys have the right to have the Property appraised for purposes of claiming a tax deduction for the noncash charitable contribution of the Property to the City. The appraisal(s) shall be performed prior to closing or the date of the City's acceptance of the deed for the Property. Upon delivery of the deed for the Property and the City's acceptance of the same, the Barneys shall provide the City with the appropriate tax documents relative to their eligibility to claim the aforesaid tax deduction, including, but not limited to, IRS Form 8283 and the acknowledgement required under 21 U.S.C. § 170(f)(8)<sup>1</sup>. Upon the City's acceptance of the deed and its receipt of the appraisal(s) and the appropriate tax documentation, the City Administrator shall execute the tax documentation on behalf of the City, it being understood and agreed that he is specifically empowered to do so under the terms of this Agreement. It is understood and agreed that the City shall not be required to execute any such documents attesting to the value of the Property in the event such valuation is not supported by an appraisal or appraisals performed by a licensed real estate appraiser. Further, the Barneys shall be solely responsible for the preparation and processing of the aforesaid tax documentation as well as its submission to the IRS, and the City shall have no liability relative thereto, even if it provides assistance to the Barneys with respect to such matters.

6. **Risk of Loss.** The Property shall be held at the risk of the Barneys until legal title has passed to the City.

7. **Possession.** The Barneys agree to give possession and occupancy of the Property to the City upon the completion of closing.

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<sup>1</sup> Per 21 U.S.C. § 170(f)(8)(B), the contents of the acknowledgment should include the following information:

- (i) The amount of cash and a description (but not value) of any property other than cash contributed.
- (ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).
- (iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

8. **Timeliness.** Time is of the essence with respect to the provisions of this Agreement.

9. **Representations and Warranties.** As of the date of the closing contemplated hereby and as to the period of time during which the Barneys held title to the Property, the Barneys warrant that they have, by acts or omission or commission, not subjected the Property (including land, surface water, ground water, and improvements) to contamination, including (i) any hazardous waste, underground storage tanks, petroleum, regulated substances or used oil as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.) as amended, or by any regulations promulgated thereunder; (ii) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.) as amended, or by any regulations promulgated thereunder (including, but not limited to, asbestos and radon); (iii) any oil, petroleum products and their byproducts as defined by the Maryland Natural Resources Code, § 8-411(a)(3) as amended, or by any regulations promulgated thereunder; (iv) any hazardous substance as defined by the Maryland Health Environmental Code, Title 7, Subtitle 2, as amended or by any regulations promulgated thereunder; (v) any substance the presence of which on, in or under the Property, is prohibited by any law similar to those set forth above; and (vi) any other substance which by law, regulation, or ordinance requires special handling in its collection, storage, treatment or disposal. Notwithstanding the foregoing, if, subsequent to the date of the execution of this Agreement and prior to closing, the Barneys disclose an environmental condition on the Property to the City, the City shall have the option to take title to the Property, waiving and releasing its rights with respect to the aforesaid representations and warranties as to the matters so disclosed, or it may decline to take title to the Property without incurring any liability or obligations as a result of said declination.

10. **Transfer Charges/Recording Fees.** The transfer of the Property to the City is exempt from recordation and transfer taxes under Md. Tax Property Code Ann. § 12-108 (A)(1) and 13-207(a)(1). The City shall pay the court fee for the recordation of the deed.

11. **Real Estate Taxes.** The City will waive all City real estate taxes presently due on the Property. It will secure a waiver of the County real estate taxes due or it will pay them.

12. **Breach of Agreement and Default.** The City and the Barneys are required and agree to make full settlement in accordance with the terms of this Agreement and acknowledge that failure to do so constitutes a breach hereof. If the City fails to make full settlement or is in default due to its failure to comply with the terms, covenants and conditions of this Agreement, the Barneys may pursue any legal or equitable rights which may be available to them. If the Barneys fail to make full settlement or are in default due to its failure to comply with the terms, covenants and conditions of this Agreement, the City is entitled to pursue such rights and remedies as

may be available, in law or in equity, including, without limitation, an action for specific performance of this Agreement.

**13. Assignability.** This Agreement may not be assigned except by written agreement of the parties.

**14. Captions.** The marginal captions of this Agreement are for convenience and in no way define or limit the intents, rights or obligations of the parties hereunder.

**15. Notices.** Any notice, request, demand, approval or consent given or required to be given under this Agreement shall, except as otherwise expressly provided herein, be in writing and shall be deemed to have been given when mailed by United States certified mail, postage prepaid, return receipt requested at the address stated below.

To the Barneys:

Donald and Paula Barney  
HC 78 Box 102  
Augusta, WV 26704-9618

To the City:

City Administrator  
City of Cumberland  
57 N. Liberty Street  
Cumberland, MD 21502

with a copy to:

Michael Scott Cohen, Esquire  
213 Washington Street  
Cumberland, Maryland 21502

**16. Entire Agreement.** This Agreement contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained. The parties to this Agreement mutually agree that it is binding upon them, their heirs, executors, administrators, personal representatives, successors and assigns.

**17. Invalidity.** If any provision or part of any provision contained in this Agreement shall be found for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions or the remaining part of any effective provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision or part thereof had never been contained herein, but only to the extent of its invalidity, illegality, or unenforceability.

18. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Maryland. It shall be enforceable with an action commenced in the Circuit Court for Allegany County, Maryland, and the parties hereto agree to be subject to the jurisdiction of such Court and further waive any claim that any action or proceeding arising out of or relating to this Agreement and commenced in such Court is commenced in an inconvenient forum or one that lacks proper venue.

19. **Waiver of Jury Trial.** THE BARNEYS AND THE CITY EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH EITHER OR BOTH OF THEM MAY BE PARTIES, ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS AGREEMENT. IT IS AGREED THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE BARNEYS AND THE CITY, AND EACH OF THEM REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUA(S) TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

20. **Gender/Tense/Conjugation.** The use of any gender, tense, or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.

21. **Modification.** No modification or waiver by the parties of any of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement.

22. **Joint Drafting.** The parties hereto agree that this Agreement reflects the joint drafting efforts of each party, and any ambiguities shall not be construed against either party.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

24. **Signing by Facsimile or Other Electronic Means.** Each of the parties hereto expressly authorizes and agrees to sign facsimile and/or other electronically transmitted copies or counterparts of this Agreement. Said facsimile and/or other electronically transmitted signed copies or counterparts shall have the same binding effect as would a signed original Agreement or counterpart once delivered to the other party.

IN WITNESS WHEREOF, the parties have duly executed this Donation Agreement as of the dates set forth below with the specific intention that it constitute an instrument under seal.

**WITNESS/ATTEST:**

  
\_\_\_\_\_

 (SEAL)  
Paula J. Barney

8/23/2021  
Date

  
\_\_\_\_\_

 (SEAL)  
Donald T. Barney

8/23/2021  
date

**MAYOR AND CITY COUNCIL  
CUMBERLAND**

\_\_\_\_\_  
Marjorie A. Woodring,  
City Clerk

By: \_\_\_\_\_ (SEAL)  
Raymond M. Morriss, Mayor

\_\_\_\_\_  
date