



Mayor and City Council of Cumberland

Mayor Raymond M. Morriss
Councilman Richard J. "Rock" Cioni
Councilman Eugene T. Frazier
Councilman Joseph P. George
Councilwoman Laurie P. Marchini

City Administrator Jeffrey F. Silka
City Solicitor Michael S. Cohen
City Clerk Marjorie A. Woodring

AGENDA

M&CC Regular Meeting
City Hall

DATE: March 01, 2022

OPEN SESSION

Pledge of Allegiance

Roll Call

Statement of Closed Meeting

1. Summary statement of closed meeting held March 1, 2022

Director's Reports

(A) Administrative Services

1. Administrative Services monthly report for December, 2021

Approval of Minutes

1. Approval of the Closed Session Minutes of October 19, 2021, and the Work Session Minutes of November 2, 2021

Unfinished Business

(A) Ordinances

1. Ordinance 3908 (*2nd and 3rd reading*) - accepting the bid from EZ Out, Inc. for the purchase of surplus properties at 32 Laings Avenue, 105-107 Fifth Street, and 305-307 Fifth Street for the total amount of \$600 and authorizing execution of a deed to convey the properties to EZ Out, Inc.
2. Ordinance 3909 (*2nd and 3rd readings*) - repealing City Code Sections 2-171 to 2-175 pertaining to the City's purchasing policy and reenacting them with amendments, and enacting Section 2-177 pertaining to Change Orders

New Business

(A) Orders (Consent Agenda)

- [1.](#) Order 26,966 - authorizing the Chief of Police to enter into an Updated Memorandum of Understanding (MOU) with the Family Crisis Resource Center (FCRC) to support police overtime in the amount not-to-exceed \$19,583 for the provision fo security at FCRC during supervised visitation and exchange
- [2.](#) Order 26,967 - accepting the estimate from Ganoë Communications for equipment and installation costs to upfit four (4) 2022 Ford Police Interceptor vehicles at a cost of \$25,301.72
- [3.](#) Order 26,968 - lifting the provisions of Section 11-113 of the City Code to allow open containers of alcohol within a defined area of the downtown mall for the Hooley Pub Crawl for the period of March 12, 2022 beginning at 12:00 p.m. and ending at 2:00 a.m. on March 13, 2020; notwithstanding, that open glass containers shall not be permitted
- [4.](#) Order 26,969 - authorizing execution of an Agreement for Legal Services with Kaplan Kirsch & Rockwell LLP for the provision of advice and counsel related to issues with CSX Transportation related to the City's sewer easement over property owned and used by CSX, to be effective retroactive to November 1, 2021
- [5.](#) Order 26,970 - authorizing the waiver of permit fees as requested by Habitat for Humanity for a new residential build at 22 Maple Street, and Cumberland Housing Group for the renovation of JFK Apartments at 135 N. Mechanic Street
- [6.](#) Order 26,971 - authorizing execution of a Right-of-Entry Agreement, effective March 1, 2022, with Cumberland Senior Partners LLC as owners of real property described in a deed from Countryhouse LLC to Owner, dated December 1, 2018 (Book 2346, Page 461 of Allegany Co. Land Records), to facilitate the rehabilitation of the Baltimore Street Bridge
- [7.](#) Order 26,972 - authorizing execution of a Donation Agreement with Rose M. Klink for the donation of property at 409 S. Central Avenue (Tax ID 22-015141) to the City, and authorizing the City's acceptance of the deed and execution of documentation to effect the transfer
- [8.](#) Order 26,973 - declaring a 1992 Sutphen 90-ft. Aerial Tower Pumper Truck (VIN # 1S9A3KFE5N1003933) and a 2004 Chevy Tahoe (VIN #1GNEK13V04J268695) as surplus and authorizing them for sale or trade-in

Public Comments

All public comments are limited to 5 minutes per person

Adjournment

File Attachments for Item:

. Administrative Services monthly report for December, 2021

Administrative Services Monthly Report for December, 2021

March 1, 2022

Honorable Mayor and City Council
City Hall
Cumberland, Maryland 21502

Dear Mayor and City Council Members:

The following report is submitted by the Department of Administrative Services for the month of December, 2021.

Parks and Recreation

December 2021

Field Usage - Regular Season Sports Leagues have concluded

Travel youth league football teams' practice on Saturday and Sunday at Mason Sports Complex

Letters from Santa – Letter to Santa were mailed by area children using the mailbox located at the base of the Christmas tree on the Downtown Mall. 62 of the letters included return addresses. A "Letter from Santa" and his staff of elves was mailed to these children.

News Year's Eve Celebration - Organized Fireworks for the News Years Eve Downtown celebrations.

Santa at The Book Center – Provided 150 bags of candy to Santa for distribution to children visiting Santa on Saturday afternoons at the Book Center

Meetings: Skateboard Park Committee meetings (2)
Recreation Advisory Board Meeting 12/6/21
Allegany County Land Preservation, Parks & Recreation plan meeting
Zoom meeting – Maryland State youth camp update meeting
New Year's Eve planning meeting

Other items: Request for Quotes for 2022 July 4th Fireworks
Began work on upcoming 2022 season
Seasonal Applications for Pool and Day Camp summer employees available to prospective returning employees from 2022

Upcoming: Bower Trust annual letter for funding
Continue work on Five Year P&R facility plan for Constitution Park
Continue to receive seasonal applications for Park Pool employees, Constitution Park

Day Camp Counselors and Park Watchman/Security
 Work related to 2023 Annual Budget
 Student Intern from Frostburg State University to begin work

Community Development Report

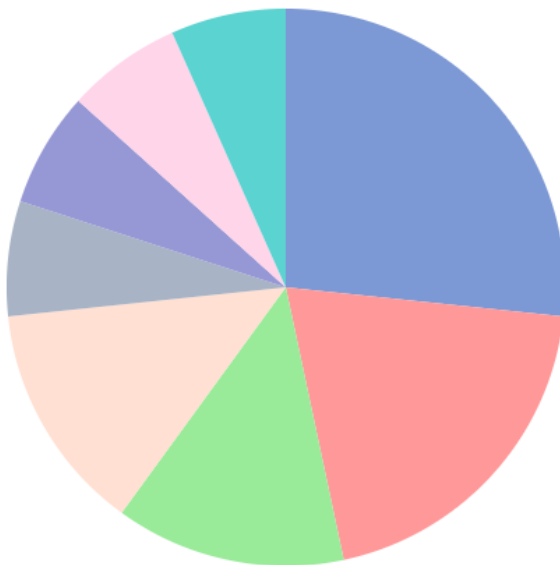
December 2021

CODE COMPLIANCE

Code Enforcement Activity:

30 new cases received - 9 of those are still open
 15 violations were found.
 53 cases have been resolved.

Open Date From: 12/01/2021
 Open Date To: 12/31/2021



Violations by Violation Type		
	Dwellings, yards and lots to be kept clean	4 26.7%
	Licensing of rental dwelling units	3 20.0%
	Registration of agents	2 13.3%
	Good repair and safe condition	2 13.3%
	Abatement by city generally	1 6.7%
	Cutting of weeds	1 6.7%
	Duties of occupant	1 6.7%
	Order to vacate	1 6.7%

PERMITS & RENTAL LICENSES

ISSUED - Permits, Reviews, and Licenses

38 Permits/Reviews issued

Building

Residential..... 3
 Commercial..... 2

Demolition

Residential 1
 Commercial 0

Electrical

Residential 16
 Commercial 0

Miscellaneous

Residential.....2
 Commercial.....0

Occupancy	Plumbing	Signage	Use Public ROW
Residential..... 1	Residential 2	Commercial 2	Total issued..... 5
Commercial..... 2	Commercial 0		
Utility	Rental Licenses	Rental Inspections.	Certificates of Appropriateness
Residential..... 2	Issued 46	Conducted: 25	Issued..... 0
Commercial..... 0		Passed..... 24	Change/Amendmnt.
		Failed..... 1	Issued..... 0
Demolitions	Plans, Reviews, Amendments and Appeals		
Residential..... 0	(ZA, SPR, SR, ZMA, ZTA, SRA) 1		
Commercial..... 0			

Revenue from 'Issued' Permits/Reviews

Building Permits.....	\$3,161.00
Miscellaneous Permits.....	15.00
Occupancy Permits	75.00
Sign Permits	55.00
Utility Permits	6,740.00
Plan Reviews, Amendments & Appeals	500.00
Zoning Classification Determination. (info request).....	0.00
Municipal Infractions (Citation).....	0.00
Certificates of Appropriateness	0.00
Rental Licenses (new & renewals)	5,975.00
Paid Rental Inspection Requests	<u>0.00</u>
TOTAL	\$16,521.00
 Demolition Permit – Bonds	 \$0.00

COMMUNITY DEVELOPMENT PROGRAMS

December 2021

Community Development Block Grants: December Monthly Report -CDBG

October and November draws complete

CAPER report was approved

2019 Regular CDBG-\$5,659.63 98% expended, funds re-allocated with Amendment pending

2020 Regular CDBG-\$449,473.85 remaining, 44% expended, Balt St Redesign being held (\$402,700)

2021 Regular CDBG-\$793,798.99 remaining, 2% expended

2020 CDBG Cares Act Funds-\$464,696.58 remaining, 22% expended

Historic Planning/Preservation

December 2021

- Historic Planner/Preservation Coordinator retired effective Dec. 1, 2021, City posted opening
- Search continues for HPC members to fill vacant terms
- Prepared and distributed the 12/08/21 HPC meeting agenda and packets
 - Assisted with meeting.
- Completed Certified Local Government grant report for FFY20
- Continue to work with 5 CPP District façade grant awardees on projects (1 received)
- Work with staff to assist in completion of Sustainable Communities 5 Year Renewal Plan

Comptroller's Office

December 2021

Cash Flow:

Attached for your review is a Cash Flow Summary for the month of December 2021.

On December 1, 2021, the City had a cash balance of \$24.7 million. Disbursements exceeded receipts by \$3.7 million resulting in a cash balance of \$21 million at December 31, 2021.

As of December 31, 2021, the significant tax receivable balances were as reflected in the table below.

Taxes receivable (General Fund)						\$ 2,594,633
	Beg Balance	New Billings	Adjustments/		Bad Debt	Ending Balance
			Abatements	Collections		
FY 2022	\$ 2,742,129	\$ 27,144	\$ (4,588)	\$ 1,252,135	\$ -	\$ 1,512,550
FY 2021	569,576	-	(81)	40,122	-	529,373
FY 2020	341,019	-	-	17,712	-	323,307
FY 2019	66,159	-	-	1,161	-	64,998
FY 2018	57,580	-	-	845	-	56,735
FY 2017	26,989	-	-	467	-	26,522
FY 2016	24,668	-	-	459	-	24,209
FY 2015	22,710	-	-	452	-	22,258
FY 2014	13,669	-	-	-	-	13,669
FY 2013	9,339	-	-	-	-	9,339
FY 2012	5,574	-	-	-	-	5,574
FY 2011	3,109	-	-	-	-	3,109
Prior FY's	2,990	-	-	-	-	2,990
	<u>\$ 3,885,511</u>	<u>\$ 27,144</u>	<u>\$ (4,669)</u>	<u>\$ 1,313,353</u>	<u>\$ -</u>	<u>\$ 2,594,633</u>

The current year tax receivable balance is comprised of the following:

Real property (non-owner occupied)	\$790,049
Non-Corp Personal Property	11,583
Corporate Personal Property	232,870
Real Property (semiannual payments)	478,048
Real Property (Half Year)	0
	<u>\$1,512,550</u>

The City's liquidity position continues to be strong as illustrated in the following cash and investments table. Restricted cash and investments are comprised primarily of invested American Rescue Plan Act (ARPA) funds received in advance and bond proceeds restricted to associated capital projects and expenditures.

Cash and Investment Summary

December 31, 2021

	Cash	Investments
Beginning Balance	\$ 24,618,882	\$ 12,876,333
Add:		
Cash Receipts	8,525,337	407
Investment Transfer	-	-
Less:		
Disbursements	12,193,828	-
Investment Transfer	-	-
Ending Balance	\$ 20,950,391	\$ 12,876,740
Restricted	\$ 10,416,591	\$ 6,988

The table below illustrates cash restrictions and restricted investments associated with specific expenditures and/or capital projects.

Restricted Cash

	12/1/2021	Increase	Utilization	12/31/2021
Police Seizures	\$ 110,628	\$ -	\$ -	\$ 110,628
Bowers Trust	53,580	-	-	53,580
Street Improvement	-	-	-	-
GOB 21	2,452,740	-	-	2,452,740
ARPA Funds	7,743,530	-	-	7,743,530
Demolition & Fiscal Agent Bonds	56,113	-	-	56,113
	\$ 10,416,591	\$ -	\$ -	\$ 10,416,591

Restricted Investments

	12/1/2021	Increase	Utilization	12/31/2021
DDC	\$ 6,988	\$ -	\$ -	\$ 6,988

The DDC restricted investment was funded through donations and is restricted for the purpose of maintenance of the Wes Han Fountain in the Downtown Mall.

GOB 21 is the FY21 general obligation bond issuance restricted for scheduled capital projects, equipment and closing costs.

Capital Projects and Associated Debt:

The tables below illustrate undrawn Maryland CDA bond proceeds and the unused general obligation bond proceeds (GOB21) as well as the accumulated debt draws and grants received associated with the Combined Sewer Overflow (CSO) projects.

Available Bond Proceeds

	12/1/2021	Issue	Utilization	12/31/2021
CDA 2019	\$ 2,225,349	\$ -	\$ 4,344	\$ 2,221,005
CDA 2021	-	7,118,653	-	7,118,653
GOB 21	2,777,521	-	324,782	2,452,739
	\$ 5,002,870	\$ 7,118,653	\$ 329,127	\$ 11,792,397

CSO Projects Debt Draws

	12/1/2021	Issue	Utilization	12/31/2021
Evitts Creek Debt	\$ 143,260	\$ -	\$ -	\$ 143,260
Evitts Creek Grant	5,418,560	-	-	5,418,560
78" Pipeline Debt	6,075,000	-	-	6,075,000
78" Pipeline Grant	46,338,080	-	-	46,338,080
	\$ 57,974,900	\$ -	\$ -	\$ 57,974,900

CDA 2019 utilization is \$4K toward the Baltimore Street access project engineering costs. GOB21 utilization of \$325K includes \$3K toward the Baltimore Street Bridge design, \$297K toward the Industrial Boulevard bridge waterline replacement, and \$25K toward flood control concrete repairs.

The following three projects are major upgrades to the combined sewer collection system. Evitts Creek Phase 3 is in the engineering phase with the majority of the necessary funding in place. This project is funded with \$5.4 million in grants and \$0.2 million in loan and is on hold pending site access being granted by CSX. Evitts Creek Phase 4 is in the planning phase and funding will be sought from Maryland Department of the Environment (MDE) during FY 22 to begin the engineering phase. Phase 4 project cost is estimated at \$8 million. The 78" pipeline project is budgeted to begin construction during FY22, but is delayed pending Army Corp of Engineers approval and private property easement or acquisition. The total estimated project cost is \$52.4 million and is funded with \$46.3 million in grants and \$6.1 million in loan with \$1.5 million of the loan amount being forgivable.

COVID-19:

Available Funding (as of December 31st, 2021)

The City is receiving \$19,595,850 from the American Rescue Plan Act (ARPA). Funding is distributed 50% in calendar year 2021 and the other 50% one (1) year after. On June 1, 2021, the first 50% was received in the amount of \$9,797,925. The U.S. Treasury issued guidance providing greater details on the eligible uses and priority of these funds. These are:

- Support public health expenditures
- Address negative economic impacts caused by the public health emergency
- Replace lost public sector revenue
- Provide premium pay for essential workers
- Invest in water, sewer, and broadband infrastructure

Funds available for use:

Purpose	Awarded	Allocation		
		Budgeted	Utilized	Remaining
American Rescue Plan Act (ARPA)	\$19,595,850			
Respond to the health emergency				
Community Programs				
DDC Assistance to Small Businesses		\$ 183,500	\$ 700	\$ 182,800
Promoting the Community		\$ 33,563	\$ -	\$ 33,563
Amphitheatre and Pavilion 1&2		\$ 174,350	\$ -	\$ 174,350
Pool Area and Splash Pad		\$ 71,250	\$ -	\$ 71,250
PPE				
General		\$ 55,000	\$ 16,890	\$ 38,110
Facilities and Equipment		\$ 11,000	\$ 1,320	\$ 9,680
Prisoner Processing Improvements		\$ 176,200	\$ -	\$ 176,200
HVAC improvement at City Hall & Public Safety Buildings		\$ 1,300,000	\$ -	\$ 1,300,000
Premium Pay		\$ 833,952	\$ 833,952	\$ 0
Revenue Loss		\$ 6,537,558	\$4,149,913	\$ 2,387,645
Infrastructure Investments				
Water				
Sewer				
Broadband				
Unallocated		\$ 10,219,476	\$ -	\$10,219,476
Total:	\$19,595,850	\$ 19,595,850	\$5,002,776	\$14,593,074

General Fund Quarterly Budget Review:

The table below illustrates the differences between the Adopted FY22 budget and the unofficial revised budget with an explanation for the most significant variances. The revised FY22 General Fund budget estimates indicate a substantial increase in unassigned fund balance is expected from the original budget of \$1,042 to \$3,026,340.

City of Cumberland
FY 2022 Adopted vs Revised Comparison

	Adopted Budget	Revised Budget	Change Fav (Unfav)
Revenues			
Taxes	\$ 12,611,449	\$ 12,766,337	154,888
Licenses & Permits	102,700	102,700	-
Intergovernmental	3,625,797	6,890,950	3,265,153
Charges for Services	1,624,700	1,700,700	76,000
Fines, Forfeitures & Interest	40,400	25,900	(14,500)
Miscellaneous	1,254,100	1,240,100	(14,000)
Financing Proceeds	4,718,304	4,813,592	95,288
Interfund Transfers	2,546,849	2,496,686	(50,163)
Total Revenue and other financing sources	26,524,299	30,036,965	3,512,666
Expenditures			
General Government	1,776,048	1,915,930	(139,882)
Public Safety	13,678,259	13,965,664	(287,405)
Public Works	2,737,782	2,650,330	87,452
Recreation	878,527	903,429	(24,902)
Community Dev & Housing	1,373,059	1,415,093	(42,034)
Debt Service	3,179,707	3,281,972	(102,265)
Operating Transfers	4,498,922	4,477,254	21,668
Payment to Refunded Bond Escrow Agent	-	-	-
Total Expenditures and other financing uses	28,122,304	28,609,672	(487,368)
Surplus (Deficit)	\$ (1,598,005)	\$ 1,427,293	\$ 3,025,298
(Creation) utilization Restricted/nonspendable fund balance	1,599,047	1,599,047	-
Increase in unassigned Fund balance	\$ 1,042	\$ 3,026,340	\$ 3,025,298

Revenue – Overall the revised FY22 revenue estimate is \$3.5 million (13.24%) above the original adopted budget. The overall revenue increase is driven by two main changes in estimates. Actual year-to-date results through December 2021 indicate an improvement in tax and intergovernmental revenues. First, the tax revenue estimate experienced a net increase of \$0.2 million due to improved property tax revenue partially offset by reduced penalties and interest and lesser enterprise zone reimbursement. Second, the intergovernmental revenue estimate experienced a net increase of \$3.3 million due to a \$3.2 million increase in ARPA revenue and a \$0.1 million increase in projected highway user and income tax revenues. Intergovernmental ARPA revenue estimate includes \$2.8 million of allowable funding for the provision of government services attributable to revenue loss, \$0.7 million for premium pay and COVID-19 prevention supplies.

Expenditures – The revised FY 2022 expenditure estimate is \$487K above the original adopted budget. This increase is primarily a net result of a \$645K increase for cumulative ARPA related expenditures for personal protective equipment, prevention of the spread of COVID-19 and premium pay, a \$50K increase for CARES Act loan forgiveness, increased estimated costs for neighborhood revitalization and outside legal counsel of \$69K, and an increase of \$102K for bond issuance costs being partially offset by a budget reduction of \$400K resulting from lower cumulative payroll costs generated by police, fire and street department short term vacancies.

Unassigned fund balance - The revised FY22 budget reflects an increase to the City's unassigned fund balance of \$3.0 million. This result is the net effect of the above discussion.

The table below depicts the General Fund FY22 budget status through December 31, 2021 and its comparison to the prior year.

City of Cumberland
FY 2022 Comparison to FY 2021 General Fund

	FY 2022			FY 2021		
	YTD Thru Dec 31	Adopted Budget	%age	YTD Thru Dec 31	Adopted Budget	%age
Revenues						
Taxes	\$ 11,630,877	\$ 12,611,449	92.2%	\$ 11,539,435	\$12,701,280	90.9%
Licenses & Permits	35,775	102,700	34.8%	32,641	122,900	26.6%
Intergovernmental	4,660,175	3,625,797	128.5%	1,564,264	3,089,824	50.6%
Charges for Services	763,127	1,624,700	47.0%	670,314	1,569,450	42.7%
Fines, Forfeitures & Interest	25,710	40,400	63.6%	26,908	59,200	45.5%
Miscellaneous	224,573	1,254,100	17.9%	335,215	982,000	34.1%
Financing Proceeds	4,813,592	4,718,304	102.0%	-	2,240,474	0.0%
Interfund Transfers	2,496,686	2,546,849	98.0%	2,539,172	2,651,374	95.8%
Total Revenue and other financing sources	24,650,515	26,524,299	92.9%	16,707,949	23,416,502	71.4%
Expenditures						
General Government	1,092,539	1,776,048	61.5%	993,891	1,786,435	55.6%
Public Safety	7,716,690	13,678,259	56.4%	6,576,090	11,684,675	56.3%
Public Works	1,108,735	2,737,782	40.5%	1,359,730	2,740,055	49.6%
Recreation	467,052	878,527	53.2%	473,184	708,834	66.8%
Community Dev & Housing	604,190	1,373,059	44.0%	662,107	1,359,178	48.7%
Debt Service	1,132,843	3,179,707	35.6%	874,602	3,097,380	28.2%
Operating Transfers	126,709	4,498,922	2.8%	132,562	1,710,223	7.8%
Total Expenditures and other financing uses	12,248,759	28,122,304	43.6%	11,072,165	23,086,780	48.0%
Surplus (Deficit)	\$ 12,401,756	\$ (1,598,005)		\$ 5,635,784	\$ 329,722	
(Creation) utilization Restricted/nonspendable fund balance	-	1,599,047		-	(328,067)	
Increase (Decrease) in unassigned Fund balance	\$ 12,401,756	\$ 1,042		\$ 5,635,784	\$ 1,655	

Due to the timing of most real estate taxes being invoiced once per year in July, a large surplus is typical in the first half of the year. We are not overly concerned about any of the actual to budget or actual to prior year variances at this point, but we are noting the following in FY22 when compared to FY21:

Revenue

- Tax revenue is \$90K greater in FY22 compared to the same period last year. Real estate tax revenue is up year-over-year by \$18K, personal property local tax is up by \$9K, hotel/motel tax is up \$73K and property tax credits are down \$46K while penalties and interest are down \$8K, Enterprise Zone reimbursement is down \$30K and personal property corporate tax is down by \$18K. The personal property corporate tax variance is likely due to a timing difference between FY22 and FY21 tax billings. The difference in the Enterprise Zone reimbursement results from the varying level of reimbursable enterprise credits in each fiscal year.
- Intergovernmental revenue is higher by \$3.1 million in FY22 due to the addition of \$3.2 million in ARPA funding and \$0.1 million increase in highway user revenue reduced by \$0.2 million in state income tax received year-over-year. The lesser income tax revenue year to date is anticipated to be a timing difference of when it is received during the fiscal year. Income tax revenue in FY22 is anticipated to exceed the fiscal year total of FY21.
- Charges for Services are \$93K higher year to date in FY22 resulting from improved ambulance service revenue, timing of rental registrations and the increase of summer camp program activity.
- Miscellaneous revenue is lower by \$110K in FY22 due to FY21 including a greater amount of surplus property sales and one non-recurring rental payment on a cell tower lease.
- Financing proceeds – the year-over-year difference is a result of timing of debt issuance among the fiscal years. The FY22 debt issuance occurred in December 2021, whereas the FY21 debt issuance occurred in the second half of the fiscal year.
- Interfund transfers –Sewer Fund Pilot is down by \$41K over the prior year due to reduced net book value resulting from an additional year of depreciation. New asset additions during FY21 did not exceed the value of depreciation.

Expenditures

- General government expenditures are higher in FY22 than during the same period last year by \$98K. This is caused by a one-time expense of \$50K forgiveness of business loans made with CARES Act funding, \$10K camera system upgrade and timing of local contributions in Department 32 City Hall, the timing differences of capital expenditures and the timing of the LOGOS software maintenance expenditure in Department 33 IT, the payment of premium pay and vehicle tracking software in Department 51 Vehicle Maintenance, FY22 camera system upgrades in Department 71 Municipal Service Center, and city administrator recruitment costs in Department 10 City Council; reduced by the temporary vacancy in the City Administrator position in Department 12 City Administrator, the timing of accounting and auditing bill payments in Department 15 Comptroller, and the changes in the health insurance maximum funding equivalent for Department 85 Insurance, account 11601 resulting from variations and timing differences among employee enrollment or unenrollment and the billing from Cigna.
- Public Safety expenditures are greater by \$1.1 million in FY22 over FY21 primarily due to the payment of premium pay in FY22 with ARPA revenue and the purchase of a \$1.2 million fire truck being partially offset by a decrease payroll and benefits costs in police and fire resulting from short term vacancies.
- Public Works expenditures are down by \$251K primarily due to the timing of capital expenditures in Department 56 Street Maintenance.
- Recreation expenditures represent 66.8% of the FY21 annual budget compared to 53.2% through December FY 22. During FY21, swimming pool expenses and revenue exceeded expectation for the year as we included a 50% reduction in budgeted activity due to COVID. The pool was open much more than anticipated during FY 21 which results in the higher percentage of budget, whereas in FY22 a reduction in budgeted activity is not present.
- Community and economic development expenditures are down by \$58K primarily due to the reduced level of neighborhood revitalization project expenditures in the first half of FY22 compared to FY21.
- Debt Service is \$258K greater over the prior year due to the May FY21 CDA 2014 10- and 15-year payment made in July of FY22 and the bond issuance costs associated with the CDA 2021 bond.
- Operating transfer expenditures are slightly lower in the first half of FY22 due to the general fund capital project activity level and timing of debt draws.

Health Care Claims Analysis

The surplus amount from the FY21 plan year being refunded to the City is \$901,250. We expect to receive that check in February or early March.

The table below compares our FY22 year to date health care plan status to FY21. The claims status can fluctuate widely from month to month. It is something we monitor closely, but the earlier in the year the less concerned we are about variances. It is too early in the year to draw conclusion on expected performance. Key points are as follows:

- Through December 31st we have a \$315K surplus compared to \$418K last year.
- A key figure to watch is our performance ratio. The annual rates are established by estimating claims and adding a 15% “corridor” as a cushion for overages. A performance ratio of 100% indicates that we are at the expected claims rate.
- Members of the group pledge a “cross-share” that can be used to cover deficits of other members.

- Our “potential refund” is the balance after cross share which is the surplus less any anticipated cross-share.

Month	Total Deposits	Reinsurance		Net Monthly Claims Paid	CIGNA Refunds	Surplus (Deficit)	Performance Ratio	Pledged Cross		Anticipated Cross Share Needed	Balance After Cross
		Received	Pending					%age	Dollars		
Dec-21	1,977,122	-	12,744	1,726,941	51,736	314,661	96.70%	22.5%	(70,799)	(11,798)	302,863
Dec-20	2,053,356	113,022	(14,543)	1,761,829	27,914	417,920	91.59%	22.5%	(94,032)	(50,644)	367,276

Information Technology Department
December 2021

Nothing submitted for December 2021

Respectfully submitted,

Jeffrey Silka
City Administrator

sln

File Attachments for Item:

1. Approval of the Closed Session Minutes of October 19, 2021, and the Work Session Minutes of November 2, 2021

Mayor and City Council of Cumberland

Closed Session Minutes

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

2nd Floor Conference Room

Tuesday, October 19, 2021; 5:35 p.m.

The Mayor and City Council convened in open session at 5:35 p.m. for the purpose of closing the meeting for an executive session pursuant to Section 3-305 (b) (1) of the General Provisions Article of the Annotated Code of Maryland to discuss a board appointment.

MOTION: Motion to enter into Closed Session was made by Council Member Frazier, seconded by Council Member Cioni, and was passed on a vote of 4-0.

PRESENT: Raymond M. Morriss, President; Council Members Richard Cioni, Eugene Frazier, and Laurie Marchini

ALSO PRESENT: Ken Tressler, Interim City Administrator; Michael S. Cohen, City Solicitor; Marjorie Woodring, City Clerk; Chuck Ternent, Chief of Police

Mayor and City Council of Cumberland

WORK SESSION

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

Tuesday, November 2, 2021
5:30 p.m.

PRESENT: Raymond M. Morriss, President; Council Members: Richard Cioni, Eugene Frazier, Joe George, and Laurie Marchini

ALSO PRESENT: New City Administrator Jeffrey Silka; Ken Tressler, Director of Administrative Services; Marjorie Woodring, City Clerk; Robert Smith, City Engineer; Chuck Ternent, Chief of Police

I. PUBLIC MEETING AGENDA REVIEW-NOVEMBER 2, 2021

Mayor Morriss and Council welcomed new City Administrator Jeffrey Silka to the meeting, and thanked Mr. Tressler for the service he provided as Interim City Administrator. The Mayor reviewed the Reports and Minutes, and advised on the presentation regarding employee milestones, and mentioned the proclamation for Family Court Awareness Month. Mayor Morriss called for any questions or comments. Being none, it was decided that Mr. Tressler would once again do the reviews of ordinances and orders, since this was Mr. Silka's very first meeting.

Mr. Tressler reviewed the Unfinished Business Ordinances up for their 2nd and 3rd readings:

Ordinance 3902 (*2nd and 3rd readings*) - accepting the bid from RM & GM, LLC from the "Round III Surplus Property Sale" for the purchase of 130 Polk Street for the amount of \$2,500 and authorizing execution of a deed to effect the conveyance.

Mr. Tressler advised that this property was originally listed in Round II, and was inadvertently left off the surplus properties declaration.

Ordinance 3903 (*2nd and 3rd readings*) - accepting the bid from the "On-going Surplus Property Sale" for 3 Altamont Terrace from David W. Smith for the amount of \$100 and authorizing execution of a deed to effect the conveyance.

Mr. Tressler advised that this property was also originally listed in Round II, but did not receive a bid.

Ordinance 3904 (*2nd and 3rd readings*) - to repeal and reenact with amendments Sections 6-1 through 16-6 of the City Code to update employee paygrades.

Mr. Tressler advised that this ordinance was last updated in 2017, and since then there have been four 2% COLA increases, as well as a minimum wage increase. He added that this ordinance increases the base, midpoint, and maximum pay amounts by 5%.

Mr. Tressler reviewed the New Business Ordinances, up for their 1st reading:

Ordinance 3905 (*1st reading*) - approving an application to amend the City's zoning map to rezone property at 718 Frederick Street from R-U (Urban Residential) to R-R (Rehabilitation and Redevelopment) Floating Zone.

Mr. Tressler advised that a public hearing on this ordinance was held at the last M&CC Regular Session. He added that this property had been vacant for more than 2 years, and when the new owner bought it he didn't realize that it wasn't commercial, as he wants to convert it into a tattoo shop.

Ordinance 3906 (*1st reading*) - accepting the bid from Michael W. and Kimberly A. McKay for the purchase of 17 Paw Paw Alley and authorizing execution and conveyance of a deed to effect the transfer.

Mr. Tressler advised that this property was originally listed in Round III, received no bid at that time, and said that Mr. and Mrs. McKay bid \$2500.

Mr. Tressler also advised that there are bids on three other properties that are being considered, and added that they have questions out to the bidders on their intended use of the properties.

Mr. Tressler reviewed the Orders on the Consent Agenda:

Order 26,894 - accepting the sole source proposal from Gwin, Dobson & Foreman in the not-to-exceed amount of \$26,870 to support the City's efforts to renew the Water Allocation Permit from the PA Department of Environmental Protection for the Water Filtration Plant.

Mr. Tressler advised that Gwin, Dobson & Foreman performed an assessment in 2018, are familiar with the system, and also have a lot of experience with the EPA.

Order 26,895 - approving the sole source purchase of one (1) New Ford F150 Extended Cab Pickup Truck and one (1) New Ford F150 Regular Cab Pickup Truck from Keystone Ford using CoStars joint purchase pricing in the total amount not-to-exceed \$69,474.

Mr. Tressler advised that CoStar is a competitive cooperative purchasing bid, and the City is piggy-backing on it.

Order 26,896 - accepting the sole source proposal from Belt Paving, Inc. for the "Merchant's Alley and Kelly Road Paving Project (22-21-P)" in the estimated lump sum cost of \$68,295.

Mr. Smith advised that Merchant's Alley paving is in preparation for the Baltimore Street Access Project to help alleviate some of the burden for those businesses, and also advised that the Kelly Road paving is to support the Grow West facility there. Mr. Tressler advised that these projects need to get done this paving season, and had to be sole sourced to Belt Paving in order to accomplish that.

Order 26,897 - approving a one-time Historic District Property Tax Credit in the amount of \$2,343.50 for 600 Washington Street (Tax No. 06-017118) to be used within five (5) years, and a one (1) year property tax assessment freeze.

Mr. Tressler advised that this project went through the HPC process, and was for roof replacement and gutter repair.

Order 26,898 - authorizing execution of a Second Amendment to the current Collective Bargaining Agreement with AFSCME #553 to allow for 12-hour shifts for employees at the Water Reclamation Plant and Water Filtration Plant.

Mr. Tressler advised that this is an attempt by management to address significant turn-over that the City is experiencing at the WWTP, said they worked with the union in an effort to improve the employees' work/life balance, and added that they have actually already started the shift schedules. Mr. Tressler stated that this would create some additional overtime, which they estimated to be around \$30K. Mr. Smith advised that they are still down one employee at the WWTP, and have a prospective employee that will most likely start on November 11th. He explained that if employees keep leaving, new employees have to be hired, and stated that during the probationary period the City is paying wages to someone who is not able to be a full contributor, and said that is additional cost.

Order 26,899 - declaring City-owned properties 107 Springdale Street, 109 Springdale Street, 105 Grand Avenue, 14 W. First Street, and 417 Broadway Street as surplus and authorizing them for sale to the general public.

Mr. Tressler advised that these properties were obtained through the donation process, and said that two will be demolished due to neighborhood complaints, and two are already gone.

Order 26,900 - authorizing the City Administrator or their designee to execute contracts with new hires at the Water Reclamation Facility and the Water Filtration Plant to provide terms by which new hires agree to remain employed in the department they were originally hired into and are not eligible to transfer to another department for a period of five (5) years from their date of hire.

Mr. Tressler advised that this is another step being taken to address turn-over issues. Mr. Smith advised that this will not affect existing employees, said they have spoken to the unions, and said they will discuss it further in Collective Bargaining meetings. Mr. Smith explained how constant turn-over leads to mistakes, because of new employees not having that long-term knowledge that is necessary in the facility.

II. MAYOR AND CITY COUNCIL UPDATES

Mayor Morriss advised that the WMSR Polar Express pre-sales were going well, and said things are looking good for the scenic railroad. He stated that the 1309 steam engine will be up and running by late December. The Mayor also advised that the Joe Maphis bench unveiling ceremony on November 10th at the WMSR depot.

Councilman George gave kudos to Ed Taylor and the Historic Cemetery Organization for honoring 1st Lt. Robert Patrick Mathias with a monument at the gravesite, who was the first officer killed in WWII on D-Day from our area. The Councilman said it was a great ceremony, and said family from all over the country were there. He stated that the Mayor gave brief comments, and said Councilman Frazier read a poem he wrote.

Mayor Morriss advised that the Let's Beautify Cumberland (LBC) meeting was last night, and said that Bill Atkinson attended and provided a presentation of the proposed River Walk project.

The Mayor stated that he believes the more people see of updates and presentations on the project, the more they will understand what an asset it can be to the community.

Council advised that the Drive-up Trick or Treat event at Constitution Park had a good turnout, and gave kudos to Diane Johnson and Parks and Recreation (P&R) for putting it together.

Councilman Cioni advised that he had missed the LBC and P&R meetings as he had been under the weather, which he said also caused him to be unable to get to the meeting with Jason Deal, Diane Johnson, and representatives from some of the softball leagues at the Mason complex. He stated that he thinks there will be a request to do something with those fields, and said they are looking into turf replacement. He also advised that there was nothing new on the skateboard park project.

Councilwoman Marchini advised that the Historic Preservation Commission (HPC) met on October 13th, and said they have decided on a preservation award, which will be announced soon. She stated that Terri Hast has been doing a really nice job filling in for Kathy McKenney, and said there are two vacancies on the HPC. The Councilwoman advised that potential members need to have special background credentials, and Mr. Tressler advised that one of the existing members has those credentials.

The Councilwoman advised that regarding the Baltimore Street Access Project, Downtown Manager Melinda Kelleher and Stu Czapski from the CEDC have been meeting on a regular basis to develop a mitigation plan which should be out by the end of the month. She also advised that they are looking to touch base with Salisbury, MD, as that city had done something similar there. The Councilwoman stated that the plans are back with SHA a little ahead of schedule, and said bids will be out for six weeks due to this being a pretty complicated project. She also mentioned that they had received a letter from the Shade Tree Commission regarding trees for the project, and stated that the new website had some issues and will be a little bit delayed.

Mr. Tressler advised that Ms. Kelleher and the DDC sponsored Covid testing, Covid booster shots and flu vaccines downtown today, and said there was a good turnout and was well-received. Mayor Morriss advised that he will speak with Ms. Kelleher to see if they want to maybe do this once a month downtown.

Councilwoman Marchini mentioned that Leadership Allegany Rising will be on Thursday morning, November 4th with M&CC and department heads attending. She advised that the group will be high school students learning about government, having interaction with M&CC, and said they will be taking them on a tour downtown, as well as going to City Hall.

III. ADJOURNMENT

With no further business at hand, the meeting adjourned at 6:10 p.m.

Respectfully submitted,

Marjorie A. Woodring
City Clerk

Minutes approved _____

File Attachments for Item:

1. Ordinance 3908 (*2nd and 3rd reading*) - accepting the bid from EZ Out, Inc. for the purchase of surplus properties at 32 Laings Avenue, 105-107 Fifth Street, and 305-307 Fifth Street for the total amount of \$600 and authorizing execution of a deed to convey the properties to EZ Out, Inc.

ORDINANCE NO. 3908

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED "AN ORDINANCE TO ACCEPT BIDS FOR THE PURCHASE OF CERTAIN PARCELS OF REAL PROPERTY IN THE CITY OF CUMBERLAND KNOWN AS 32 LAINGS AVENUE, 105-107 FIFTH STREET, AND 305-307 FIFTH STREET, AND TO AUTHORIZE THE CONVEYANCE OF THESE PROPERTIES TO EZ OUT, INC., SUBJECT TO THE TERMS SET FORTH HEREINAFTER, AND TO AUTHORIZE THE EXECUTION OF A DEED TO EFFECT THAT CONVEYANCE."

WHEREAS, Mayor and City Council of Cumberland is the fee simple owner of certain parcels of real property located at 32 Laings Avenue, 105-107 Fifth Street, AND 305-307 Fifth Street, Cumberland MD (the "Properties");

WHEREAS, the Properties were declared surplus under the terms of Order No. 26,757, passed by the Mayor and City Council on February 16, 2021;

WHEREAS, the Properties were included in the solicitation for bids known as the "2020 Request for Bids Surplus Properties Round II" but were not bid upon in the original solicitation for bids;

WHEREAS, the City has since received a bid for the Properties through the City's "On-Going Surplus Property Sale" and staff is recommending that the Mayor and City Council award the bid for the Properties to EZ Out, Inc. for the total amount of \$600.00 (Six Hundred Dollars); and

WHEREAS, subject to the hereinafter set forth terms, the Mayor and City Council deem the acceptance of this bid 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 the Mayor and City Council accept the bid of EZ Out, Inc. for the sum of \$600.00 (Six Hundred Dollars) subject to the following terms and conditions:

- A. Purchaser shall pay all recordation and transfer taxes required to record the deed effecting the conveyance of the Property successfully bid upon;
- B. Each purchaser shall pay the \$60.00 deed recordation fee charged by the court.
- C. Purchaser will pay the City and County real estate taxes due from the date of the deed through the remainder of the tax year and will assume responsibility for the payment of those taxes thereafter. The amount of pro-rated City and County taxes will be conveyed to the purchaser and shall be paid by cashier's check, personal check, or money order.
- D. The Properties will be conveyed to the Purchaser by means of a quitclaim deed containing no warranties or representations of any kind, the form of which is set forth in the Exhibit A attached hereto;
- E. The City will record the deed for the Purchaser, who in turn shall pay the City's \$100.00 deed recordation fee.
- F. The purchase price, the pro-rated City taxes, and the City's \$100.00 recording fee shall be paid by bank check, cashiers check or money order made payable to "City of Cumberland" and shall be hand-delivered or mailed to:

City Clerk
City Hall
57 N. Liberty Street
Cumberland, MD 21502

County taxes and County recording fees shall be paid by bank check, cashiers check or money order made payable to "Allegany County" and shall be hand-delivered or mailed to:

City Clerk
City Hall
57 N. Liberty Street
Cumberland, MD 21502

A purchaser's deed shall be released upon the payment of these sums and final recordation of the deed.

- G. Failure to remit the aforesaid payments to the City Clerk within sixty (60) days from the date of the passage of this Ordinance shall result in the rejection of a purchaser's bid, unless said deadline is extended by the City Administrator or City Solicitor for good cause shown.

SECTION 2: AND BE IT FURTHER ORDAINED, that the Mayor and City Clerk be and they are hereby authorized to execute and deliver deeds effecting the aforesaid conveyances subject to the aforesaid requirements;

SECTION 3: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this _____ day of _____, 2022.

Raymond M. Morriss, Mayor

ATTEST:

Marjorie A. Woodring, City Clerk

EXHIBIT A

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this ____ day of _____, 2022, by and between **Mayor and City Council of Cumberland** (the “Grantor”), a Maryland municipal corporation, and _____ (the “Grantee”), _____, party of the second part.

WITNESSETH:

That for and in consideration of the sum of _____ cash in hand paid and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the Grantor does hereby grant, bargain and sell, release, confirm and convey unto the Grantee, _____ [personal representatives, administrators, heirs or successors] and assigns, forever in fee simple:

IT BEING the same property which was conveyed from _____ to the Grantor by deed dated _____ and recorded among the Land Records of Allegany County, Maryland in Book _____, Page _____.

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 the Grantee, _____ [personal representatives, administrators, heirs or successors] and assigns in fee simple forever.

PROVIDED, HOWEVER, that this deed shall be null and void and of no force and effect if it is not recorded within ninety (90) days of its date.

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 _____, 2022, 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 \$_____ 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 entity of the State of Maryland.

WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires: _____

I HEREBY CERTIFY that the within and foregoing document was prepared by, or under the supervision of, the undersigned, a Maryland attorney, and that no title search was performed in connection with its preparation.

MICHAEL SCOTT COHEN

File Attachments for Item:

2. Ordinance 3909 (*2nd and 3rd readings*) - repealing City Code Sections 2-171 to 2-175 pertaining to the City's purchasing policy and reenacting them with amendments, and enacting Section 2-177 pertaining to Change Orders

ORDINANCE NO. 3909

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO REPEAL SECTIONS 2-171 TO 2-175 PERTAINING TO THE CITY'S PURCHASING POLICY AND TO REENACT THEM WITH AMENDMENTS AND TO ENACT SECTION 2-177 PERTAINING TO CHANGE ORDERS."

WHEREAS, staff revisits the terms of the City's Purchasing Policy (i.e., Chapter 2, Article IV, Division 3 of the City Code) from time to time on an as-needed basis;

WHEREAS, in the course of administering the Purchasing Policy, staff identified provisions that should be changed to facilitate the processing of purchases, to fill gaps in the said Policy that need to be filled, to clarify Policy terms, and to effect certain changes in word usage. These are the purposes for the repeal and reenactment of Sections 2-171 to 2-175.

WHEREAS, the Purchasing Policy does not include provisions pertaining to change orders. The enactment of Section 2-177 fills that gap.

WHEREAS, it is expected that these changes will provide staff with more thorough guidance in making purchases for the City.

NOW, THEREFORE, IT IS ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND AS FOLLOWS:

SECTION 1: Sections 2-171 TO 2-175 of the Code of the City of Cumberland (1991 Edition) are repealed and reenacted and shall read as follows:¹

Sec. 2-171. - Purchases of supplies, maintenance/repair contracts, professional service contracts and equipment.

- (a) *Purchases requiring bidding.* All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment, the purchase price of which exceeds twenty-five thousand dollars (\$25,000.00), shall be made only

¹ A text-edited version of these sections is attached hereto as Attachment 1.

after competitive bidding or written quotations have been invited, except as otherwise set forth in this section. Purchases exceeding twenty-five thousand dollars (\$25,000.00) are subject to the final approval of the City Council.

(b) *Purchases not requiring bidding.*

- (1) *Purchases for two thousand five hundred dollars (\$2,500.00) or less.* All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment costing two thousand five hundred dollars (\$2,500.00) or less shall be made upon the requisition of the department head if funds are available in an approved budget.
- (2) *Purchases from two thousand five hundred dollars and one cent (\$2,500.01) to five thousand dollars (\$5,000.00).* All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment costing two thousand five hundred dollars and one cent (\$2,500.01) or more but less than or equal to five thousand dollars (\$5,000.00) shall be made upon the requisition of the department head if funds are available in an approved budget. It shall be the department head's responsibility to ensure the selection of a vendor that can meet the specifications required for the purchase at the lowest and/or best bid deemed to be reasonable and in the *best interests* of the City as provided for in section 2-175(g) hereinafter.
- (3) *Purchases from five thousand dollars and one cent (\$5,000.01) to twenty-five thousand dollars (\$25,000.00).* All purchases of supplies maintenance/repair contracts, professional service contracts or equipment costing five thousand dollars and one cent (\$5,000.01) or more but less than or equal to twenty-five thousand dollars (\$25,000.00) may be made only after requests for quotations of price are made and, if received from suppliers of the supplies or equipment to be purchased, reviewed and approved by the appropriate department head. Where possible, quotations shall be requested from at least three (3) suppliers. Such purchases shall be made upon the requisition of the department head if accounted for in an approved budget, or with the concurrence of the City Administrator if the purchase is not a specific budget item. It shall be the department head's and, if applicable, the City administrator's responsibility to ensure the selection of a vendor that can meet the specifications required for the purchase at the lowest and/or best bid deemed to be reasonable and in the best interests of the City as provided for in section 2-175(g) hereinafter.

(c) *Purchasing cooperatives, state and local government contracts (Piggybacking Contracts).* Purchases of supplies, maintenance/repair contracts, professional service contracts and equipment may be made from recognized purchasing cooperatives or by piggybacking as add-ons to or in connection with, state or local government and government agency contracts which are known to have been competitively bid when sourced, provided the pricing for the City is identical to the pricing in the state or local government contract. The purpose of making purchases in the manner set forth herein is to enable the City to take advantage of bulk purchase pricing and special sales opportunities. The requirements relative to competitive bidding in Sec. 2-171(a) and obtaining quotes from at least three (3) suppliers as is set forth in section 2-171(b)(3) may be waived for the purchases which are the subject to this subsection.

(d) *Sole source purchases.* Sole source purchases include the purchases of supplies, maintenance/repair contracts, professional service contracts and equipment in circumstances where (i) there is a need for standardization or interchangeability of parts for the City's machinery or equipment, (ii) the maintenance/repair contracts, professional service contracts or equipment is available only through a sole source or a source that has significant familiarity with the City resource for which the purchase is sought, (iii) the purchase is required for emergency use, or (iv) the purchase of used equipment, a piece of equipment or a motor vehicle of a model year which is older than the most current year model available for purchase in the marketplace, provided in either case, that the equipment, piece of equipment or motor vehicle is deemed to be adequate for its intended purpose.

- (1) Sole source purchases costing less than five thousand dollars (\$5,000.00) may be made upon approval by the department head.
- (2) Sole source purchases costing more than five thousand dollars (\$5,000.00) but less than or equal to twenty-five thousand dollars (\$25,000.00) may be made upon the requisition of the department head, funding approval of the comptroller, and final approval by the City Administrator. All such purchases shall be reported to the City Council. The requirements relative to obtaining quotes from at least three (3) suppliers as is set forth in subsection (b)(3) may be waived at the discretion of the City Administrator.
- (3) Sole source purchases costing more than twenty-five thousand dollars (\$25,000.00) may be made upon the requisition of the department head, funding approval of the comptroller, and approval by the City

Administrator with final approval by the City Council. Competitive bidding in such cases may be waived at the discretion of the City Council.

(e) *Commodities and services that are exempt from competitive bidding and quotation requirements.* The following list of commodities and services are exempt from competitive bidding or obtaining quotes from at least three (3) suppliers and therefore not subject to Sec. 2-171(d)(1) and Sec 2-171(d)(2). The following items comprise the non-competitive/exempt list of commodities and services that may be purchased directly by departments.

1. *Advertising.* Any advertisement placed directly with newspapers, trade magazines, radio, broadcast television, cable television, etc.
2. *Professional services.* This exemption includes attorneys and law firms, hearing examiners, court reporters, physicians, investment and insurance brokers, and certified public accountant firms.
3. *Contracts with governments and governmental agencies.* Any contract with a state or local government, the federal government or any agencies of the foregoing where no competition is available and the other governmental agency directly or indirectly provides the service. Examples include water line projects with local communities and environmental studies with federal agencies.
4. *Employee reimbursable expenses.*
5. *Entertainers.* Individuals and/or groups contracted at the request of the City to entertain or assist in the production of entertainment.
6. *Grants.* All grants awarded by the City are exempt.
7. *Hospitality.* Hospitality expenses include food, beverages, facility rental, entertainment and other similar expenses relating to conducting City business.
8. *Medical fees.* Fees for medical services (behavioral and physical) from individual doctors, dentists, clinics, hospitals, audiologists, county medical examiners, physical and occupational therapists, behavioral counseling and evaluations, etc. for individual patients, inmates, and clients where the City is responsible for payment. This exemption includes body transportation by funeral homes.
9. *Resale items.* Items that are acquired specifically for resale to the general public should be selected on the basis of quality and delivery constraints due to customer demand.
10. *Software maintenance.* All non-competitive proprietary software licensing and maintenance must be pre-approved by the IT Department.
11. *Activities.* (Lecturers, entertainers, athletic events, referees, teachers [for services requiring teacher certification, etc.]
12. *Investigative services; experts and witnesses for legal proceedings.* For administrative hearings and legal procedures.
13. *Subscriptions and publications.* Newspapers, textbooks and publications – electronic and hard copies, computer software – purchased directly from the publisher or distributor.
14. *Training activities.* Lecturers, honorariums, copyrighted test and training materials, test monitors/examination proctors, etc., where competition is not available.
15. *Tuition, stipends, accreditations and registration fees.* Tuition, stipends, accreditations and registration fees for employee training, continuing education, certifications and similar expenses are exempt.

(f) *Emergency purchases.* A public emergency exists when there is an imminent or actual threat to public health, safety, and welfare. Purchases necessitated by public emergencies are exempt from subsections (a) and (b) of

this section. Such purchases shall be made at the discretion of the department head when the expected cost is less than or equal to twenty-five thousand dollars (\$25,000.00) or the City Administrator when the expected cost is greater than twenty-five thousand dollars (\$25,000.00). The City Administrator may schedule a special meeting of the Council as soon as is practicable so that it can decide whether to authorize the further expenditure of funds to abate the emergency or rectify the conditions which caused it. Section 2-171 shall not apply for so long as a public emergency exists.

(g) *Engineering contractual services.* Due to the complexity of engineering projects, engineering contractual services may be procured by soliciting a request for proposal (RFP) or request for qualifications (RFQ) from no less than three qualified engineering firms, as determined by the City Engineer, for the purpose of selecting the most highly qualified firm for a given project regardless of the contract value.

(1) An RFP shall be issued when a project's scope, budget, and schedule have already been determined by the City Engineer.

(2) An RFQ shall be issued when a project's scope, budget and schedule have not been determined by the City Engineer. Engineering Contractual Services may be awarded by either a low-bid or an evaluated bid process as determined necessary by the City Engineer in order to retain the most highly qualified firm.

When an evaluated bid process is utilized, the basis for the evaluation (i.e., scoring matrix) shall be outlined in the RFP/RFQ documents provided to the solicited firms. When such services have been competitively procured by another government entity on an open-ended contract basis (i.e., Maryland Department of Transportation, Cumberland Area Metropolitan Planning Organization, etc.) the terms of section (c) shall apply. As engineering projects are often executed in multiple phases, the engineering firm that performed the initial engineering contractual services contract may be retained for the follow-up phases, provided their performance is satisfactory, as determined by the City Engineer, and the engineering firm provides a comprehensive proposal of additional services to be provided.

(h) *Positions/officers identified in Charter.* For purposes of this section, professional service contracts do not include employees or independent contractors filling positions or offices with the City which are identified in the City charter. Said positions are exempt from section 2-171.

(i) *Purchase orders.* Except for purchases for emergency repairs, postage, expense accounts, utilities and insurance, all purchases of supplies, maintenance/repair contracts, professional service contracts and equipment costing more than five hundred dollars (\$500.00) shall be accompanied by purchase orders which shall be submitted to the City Comptroller.

(j) *Purchasing policy abrogated.* Effective December 5, 2017, the terms of sections 2-171 to 2-174 supersede and take the place of any previously existing purchasing policy.

Sec. 2-172. - Leases of equipment.

Leases of equipment shall be authorized and made in the same manner as purchases of supplies, maintenance/repair contracts, professional service contracts and equipment as provided for in section 2-171. The purchase price for a capital lease of equipment shall be deemed to be the purchase price for the equipment had it been sold to the City for its estimated fair market value. The purchase price for any other type of lease of equipment shall be deemed to be the rent due for its initial term and any renewal terms thereof.

Sec. 2-173. - Construction contracts.

(a) *Contracts requiring bidding.* All contracts for public works, construction of capital improvements or other construction, the cost of which is expected to exceed twenty-five thousand dollars (\$25,000.00), shall be made only after competitive bidding has been invited, except as otherwise set forth in this section.

(b) *Contracts not requiring bidding.*

- (1) Contracts for public works or construction of capital improvements costing twenty-five thousand dollars (\$25,000.00) or less may be made without competitive bidding only after requests for quotations are made of general or special contractors and such quotations of price, if received, are reviewed and approved. Where possible, quotations shall be requested from at least three (3) contractors. Such contracts shall be made by the City Council, upon recommendation of the City Engineer and approval of the City Administrator.
- (2) *Public emergency.* A public emergency exists when, as determined by the City administrator, there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from competitive bidding or compliance with subsection (e). A contract may be awarded, without competitive bidding and without regard to the bidding procedures set forth in section 2-175, when there is a public emergency. The City Administrator shall employ third parties, if necessary, to address the emergency and may, in his or her discretion so as to bring the matter to the council's attention as soon as is practicable, schedule a special meeting of the council so that it can determine whether to authorize the further expenditure of funds to abate the emergency or rectify the conditions which caused it and whether to waive the competitive bidding requirement so as to address the public emergency without delay.

Sec. 2-174. - Commission-based contracts.

- (a) Commission-based contracts are those contracts under which compensation is regularly based on a commission fee as a percentage of the sale price for the services provided, such as real estate listing agreements and auctioneer contracts. Unless the bid documents provide otherwise, the compensation payable under a commission-based contract need not be stated as a percentage of the price of the property being sold.
- (b) *Contracts not requiring bidding.* If the value of the property being sold is one hundred thousand dollars (\$100,000.00) or less, competitive bidding shall not be required. Where possible, quotations shall be requested from at least three (3) contractors. Such contracts shall be subject to the approval of the City Council.
- (c) Contracts requiring bidding. If the value of the property being sold exceeds one hundred thousand dollars (\$100,000.00), competitive bidding shall be required.

Sec. 2-175. - Bidding procedure.

- (a) *Bidding document preparation.* When public competitive bidding is required, the bids shall be prepared by the individuals identified below.
 - (1) *Public works contracts.* Bidding documents for public works contracts shall be prepared under the direction of the City Engineer.
 - (2) *All other contracts.* Bidding documents for contracts other than public works contracts shall be prepared by the department initiating the purchase.
- (b) *Filing/approval of bidding documents.* When prepared, bidding documents shall be filed with the City Clerk. Such documents are subject to the approval of the City Administrator.
- (c) *Solicitation of bids.* Upon the approval of the City Administrator, the City Clerk shall solicit bids by advertising at least once for not less than five (5) days (i) in a newspaper of general circulation within the City, (ii) on the City's website and (iii) any other required location required by project funding source. The City Clerk may also advertise in trade or professional journals or publications when such advertising is deemed to be in the best interests of the competitive bidding process.
- (d) *Bid Opening.* All bids shall be in writing and sealed, and shall be opened at a public meeting to be held on the day and time and at such place as is designated in the advertisement for bids. The City Clerk, or in the absence of the City Clerk, the City Administrator, shall conduct the bid opening.
- (e) *Bid qualification.* For a bid to be considered, the bidder must be in good standing with the Maryland State Department of Assessment and Taxation and/or qualified to do business in the State of Maryland, any taxes due to the City must be paid current, and the bid must be responsive to the solicitation. In addition, bids shall be disqualified as being nonresponsive under the following circumstances:

- (i) If a bid needs to be amended after the bid closing date and the amendment would place the bidder at a comparative advantage over other bidders (e.g., changing a price, clarifying line-item pricing which affects the total amount of a bid, or filling in a line item for pricing that was omitted).
 - (ii) A bidder's post-closing date failure to supplement a bid within five (5) business days after the date it is provided with written notification that such supplementation is required.
 - (iii) A bidder's failure to comply with one or more substantive bid requirement.
- (f) Upon opening of bids as provided in this section, the bids shall be submitted to the initiating department for review and tabulation. That department shall then make a recommendation to the City Administrator regarding which bid should be accepted. The City Administrator shall then certify to the City Council that all appropriate bidding procedures have been followed and that the lowest and best bid deemed to be reasonable and in the best interests of the City has been selected for award or that other recommendations are being made.
- (g) *Acceptance of lowest and best bid, other bid disposition.* The City Council may accept the lowest and/or best bid deemed to be reasonable and in the best interests of the City. In assessing whether the acceptance of a bid is in the best interests of the City, the City Council shall consider the following: (i) the proposed price: (ii) the quality of the proposed goods, work and/or services: (iii) the sufficiency of the bidder's resources to meet contract requirements: (iv) the bidder's technical experience and expertise: (v) the time of delivery or completion: (vi) the responsibility of the bidder: and (vii) any other relevant factors. The City Council may also reject any or all bids, may readvertise for new bids, and may postpone or abandon any purchase, lease, contract or project.
- (h) Notwithstanding the foregoing, in the event any purchase is funded in whole or in part by the state or federal government or any agency thereof and that entity conditions its funding upon the City complying with its protocols and procedures regarding competitive bidding, the City shall comply with those protocols and procedures except in such instances where a hereinbefore set forth bidding procedure imposes a higher standard and the funding entity requires that City protocols and procedures be followed.

SECTION 2: Sections 2-177 of the Code of the City of Cumberland (1991 Edition) is hereby enacted and shall read as follows:

Sec. 2-177. – Change Orders.

Change orders are issued as the need arises so as to track contract changes and costs. They are required when changes in the project scope or order result from unforeseen circumstances during the course of a project. When changes in the work or quantities require modification of the contract or order price, the initiator of the change shall promptly detail an itemized breakdown of quantities and prices used in computing the value of the change along with a detailed explanation/justification and if applicable, the modified scope of work. Change orders may be processed as follows:

- (a) All change orders to purchases of supplies, maintenance/repair contracts, professional service contracts or equipment, the purchase price of which exceeds twenty-five thousand dollars (\$25,000.00), shall be made subject to the final approval by the City Council unless the scope of the project has not changed and the value of the order is not exceeded.
- (b) *Change orders not requiring City Council approval.*
 - (1) Change Orders on purchasing not exceeding twenty-five thousand dollars (\$25,000.00). Change orders related to purchases of supplies maintenance/repair contracts, professional service contracts or equipment costing less than or equal to twenty-five thousand dollars (\$25,000.00) may be made upon the requisition of the department head if funds are available in an approved budget and the total cost does not exceed twenty-five thousand dollars (\$25,000.00). It shall be the department head's and, if applicable, the City

Administrator's responsibility to ensure the specifications required are directly related, but omitted from the original purchase or contract scope and are at the lowest cost to the City.

SECTION 3: This Ordinance shall take effect from the date of its passage.

Passed this _____ day of March, 2022.

Raymond M. Morriss, Mayor

ATTEST:

Marjorie A. Woodring, City Clerk

ATTACHMENT 1

ATTACHMENT 1

Sec. 2-171. -- Purchases of supplies, maintenance/repair contracts, professional service contracts and equipment.

(a)—Purchases requiring bidding. All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment, the purchase price of which exceeds twenty-five thousand dollars (\$25,000.00), shall be made only after competitive bidding ~~has or written~~ quotations have been invited, except as otherwise set forth in this section. Purchases exceeding twenty-five thousand dollars (\$25,000.00) are subject to the final approval of the City Council.

(b)— Purchases not requiring bidding.

- (1) — Purchases from ~~two thousand~~ five hundred dollars (\$2,500.00) or less. All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment ~~the purchase price of which is costing two thousand~~ five hundred dollars (\$2,500.00) or less shall be made upon the requisition of the department head if funds are available in an approved budget.
- (2) — Purchases from ~~two thousand~~ five hundred ~~one~~ dollars ~~(\$504.00 and one cent (\$2,500.01))~~ to five thousand dollars (\$5,000.00). All purchases of supplies, maintenance/repair contracts, professional service contracts or equipment costing two thousand five hundred ~~one~~ dollars ~~(\$504.00 and one cent (\$2,500.01))~~ or more but less than or equal to five thousand dollars (\$5,000.00) shall be made upon the requisition of the department head if funds are available in an approved budget. It shall be the department head's responsibility to ensure the selection of a vendor that can meet the specifications required for the purchase at the lowest ~~cost and/or best bid deemed to be reasonable and in the best interests of the City as provided for in section 2-175(g) hereinafter.~~
- (3) — Purchases from five thousand ~~one~~ dollars ~~and one cent (\$5,004.00.01)~~ to twenty-five thousand dollars (\$25,000.00). All purchases of supplies maintenance/repair contracts, professional service contracts or equipment costing five thousand ~~one~~ dollars and one cent (\$5,004.00000.01) or more but less than or equal to twenty-five thousand dollars (\$25,000.00) may be made only after requests for quotations of price are made and, if received from suppliers of the supplies or equipment to be purchased, reviewed and approved by the appropriate department head. Where possible, quotations shall be requested from at least three (3) suppliers. Such purchases shall be made upon the requisition of the department head if accounted for in an approved budget, or with the concurrence of the ~~city administrator if the purchase is not a specific budget item. City Administrator if the purchase is not a specific budget item. It shall be the department head's and, if applicable, the City administrator's responsibility to ensure the selection of a vendor that can meet the specifications required for the purchase at the lowest and/or best bid deemed to be reasonable and in the best interests of the City as provided for in section 2-175(g) hereinafter.~~

Style Definition

~~(e) —~~ (c) Purchasing cooperatives, state and local government contracts (Piggybacking Contracts). Purchases of supplies, maintenance/repair contracts, professional service contracts and equipment may be made from recognized purchasing cooperatives or by piggybacking as add-ons to or in connection with, state or local government and government agency contracts which are known to have been competitively bid when sourced, provided the pricing for the City is identical to the pricing in the state or local government contract. The purpose of making purchases in the manner set forth herein is to enable the City to take advantage of bulk purchase pricing and special sales opportunities. The requirements relative to competitive bidding in Sec. 2-171(a) and obtaining quotes from at least three (3) suppliers as is set forth in section 2-171(b)(3) may be waived for the purchases which are the subject to this subsection.

(d) Sole source purchases. Sole source purchases include the purchases of supplies, maintenance/repair contracts, professional service contracts and equipment in circumstances where (i) there is a need for standardization or interchangeability of parts ~~with respect to~~ for the ~~city's~~ City's machinery or equipment, (ii) the maintenance/repair contracts, professional service contracts or equipment is available only through a sole source or a source that has significant familiarity with the ~~city~~ City resource for which the purchase is sought, (iii) the purchase is required for emergency use, ~~(iv) through joint efforts with other agencies, such as those of the state, county and board of education, the city is able to take advantage of bulk purchase pricing and special sales opportunities, or (v) or~~ (iv) the purchase of used equipment or a piece of equipment or a motor vehicle of a model year which is older than the most current year model available for purchase in the marketplace, provided in either case, that the equipment, piece of equipment or motor vehicle is deemed to be adequate for its intended purpose.

(1) — ~~The terms of subsection (c) do not apply to sole. Sole source purchases costing less than five thousand dollars (\$5,000.00) or less. Such purchases shall~~ may be subject to subsections (b)(1) and (b)(2) of this section except that all such purchases shall be reported to made upon approval by the mayor and city council ~~department head.~~

(2) — ~~Sole source purchases costing more than five thousand dollars (\$5,000.00) but less than or equal to twenty-five thousand dollars (\$25,000.00) may be made upon the requisition of the department head, funding approval of the comptroller, and final approval by the city administrator.~~ City Administrator. All such purchases shall be reported to the ~~mayor and city council~~ City Council. The requirements relative to obtaining quotes from at least three (3) suppliers as is set forth in subsection (b)(3) may be waived ~~in at~~ at the discretion of the ~~city administrator~~ City Administrator.

(3) — ~~Sole source purchases costing more than twenty-five thousand dollars (\$25,000.00) may be made upon the requisition of the department head, funding approval of the comptroller, and approval by the city administrator.~~ City Administrator with final approval by the ~~mayor and city council~~ City Council. Competitive bidding in such cases may be waived ~~in at~~ at the discretion of the ~~mayor~~ City Council.

(e) Commodities and services that are exempt from competitive bidding and council quotation requirements. The following list of commodities and services are exempt from competitive bidding or obtaining quotes from at least three (3) suppliers and therefore not subject to Sec. 2-171(d) — (1) and Sec 2-171(d)(2). The following items comprise the non-

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competitive/exempt list of commodities and services that may be purchased directly by departments.

1. *Advertising.* Any advertisement placed directly with newspapers, trade magazines, radio, broadcast television, cable television, etc.
2. *Professional services.* This exemption includes attorneys and law firms, hearing examiners, court reporters, physicians, investment and insurance brokers, and certified public accountant firms.
3. *Contracts with governments and governmental agencies.* Any contract with a state or local government, the federal government or any agencies of the foregoing where no competition is available and the other governmental agency directly or indirectly provides the ~~service contracts~~. Examples include water line projects with local communities and environmental studies with federal agencies.
4. *Employee reimbursable expenses.*
5. *Entertainers.* Individuals and/or groups contracted at the request of the City to entertain or assist in the production of entertainment.
6. *Grants.* All grants awarded by the City are exempt.
7. *Hospitality.* Hospitality expenses include food, beverages, facility rental, entertainment and other similar expenses relating to conducting City business.
8. *Medical fees.* Fees for medical services (behavioral and physical) from individual doctors, dentists, clinics, hospitals, audiologists, county medical examiners, physical and occupational therapists, behavioral counseling and evaluations, etc. for individual patients, inmates, and clients where the City is responsible for payment. This exemption includes body transportation by funeral homes.
9. *Resale items.* Items that are acquired specifically for resale to the general public should be selected on the basis of quality and delivery constraints due to customer demand.
10. *Software maintenance.* All non-competitive proprietary software licensing and maintenance must be pre-approved by the IT Department.
11. *Activities.* (Lecturers, entertainers, athletic events, referees, teachers [for services requiring teacher certification, etc.]
12. *Investigative services; experts and witnesses for legal proceedings.* For administrative hearings and legal procedures.
13. *Subscriptions and publications.* Newspapers, textbooks and publications – electronic and hard copies, computer software – purchased directly from the publisher or distributor.

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14. Training activities. Lecturers, honorariums, copyrighted test and training materials, test monitors/examination proctors, etc., where competition is not available.

15. Tuition, stipends, accreditations and registration fees. Tuition, stipends, accreditations and registration fees for employee training, continuing education, certifications and similar expenses are exempt.

(f) Emergency purchases. A public emergency exists when there is an imminent or actual threat to public health, safety, and welfare. Purchases necessitated by public emergencies are exempt from subsections (a) and (b) of this section. Such purchases shall be made at the discretion of the department head when the expected cost is less than or equal to twenty-five thousand dollars (\$25,000.00) or the City Administrator when the expected cost is greater than twenty-five thousand dollars (\$25,000.00). The City Administrator may schedule a special meeting of the Council as soon as is practicable so that it can decide whether to authorize the further expenditure of funds to abate the emergency or rectify the conditions which caused it. Section 2-171 shall not apply for so long as a public emergency exists.

(g) Engineering contractual services. Due to the complexity of engineering projects, engineering contractual services may be procured by soliciting a request for proposal (RFP) or request for qualifications (RFQ) from no less than three qualified engineering firms, as determined by the City Engineer, for the purpose of selecting the most highly qualified firm for a given project regardless of the contract value.

(1) An RFP shall be issued when a project's scope, budget, and schedule have already been determined by the City Engineer.

(2) An RFQ shall be issued when a project's scope, budget and schedule have not been determined by the City Engineer. Engineering Contractual Services may be awarded by either a low-bid or an evaluated bid process as determined necessary by the City Engineer in order to retain the most highly qualified firm.

When an evaluated bid process is utilized, the basis for the evaluation (i.e., scoring matrix) shall be outlined in the RFP/RFQ documents provided to the solicited firms. When such services have been competitively procured by another government entity on an open-ended contract basis (i.e., Maryland Department of Transportation, Cumberland Area Metropolitan Planning Organization, etc.) the terms of section (c) shall apply. As engineering projects are often executed in multiple phases, the engineering firm that performed the initial engineering contractual services contract may be retained for the follow-up phases, provided their performance is satisfactory, as determined by the City Engineer, and the engineering firm provides a comprehensive proposal of additional services to be provided.

(h) Positions/officers identified in Charter. For purposes of this section, professional service contracts do not include ~~employment~~employees or independent ~~contractor contracts for~~

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~~contractors filling positions or offices with the cityCity, which are identified in the cityCity charter. Said positions are exempt from section 2-171.~~

~~(e) —~~

~~(i) Purchase orders. With the exception of Except for purchases for emergency repairs, postage, expense accounts, utilities and insurance, all purchases of supplies, maintenance/repair contracts, professional service contracts and equipment costing more than five hundred dollars (\$500.00) shall be accompanied by purchase orders which shall be submitted to the city comptrollerCity Comptroller.~~

~~(f) —~~

~~(j) Purchasing policy abrogated. In that the terms of the city's existing purchasing policy have been modified and fully integrated intoEffective December 5, 2017, the terms of sections 2-171 to 2-174 of this Code supersede and take the saidplace of any previously existing purchasing policy is hereby abrogated and of no further force and effect.~~

~~(Ord. No. 3735, § 1, 3-12-13; Ord. No. 3827, § 1, 12-5-17)~~

Sec. 2-172.- - Leases of equipment.

~~Leases of equipment shall be authorized and made in the same manner as purchases of supplies, maintenance/repair contracts, professional service contracts and equipment as provided for in section 2-171. The purchase price for a capital lease of equipment shall be deemed to be the purchase price for the equipment had it been sold to the City for its estimated fair market value. The purchase price for any other type of lease of equipment shall be deemed to be the rent due for its initial term and any renewal terms thereof.~~

~~(Ord. No. 3735, § 1, 3-12-13)~~

Sec. 2-173.- - Construction contracts.

~~(a) Contracts requiring bidding. All contracts for public works, construction of capital improvements or other construction, the cost of which is expected to exceed twenty-five thousand dollars (\$25,000.00), shall be made only after competitive bidding has been invited, except as otherwise set forth in this section.~~

~~(b) Contracts not requiring bidding.~~

~~(1) Contracts for public works or construction of capital improvements costing twenty-five thousand dollars (\$25,000.00) or less may be made without competitive bidding only after requests for quotations are made of general or special contractors and such quotations of price, if received, are reviewed and approved. Where possible, quotations shall be requested from at least three (3) contractors. Such contracts shall be made by the mayor and city councilCity Council, upon recommendation of the city engineerCity Engineer, and approval of the city administratorCity Administrator.~~

~~(2) If the city administrator determines the existence of an emergency requiring temporary or permanent construction to abate the emergency, the mayor and council, upon written recommendation of the city administrator, may enter into such contracts as may be required. Such contracts shall be approved or ratified by the mayor and city council, in regular session, and competitive bidding may be waived in the discretion of the mayor and city council.~~

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~~(c) — Use of city forces. Nothing in this section shall be construed to prohibit the city from performing any work or service with city personnel without the need to advertise for bids, or from performing such work or service after the rejection of bids.~~

~~(Ord. No. 3735, § 1, 3-12-13)~~

(2) Public emergency. A public emergency exists when, as determined by the City administrator, there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from competitive bidding or compliance with subsection (e). A contract may be awarded, without competitive bidding and without regard to the bidding procedures set forth in section 2-175, when there is a public emergency. The City Administrator shall employ third parties, if necessary, to address the emergency and may, in his or her discretion so as to bring the matter to the council's attention as soon as is practicable, schedule a special meeting of the council so that it can determine whether to authorize the further expenditure of funds to abate the emergency or rectify the conditions which caused it and whether to waive the competitive bidding requirement so as to address the public emergency without delay.

Sec. 2-174. - Commission-based contracts.

(a) — Commission-based contracts are those contracts under which compensation is regularly based on a commission fee as a percentage of the sale price for the services provided, such as real estate listing agreements and auctioneer contracts. Unless the bid documents provide otherwise, the compensation payable under a commission-based contract need not be stated as a percentage of the price of the property being sold.

(b) — Contracts not requiring bidding. If the value of the property being sold is one hundred thousand dollars (\$100,000.00) or less, competitive bidding shall not be required. Where possible, quotations shall be requested from at least three (3) contractors. Such contracts shall be subject to the approval of the ~~mayor and city council~~ City Council.

(c) — Contracts requiring bidding. If the value of the property being sold exceeds one hundred thousand dollars (\$100,000.00), competitive bidding shall be required.

~~(Ord. No. 3735, § 1, 3-12-13)~~

Sec. 2-175. - Bidding procedure.

~~(a) —~~

(a) Bidding document preparation. When public competitive bidding is required ~~for, the purchase or lease of supplies, maintenance/repair contracts, professional service contracts or equipment, bidding bids shall be prepared by the individuals identified below.~~

(1) Public works contracts. Bidding documents for public works contracts shall be prepared under the direction of the City Engineer.

(2) All other contracts. Bidding documents for contracts other than public works contracts shall be prepared by the department initiating the purchase.

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~~(b) (b) Filing/approval of bidding documents. When public competitive bidding is required for the award of public works contracts, bidding documents shall be prepared under the direction of the city engineer.~~

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~~(e) When prepared, such prepared, bidding documents shall be filed with the city administrator and City Clerk. Such documents are subject to the city clerk approval of the City Administrator.~~

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~~(c) Solicitation of bids. Upon the approval of the city administrator City Administrator, the city clerk City Clerk shall solicit bids by advertising at least twice within a seven-day period, once for not less than five (5) days (i) in a publication newspaper of general circulation within the city City, (ii) on the City's website and (iii) any other required location required by project funding source. The city clerk City Clerk may also advertise in trade or professional journals or publications when such advertising is deemed to be in the best interests of the competitive bidding process.~~

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~~(d) Bid Opening. All bids shall be in writing and sealed, and shall be opened at a public meeting to be held on the day and time and at such place as is designated in the advertisement for bids. The city clerk City Clerk, or in the absence of the city clerk City Clerk, the city administrator City Administrator, shall conduct the bid opening.~~

~~(e) Bid qualification. For a bid to be considered, the bidder must be in good standing with the Maryland State Department of Assessment and Taxation and/or qualified to do business in the State of Maryland, any taxes due to the City must be paid current, and the bid must be responsive to the solicitation. In addition, bids shall be disqualified as being nonresponsive under the following circumstances:~~

~~(i) If a bid needs to be amended after the bid closing date and the amendment would place the bidder at a comparative advantage over other bidders (e.g., changing a price, clarifying line-item pricing which affects the total amount of a bid, or filling in a line item for pricing that was omitted).~~

~~(ii) A bidder's post-closing date failure to supplement a bid within five (5) business days after the date it is provided with written notification that such supplementation is required.~~

~~(iii) A bidder's failure to comply with one or more substantive bid requirement.~~

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~~(f) Upon opening of bids as provided in this section, the bids shall be submitted to the initiating department for review and tabulation. That department shall then make a recommendation to the City Administrator regarding which bid should be accepted which it shall forward to the city administrator. The city administrator City Administrator shall then certify to the mayor and city council City Council that all appropriate bidding procedures have been followed and that the lowest and best bid deemed to be reasonable and in the best interests of the City has been selected for award or that other recommendations are being made.~~

~~(g) Acceptance of lowest and best bid, other bid disposition. The mayor and city council shall City Council may accept the lowest and/or best bid deemed to be reasonable and in the best interests of the city City. In assessing whether the acceptance of a bid is in the best interests of the City, the City Council shall consider the following: (i) the proposed price; (ii) the quality of the proposed goods, work and/or services; (iii) the sufficiency of the bidder's~~

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resources to meet contract requirements: (iv) the bidder's technical experience and expertise: (v) the time of delivery or completion and: (vi) the responsibility of bidders all being considered.

~~(g) the bidder: and (vii) any other relevant factors. The mayor and city council~~City Council may also reject any or all bids, may readvertise for new bids, and may postpone or abandon any purchase, lease, contract or project.

~~(h) Notwithstanding the foregoing, in the event any purchase is funded in whole or in part by the state or federal government or any agency thereof and that entity conditions its funding upon the city~~City~~complying with its protocols and procedures regarding competitive bidding, the city~~City~~shall comply with those protocols and procedures except in such instances where a hereinbefore set forth bidding procedure imposes a higher standard and the funding entity approves of the city following that procedure requires that City protocols and procedures be followed.~~

~~(Ord. No. 3735, § 1, 3-12-13)~~

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File Attachments for Item:

. Order 26,966 - authorizing the Chief of Police to enter into an Updated Memorandum of Understanding (MOU) with the Family Crisis Resource Center (FCRC) to support police overtime in the amount not-to-exceed \$19,583 for the provision fo security at FCRC during supervised visitation and exchange

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

ORDER NO. 26,966

DATE: March 1, 2022

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

THAT, the Chief of Police be and is hereby authorized to enter into an updated Memorandum of Understanding (MOU) by and between the Cumberland Police Department and the Family Crisis Resource Center, Inc. (FCRC) to provide police overtime in the amount not-to-exceed Nineteen Thousand, Five Hundred Eighty-three Dollars and No Cents (\$19,583.00) for providing security at FCRC during supervised visitation and exchange.

Raymond M. Morriss, Mayor

Council Agenda Summary

Meeting Date: February 15, 2022

Key Staff Contact: Chief John “Chuck” Ternent

Item Title: Updated FCRC Safe Haven Security MOU

Summary of project/issue/purchase/contract, etc for Council:

Authorize the Chief of Police to enter into an Updated Memorandum of Understanding with the Family Crisis Resource Center to provide police overtime in the amount not to exceed \$19,583, providing security at FCRC during supervised visitation and exchange.

Amount of Award: \$19,583

Budget number:

Grant, bond, etc. reference:

MEMORANDUM OF UNDERSTANDING

between

FAMILY CRISIS RESOURCE CENTER, INC.

146 Bedford Street

Cumberland, Maryland 21502

and

CUMBERLAND POLICE DEPARTMENT

20 Bedford Street

Cumberland, Maryland 21502

This Memorandum of Understanding replaces the previous agreement signed on December 9, 2021.

Through grant monies made available from Allegany County Circuit Court Family Services, the **Family Crisis Resource Center, Inc. (FCRC)** agrees to pay the **Cumberland Police Department** to provide security for supervised visitation and exchange. The grant award period is July 1, 2021, through June 30, 2022. This is a cost-reimbursement contract that provides for payment to the vender of an agreed fixed amount as follows:

1. Overtime hours not to exceed \$19,583. Beginning February 1, 2022, officers will receive four (4) hours of overtime pay up to four (4) hours of work. For Officers present longer than four (4) hours, reimbursement will be for the total number of hours worked. If the visit(s) are cancelled, the officer will receive four (4) hours of overtime pay, regardless of the time of cancellation.

Cumberland Police Department agrees to provide the following law enforcement services:

1. Security during supervised visits and exchanges for FCRC's Allegany Safe Haven program.

As a sub-contractor, **Cumberland Police Department** agrees to submit reports and invoices (including overtime vouchers and receipts) for the above stated services on a monthly basis. Deadlines for the monthly reports and invoices are the 5th of the following month. For example, the invoice for law enforcement services for December needs to be submitted to **FCRC** by January 5th.

FCRC agrees to remit reimbursement on a monthly basis after the above services are rendered and related reports/invoices are submitted, based on actual costs, not to exceed the above budgeted amount of \$19,583.

The activities of this agreement must be completed by June 30, 2022

Chief John "Chuck" Ternent Date
Cumberland Police Department

Sarah L. Kaiser, MS Date
Executive Director
Family Crisis Resource Center, Inc.

File Attachments for Item:

. Order 26,967 - accepting the estimate from Ganoë Communications for equipment and installation costs to upfit four (4) 2022 Ford Police Interceptor vehicles at a cost of \$25,301.72

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

ORDER NO. 26,967

DATE: March 01, 2022

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

THAT, the estimate from Ganoë Communications, P.O. Box 686, Augusta, West Virginia, 26704 for equipment and installation to upfit four (4) police Interceptor utility vehicles for the cost of Twenty-five Thousand, Three Hundred One Dollars and Seventy-two Cents (\$25,301.72) be and is hereby accepted.

Raymond M. Morriss, Mayor

Council Agenda Summary

Meeting Date: March 1, 2022

Key Staff Contact: Chief Chuck Ternent/Captain Jim Burt

Item Title: Upfit FY22 CPD Vehicles

Summary of project/issue/purchase/contract, etc for Council:

Request to accept the equipment and installation estimate from Ganoe Communications to upfit four (4) 2022 Ford Police Interceptor vehicles at a cost of \$25,301.72.

GANOE COMMUNICATIONS

PO Box 686
Augusta, WV 26704
Ph/Fax: 304-496-8818

Estimate 2021-1376

Date	Terms
9/21/2021	Net 30

Project

Name / Address

City of Cumberland
Attn: Accounts Payable
57 N. Liberty St.
Cumberland, MD 21502
30001094

Ship To

20 Bedford Street
Cumberland, MD 21502
INV- REQ Purchaser FULL Name&Dept ID
Code

Description	Qty	Rate	Total
2022 Ford Police Interceptor SUV - Road Ready Package			
Whelen Super LED Lightbar Red/Blue w/Alley Lights and Take-Downs	1	1,500.00	1,500.00
2 Light TIR3 Dominator RED / BLUE	2	169.05	338.10
Swivel Mount for Dominator D2/D4	2	28.35	56.70
Whelen Micron Super-LED Surface Mount - Red/Blue w/Black Flange	2	86.94	173.88
License Plate Bracket for Microns	1	25.27	25.27
Honeywell VuQuest Barcode Scanner	1	384.00	384.00
Havis 22" console with equipment brackets, cup holders, printer arm rest, 12V/USB, & accessory pocket	1	772.05	772.05
Side Mount Swing Arm Computer Mount (to hook the docking station to)	1	445.43	445.43
Partition w/sliding window, cargo partition, plastic seat, and window guards	1	2,173.00	2,173.00
Labor to install lights, console, barcode scanner, partition, window guards, and plastic seat.	1	2,630.00	2,630.00

Note: Actual shipping will be added to invoice. Estimated to be around \$400.

Pricing valid for 30 days from estimate date. To accept this estimate, please sign, date and return.

Signature

Capt James D. Burt

Date

11/17/2021

Subtotal	\$8,498.43
Sales Tax (6.0%)	\$0.00
Total	\$8,498.43

File Attachments for Item:

. Order 26,968 - lifting the provisions of Section 11-113 of the City Code to allow open containers of alcohol within a defined area of the downtown mall for the Hooley Pub Crawl for the period of March 12, 2022 beginning at 12:00 p.m. and ending at 2:00 a.m. on March 13, 2020; notwithstanding, that open glass containers shall not be permitted

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

ORDER NO. 26,968

DATE: March 1, 2022

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

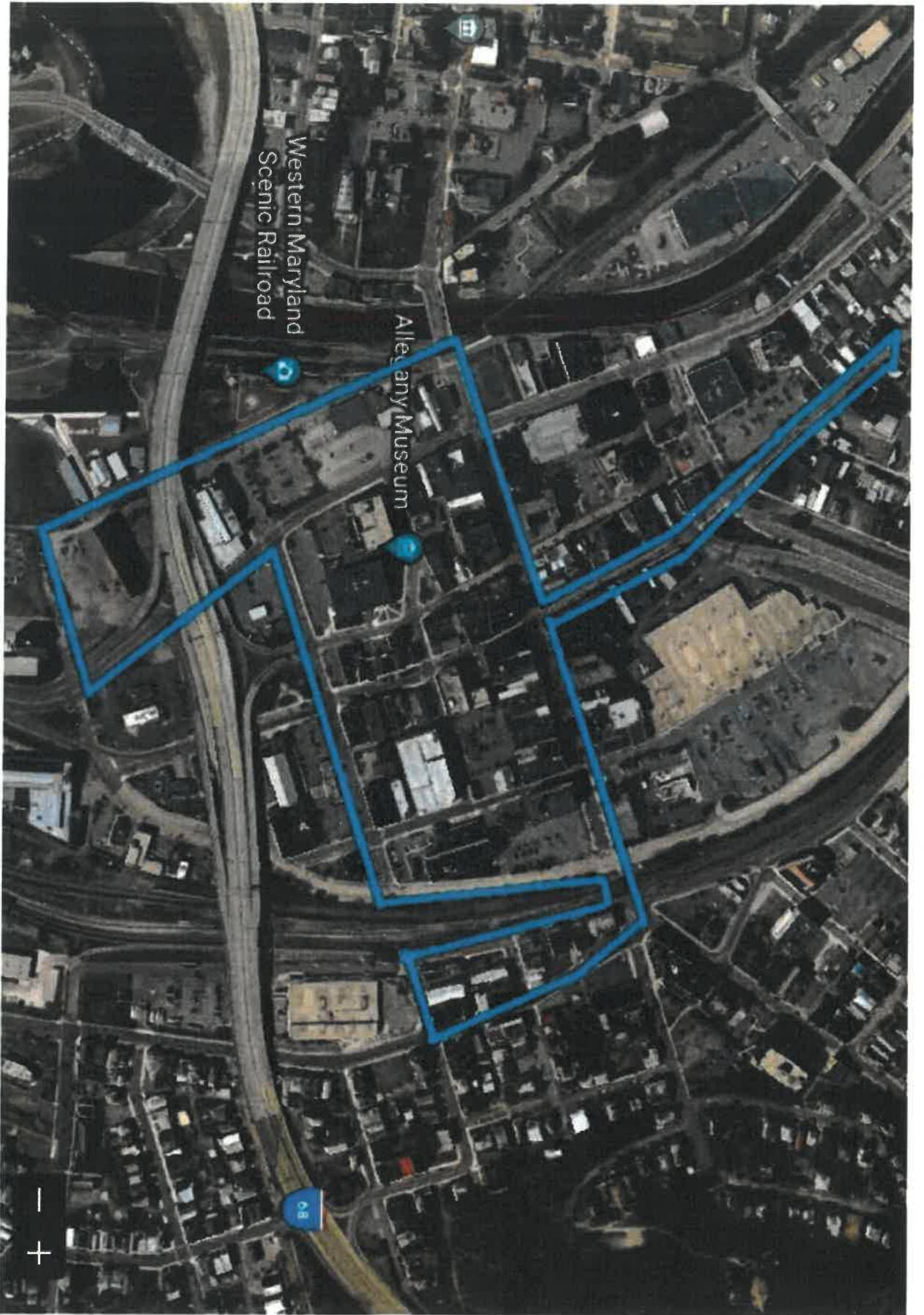
THAT, the provisions of Section 11-113 of the City Code, entitled "Open Containers of Alcohol," be and are hereby lifted for the Hookey Pub Crawl beginning on March 12, 2022 at 12:00 p.m. through 2:00 a.m. on March 13, 2020, within the confines of the following areas:

- Mechanic at Bedford Street south to Wineow Street;
- Wineow Street to Winston Street to Centre Street;
- Centre Street to Harrison Street
- Harrison Street East to Queen City Drive
- Queen City Drive north to Baltimore Street;
- Baltimore Street west to George Street;
- George Street north to Butler Alley;
- Butler Alley to Centre Street;
- Centre Street from Frederick Street north to 171 North Centre Street
- Bedford Street from Centre Street to Mechanic St.
- Extension off of Queen City Drive to Queen City Pavement / Gulf Memorial Drive.

Notwithstanding the foregoing, open glass containers shall not be permitted in the area defined above and Section 11-113 (a) of the City Code shall remain in force and effect as to glass open containers of alcoholic beverages in that area.

Raymond M. Morriss, Mayor

**Map attached*



File Attachments for Item:

. Order 26,969 - authorizing execution of an Agreement for Legal Services with Kaplan Kirsch & Rockwell LLP for the provision of advice and counsel related to issues with CSX Transportation related to the City's sewer easement over property owned and used by CSX, to be effective retroactive to November 1, 2021

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

ORDER NO. 26,969

DATE: March 01, 2022

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

THAT, the Mayor be and is hereby authorized to execute an Agreement for Legal Services with Kaplan Kirsch & Rockwell LLP, 1634 Eye Street, NW, Suite 300, Washington, DC 20006, for the provision of advice and counsel related to issues that have arisen with CSX Transportation, Inc. related to the City's sewer easement over property owned and used by CSX; and

BE IT FURTHER ORDERED, that said Agreement shall be effective retroactive to November 1, 2021.

Raymond M. Morriss, Mayor

February 20, 2022

VIA E-MAIL:

City of Cumberland, MD
c/o Michael Scott Cohen, Esq.
213 Washington Street
Cumberland, MD 21502

Re: Agreement for Legal Services

Dear Mr. Cohen:

I am writing to follow up on prior discussions about our firm providing advice and counsel to the City of Cumberland (the "City") on an additional matter related to issues that have arisen with CSX Transportation, Inc. ("CSX") related to the City's sewer easement over property owned and used by CSX in its rail operations. The work we discussed could include (but is not limited to) advice to the City about the federal legal issues presented by the dispute over access to the sewer line and pursuing litigation to secure the City's access to the sewer lines and to the property that is subject to the City's easement.

1. *Client; Scope of Representation.* The City is our client. We will represent the City upon request in any consultations, negotiations, litigation (including federal regulatory agency proceedings) or other tasks as assigned that may arise, as requested, in connection with the dispute described above (the "Matter").

2. *Staffing.* I will be the primary contact with the City for handling administrative matters related to this engagement, and my partner W. Eric Pilsk as well as the firm's associates, as required, will manage the possible litigation with CSX. We will follow the Firm's practice of staffing matters leanly but in a way that ensures that we have lawyers available who are familiar with the issues and status of a matter as it develops and can respond quickly to developments as they arise. To that end, Mr. Pilsk will be the primary counsel at the outset and will advise you if and when it becomes necessary to call upon other attorneys (either partners or associates) to work on the Matter.

3. *Fees and Expenses.* Our fees are based primarily on the time spent by attorneys and paralegals devoting time to the City matters. We will bill you at the following hourly rates for the attorneys listed in paragraph 2, above: all partners - ^{\$575} all associates who might be called upon to work on this matter will be billed at the rate of \$375; and, all paralegals and law clerks will be billed at the rate of \$160 per hour. These billing rates will increase by 3% per year, beginning on January 1, 2023, and increasing again on January 1 by the same percentage each year thereafter. Please note that these rates reflect an approximation of the cumulative increases to rates in our prior engagement letter had we been advising you of such increases since our initial engagement.

We will charge for any expenses we incur in connection with the City matters in addition to the amount of our fees for legal services. Reimbursable expenses include but are not limited to charges for photocopying at \$.10 per page for black and white copying and \$.20 for color copying, and for messenger and delivery service, travel, computerized legal research, long-distance telephone and fax, court reporting services and administrative agency and/or court filing fees at their actual cost. If we need to retain other professionals (such as expert witnesses or local counsel), we will secure your permission first. Their fees and expenses will generally not be paid by us but will be billed directly to you.

As you know, the fees and expenses relating to litigation are difficult to predict. Payment of the Firm's fees and expenses is in no way contingent on the ultimate outcome of any of the City matters to which we devote attention.

Each of our bills will include detailed information concerning time expended and services performed by the attorneys and paralegals whose work is included in the bill and any disbursements for which reimbursement is sought. It is the Firm's practice to send our clients a consolidated monthly invoice showing the amounts billed for particular matters during the period covered by the invoice. Unless a client requests otherwise, our invoice contains daily detail for each lawyer's work on the client's matter. We can, however, prepare that invoice in any format that meets your needs. We urge you to raise any questions regarding our invoices as soon as they arise so that we can resolve any problems promptly. We require that the City pay our fees promptly on a monthly basis. We consider any invoice more than 30 days old to be overdue.

4. *Representations as to Success.* Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the outcome of any aspect of our representation or various courses of action and the results that might be anticipated. While we will always endeavor to give you a candid and accurate assessment of the City's matters, any such statements will be an expression of our opinion based on information available to us at the time, and not a promise or guarantee.

5. *Conflicts.* As you know, the Firm represents many other companies, state and local governments (including transportation agencies) and individuals. It is possible that, during the time that we are working on the Matter, some of our present or future clients may have disputes or transactions with you. You acknowledge that our representation of the City does not prevent us from representing other clients adverse to the City as long as their disputes with the City do not involve a matter on which we are working for the City or any confidential information received from the City in connection with any such matter. You have confirmed in our initial discussions of this matter that our providing advice and counsel to Allegany County about its ongoing dispute with CSX, which might include representation of the County's interests at the Surface Transportation Board or in associated appeals, does not constitute a conflict of interest.

6. *Terms of Representation.* The terms of this agreement for legal services in connection with the Matter are effective as of November 1, 2021. We reserve the right to withdraw from our representation if, among other things, you fail to honor the terms of the engagement letter, you fail to cooperate or follow our advice on a material matter, or any fact or circumstance (including any conflict of interest with another client) would, in our view, render our continuing representation unlawful or unethical. If we elect to withdraw, you will take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to complete our withdrawal. No termination of our representation by the City or the Firm shall relieve the City of its obligations under the terms of our engagement to pay

City of Cumberland, MD
c/o Michael Scott Cohen, Esq.
February 20, 2022
Page 3

for costs or expenses paid or incurred on your behalf. In the unusual event that a court of competent jurisdiction refuses to permit us to withdraw upon termination, you would remain responsible for costs. In the event we are compelled to intervene in a pending lawsuit or initiate any proceeding in order to recover any amount due under the terms of our engagement, you agree to pay any and all attorneys' fees, court costs and/or other expenses incurred by us to recover such amounts due us pursuant to the terms of our engagement.

After our representation of the City in connection with any matter is concluded, changes may occur in the applicable laws or regulations that could have an impact upon the City's future rights and liabilities. While we would be happy to continue to represent the City, unless you specifically engage us to provide additional advice, we can assume no continuing obligation to advise you with respect to future legal developments in connection with the City's matters or otherwise.

7. *Entire Understanding.* This engagement letter constitutes our entire understanding and agreement with respect to the terms of our engagement and supersedes any prior understandings and agreements, written or oral. If any provision of our engagement letter is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect. Our engagement letter may only be amended in writing by the parties hereto.

If you agree with the terms set forth in this letter, please sign and return the signed document to me. If you have any questions about these provisions, or if you would like to discuss possible modifications, please do not hesitate to call me. Once again, we are pleased to have this opportunity to work with you.

Sincerely,
KAPLAN KIRSCH & ROCKWELL LLP

By:


Charles A. Spitulnik

ACCEPTED AND AGREED ON BEHALF OF
CITY OF CUMBERLAND, MD

By: _____

Date: _____

File Attachments for Item:

. Order 26,970 - authorizing the waiver of permit fees as requested by Habitat for Humanity for a new residential build at 22 Maple Street, and Cumberland Housing Group for the renovation of JFK Apartments at 135 N. Mechanic Street

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

ORDER NO. 26,970

DATE: March 01, 2022

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

THAT, the permit fees for the following projects be and are hereby waived:

1. Habitat for Humanity - new residential build at 22 Maple Street
2. Cumberland Housing Group - renovation of JFK Apartments at 135 N.
Mechanic Street

Raymond M. Morriss, Mayor



Allegany County Habitat for Humanity
PO Box 3162,
LaVale, MD 21504-3162
301-687-1006
alleganycountyhabitat@gmail.com
Executive Director: Tracy Greely

January 27, 2022

Raymond M. Morriss, Mayor
City Council of Cumberland
57 N Liberty St
Cumberland, MD 21502

RCVD

CLERK'S OFFICE

Dear Mr. Morriss,

2022FEB1 AM 8:20

This is to request a waiver of permitting and tap fees for building, water, and sewer and all other related fees at 22 Maple St for our build beginning in late March or April, 2022. Our construction manager, Tom Chandler, has been in touch with Kevin Thacker to initiate the permitting process.

As you are no doubt aware, Allegany County Habitat for Humanity is a non-profit builder providing housing for families who have inadequate housing at present and are prepared to contribute to the construction of their home with sweat equity in a manner commensurate with their abilities. On completion of the build, we provide them with an affordable mortgage to purchase the home, and they become taxpayers.

Allegany County Habitat for Humanity is cash strapped and working to upgrade our capacity to contribute in a more meaningful way to the Cumberland and Allegany County communities. Your support with a fee waiver at this time is much needed, will make a significant contribution to our efforts, and will be much appreciated.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Tracy Greely".

Tracy Greely
Executive Director

A handwritten signature in blue ink that reads "Terri Ann Lowery".

Terri Ann Lowery
President, Board of Directors

Board of Directors: Mark Edwards, Jim Jefferies, Dave Keech, Kate Kidwell, George Lapp, Terri Lowery, Steve MacGray, Kendra Michael, Kathy Miller, Ray Presley, Kathy Rodgers, Cindy Schartiger, Rae Ann Smith, Nicole Whetzel.



Margie Woodring <margie.woodring@cumberlandmd.gov>

Fwd: Permit Fees

1 message

Margie Woodring <margie.woodring@cumberlandmd.gov>
To: Margie Woodring <margie.woodring@cumberlandmd.gov>

Fri, Feb 25, 2022 at 4:44 PM

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

From: **Steve Kesner** <steve.kesner@cumberlandhousing.org>
Date: Tue, Feb 8, 2022 at 2:54 PM
Subject: Permit Fees
To: Kevin Thacker <kevin.thacker@cumberlandmd.gov>

Kevin,

Just need to get a response from you for our financing documents confirming that the City of Cumberland will be waiving all application/permit fees for the renovation of JFK Apts.

**CUMBERLAND HOUSING
GROUP**

Steven J. Kesner, BS, CMH
President/Chief Executive Officer
The Cumberland Housing Group
635 East First Street
Cumberland, MD 21502-4362
301-724-6606 Ext 111
Steve.kesner@cumberlandhousing.org
www.CumberlandHousing.org

The Cumberland Housing Group is an Equal Housing Opportunity provider and consists of the following agencies: The Housing Authority of the City of Cumberland, Cumberland Housing Alliance, Inc. and Cumberland Neighborhood Housing Services, Inc.

File Attachments for Item:

. Order 26,971 - authorizing execution of a Right-of-Entry Agreement, effective March 1, 2022, with Cumberland Senior Partners LLC as owners of real property described in a deed from Countryhouse LLC to Owner, dated December 1, 2018 (Book 2346, Page 461 of Allegany Co. Land Records), to facilitate the rehabilitation of the Baltimore Street Bridge

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

ORDER NO. 26,971

DATE: March 01, 2022

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

THAT, the Mayor be and is hereby authorized to execute a Right-of-Entry Agreement, effective March 1, 2022, by and between the Mayor and City Council of Cumberland and Cumberland Senior Partners LLC, owner of real property described in a deed from Countryhouse LLC to Owner, dated December 1, 2018, (*Land Records of Allegany County Book 2346, Page 461*), to facilitate the rehabilitation of the Baltimore Street Bridge.

Raymond M. Morriss, Mayor

Council Agenda Summary

Meeting Date: 3/1/2022

Key Staff Contact: Robert Smith, PE

Item Title:

Right of Entry Agreement with Cumberland Senior Partners LLC – Baltimore Street Bridge Rehabilitation (9-18-BR)

Summary of project/issue/purchase/contract, etc for Council:

An order to allow the Mayor and City Council of Cumberland to enter into a Right of Entry Agreement with Cumberland Senior Partners LLC to provide access across their property for the purposes of performing work related to the project to rehabilitate the Baltimore Street Bridge. The parties currently have an easement agreement in place and the right of entry agreement will permit an alternative route to access the easement on the Kensington's property. The right of entry agreement will terminate at the conclusion of the project.

Amount of Award: \$0.00

Budget number: N/A

Grant, bond, etc. reference: N/A

RIGHT-OF-ENTRY AGREEMENT

WHEREAS, Cumberland Senior Partners LLC (“Owner”) owns the real property described in the deed from Countryhouse LLC to Owner dated December 1, 2017, and recorded among the Land Records of Allegany County, Maryland in Book 2346, Page 461 (the “Property”);

WHEREAS, Mayor and City Council of Cumberland, a Maryland municipal corporation, plans to remove, repair and/or replace the Baltimore Street bridge in the City of Cumberland, Allegany County, Maryland (the “Bridge”), the aforesaid work on the Bridge hereinafter being referred to as the “Project”;

WHEREAS, the Bridge is a necessary means for the transportation of Owner’s employees, residents of the improvements on the Property, residents’ families and friends, and others to and from the Property;

WHEREAS, the Bridge is nearing the end of its useful life and needs to be removed, repaired and/or replaced;

WHEREAS, the City will need to transport machinery and equipment across the Property in order to complete the Project; and

WHEREAS, Owner is willing to grant the City the right to cross over the Property from time-to-time in order to facilitate the City’s completion of the Project, said rights being granted in accordance with and subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Owner and the City, it is agreed as follows:

1. Owner grants the City, its agents, employees, representatives and contractors the right to enter, re-enter and travel across the parking area on the Property in order to perform the work required for the completion of the Project.
2. Once aforesaid work is completed, the rights granted under paragraph 1 shall terminate.

3. The City shall be responsible for repairing any damages to the aforesaid parking area which are caused as a result of the performance of the work described herein. If repairs are necessary, the Property shall be restored to substantially the same or better condition than it was in just before the City first exercised its rights under the terms of this Agreement.
4. No consideration will be due to or from either party to the other except that which is set forth hereinbefore.
5. This Agreement shall be effective as of March 1, 2022.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective names and their seals hereunto affixed, 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

CUMBERLAND SENIOR PARTNERS LLC

By: _____ (SEAL)
Signature

Richard Weston

Printed name

Manager

Title

STATE OF MARYLAND,
COUNTY OF ALLEGANY, TO WIT:

I HEREBY CERTIFY, that on this 15thSM day of FebruarySM, 2022, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Raymond M. Morriss**, known and/or satisfactorily identified to me, the Mayor of Mayor and City Council of Cumberland, a Maryland municipal corporation and acknowledged the foregoing instrument to be the act and deed of Mayor and City Council of Cumberland and made oath that he is duly authorized by it to make this acknowledgment.

WITNESS my hand and Notarial Seal.

Notary Public

My commission expires: _____

STATE OF California,
COUNTY OF Contra Costa, TO WIT:

I HEREBY CERTIFY, that on this 15th day of February, 2022, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Richard Westin -, known and/or satisfactorily identified to me, the manager - of **Cumberland Senior Partners LLC**, a Wyoming limited liability company, and acknowledged the foregoing instrument to be the act and deed of the aforesaid limited liability company and made oath that he/she is duly authorized by it to make this acknowledgment.

WITNESS my hand and Notarial Seal.



[Signature]
Notary Public

My commission expires: May 19, 2022

File Attachments for Item:

. Order 26,972 - authorizing execution of a Donation Agreement with Rose M. Klink for the donation of property at 409 S. Central Avenue (Tax ID 22-015141) to the City, and authorizing the City's acceptance of the deed and execution of documentation to effect the transfer

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

ORDER NO. 26,972

DATE: March 1, 2022

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 Rose M. Klink (Donor) and the Mayor and City Council of Cumberland whereby certain property at 409 S. Central Avenue (Tax No. 22-015141) shall be transferred to the City for the sum of \$1.00; and

BE IT FURTHER ORDERED, that the City shall accept the deed to effect transfer of said property, provided settlement contingencies are met; and

BE IT FURTHER ORDERED, that should it be necessary to extend the date for closing under the terms of the Contract, the City Administrator and City Solicitor are jointly and severally granted the authority to enter into agreement for said purpose; and

BE IT FURTHER ORDERED, that the City Administrator and City Solicitor are jointly and severally granted the authority to execute and deliver such documents as are necessary to facilitate or effect the closing for subject property.

Raymond M. Morriss, Mayor

DONATION AGREEMENT

THIS DONATION AGREEMENT ("Agreement"), is made by and between **Rose M. Klink** ("Donor") 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, Donor owns 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. 22-015141 (409 S Central Avenue, Cumberland, MD 21502); described in the deed recorded in the Land Records of Allegany County, Maryland in Book 2100, Page 212; and

WHEREAS, Donor has 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, Donor agrees 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. Donor 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.** Donor has 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, Donor 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)¹. 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, Donor 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 Donor with respect to such matters.

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

7. **Possession.** Donor agrees to give possession and occupancy of the Property to the City upon the completion of closing.

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

¹ 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.

9. **Representations and Warranties.** As of the date of the closing contemplated hereby and as to the period of time during which Donor held title to the Property, Donor warrants that she has, 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, Donor discloses 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 Donor 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, Donor may pursue any legal or equitable rights which may be available to her. If Donor fails to make full settlement or is in default due to her 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 Donor:

Rose M. Klink
P.O. Box 125
Cumberland, MD 21501-0125

To the City:

Jeffrey Silka
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.** DONOR 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 DONORS 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.

THIS DEED, made this 15 ^{February, 2022} day of ~~December, 2021~~, by and between ROSE M. KLINK, party of the first part, and MAYOR AND CITY COUNCIL OF CUMBERLAND, party of the second part, a Maryland municipal corporation.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the party of the first part does hereby grant, bargain and sell, release, confirm and convey unto the party of the second part, its successors and assigns:

ALL that parcel of land lying on Ann Street (now Central Avenue) in the City of Cumberland, Election District No. 22, Maryland, known as Lot A on the plat of the subdivision of the Harrison Lots on Ann Street (now Central Avenue), and particularly described as follows:

BEGINNING at a point at the end of the first line of a parcel of land conveyed by deed from Elwood Denmark and Magnolia Denmark, husband and wife, to Charles Denmark and recorded in Deed Book 461, page 802. Beginning also being North 42 degrees 40 minutes East 67.00 feet from the Eastern side of Pine Avenue and its intersection with the Southerly side of Ann Street (now Central Avenue), and leaving the point of beginning North 42 degrees 40 minutes East 43.20 feet to a point; thence South 47 degrees 20 minutes East 120.00 feet; thence South 42 degrees 40 minutes West 41.88 feet to a point; thence North 47 degrees 57 minutes 49 seconds West 120.00 feet to the point of beginning.

IT BEING the same property which was conveyed from David Marvin and Sharon Marvin to Rose M. Klink by deed dated December 4, 2014, and recorded among the Land Records of Allegany County, Maryland in Book 2100, Page 212.

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 the party of the second part, its successors and assigns in fee simple forever.

AND the said party of the first part for herself, her personal representatives, heirs and assigns

does hereby warrant specially the title to the above-described property and covenant that she will execute such other and further assurances of the same as may be requisite or necessary.

WITNESS the hand and seal of the party of the first part the day and year first above written.

WITNESS:

Allison K. Layton

Rose M. Klink (SEAL)
Rose M. Klink

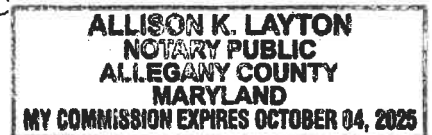
STATE OF MARYLAND,
ALLEGANY COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 15 day of February, ²⁰²²~~2021~~, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Rose M. Klink**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, and did acknowledge that she executed the same for the purposes therein contained; and she further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$0.00 and that the total payment made to the grantor was \$0.00.

WITNESS my hand and Notarial Seal.

Allison K. Layton
NOTARY PUBLIC

My Commission Expires: 10/4/2025



I HEREBY CERTIFY that the within and foregoing document was prepared by, or under the supervision of, the undersigned, a Maryland attorney.

MICHAEL SCOTT COHEN

File Attachments for Item:

. Order 26,973 - declaring a 1992 Sutphen 90-ft. Aerial Tower Pumper Truck (VIN # 1S9A3KFE5N1003933) and a 2004 Chevy Tahoe (VIN #1GNEK13V04J268695) as surplus and authorizing them for sale or trade-in

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

ORDER NO. 26,973

DATE: March 1, 2022

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 or trade in:

1. 1992 Sutphen 90-ft. Aerial Tower 1750 GPM Pumper Truck
Fire Department
VIN # 1S9A3KFE5N1003933
2. 2004 Chevrolet Tahoe
Fire Department
VIN # 1GNEK13V04J268695

Raymond M. Morriss, Mayor



Margie Woodring <margie.woodring@cumberlandmd.gov>

Fire Department Vehicles to Surplus

1 message

Julie Davis <julie.davis@cumberlandmd.gov>

Tue, Feb 22, 2022 at 11:09 AM

To: Margie Woodring <margie.woodring@cumberlandmd.gov>

Cc: Shannon Adams <shannon.adams@cumberlandmd.gov>, Brian Broadwater <brian.broadwater@cumberlandmd.gov>

Hello, Margie.

The following Fire Department vehicles can be retired and/or sold:

Old Truck #1:

1992 Sutphen 90-ft. Aerial Tower 1750 GPM Pumper

VIN# 1S9A3KFE5N1003933

Title #: 21297518

Old Command Unit #1:

2004 Chevrolet Tahoe

VIN# 1GNEK13V04J268695

Title #: 34275702

Do you want me to place on the M&CC Agenda to request approval to surplus or simply add these vehicles to the City's surplus list?

Thank you,
Julie

Julie A. Davis, Fire Administrative Officer

City of Cumberland Fire Department

20 Bedford Street

Cumberland, Maryland 21502

Phone: 301.759.6485 Fax: 301.759.6494

Email: julie.davis@cumberlandmd.gov