MAYOR
Brian K. Grim

CITY ADMINISTRATOR
Jeff Rhodes

CITY SOLICITOR
Michael Scott Cohen

COUNCIL
Seth D. Bernard
David Caporale
Richard J. Rock" Cioni
Eugene T. Frazier

CITY CLERK
Marjorie A. Woodring

MINUTES

DATE: November 8, 2018

I. Closed Session

1. 5:30 p.m. - Convene in Open Session for the purpose of closing the meeting for an Executive Session pursuant to Sections 3-305 (b) (7) and (14) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding negotiation of a franchise agreement

   Councilman Bernard convened the meeting in open session. Motion to move into closed session was made by Frazier, seconded by Cioni, and was passed on a vote of 3-0. Mayor Grim and Councilman Caporale were absent.

2. Executive Session

II. Open Session

1. 6:15 p.m. - Reconvene into Open Session

   The meeting reconvened in open session at 6:15 p.m.

III. Pledge of Allegiance

IV. Roll Call

PRESENT: Councilmen Seth Bernard, David Caporale, Richard J. "Rock" Cioni, and Eugene Frazier

ABSENT: Mayor Brian K. Grim, Councilman David Caporale

ALSO PRESENT: Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Charles Hinnant, Chief of Police; Donald Dunn, Fire Chief; Marjorie Woodring, City Clerk

MOTION to appoint Seth Bernard as Acting Mayor was made by Frazier, seconded by Cioni, and was passed on a vote of 3-0 with Caporale being absent at time of vote.

V. Statement of Closed Meeting

1. Summary Statement of Closed Meeting

Actin Mayor Bernard announced that a closed session had been held on November 8, 2018 at 5:30 p.m. and read into the record of summary of that session, which is attached hereto and made a part of these minutes as required under Section 3-306(c)(2) of the General Provisions Article of the Annotated Code of Maryland.

VI. Director's Reports

(A) Public Works

1. Utilities-Treatment Plants monthly report for September, 2018

Motion to accept the report was made by Caporale, seconded by Cioni and was passed on a vote of 4-0.

(B) Administrative Services

1. Administrative Services monthly report for August, 2018

Motion to accept the report was made by Caporale, seconded by Cioni and was passed on a vote of 4-0.

VII. Approval of Minutes

1. Approval of the Public Session Minutes of August 7, 2018

Motion to approve the minutes was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

VIII. Approval of Minutes

1. Approval of the Closed Session Minutes of August 7 and 14, 2018

Motion to approve the minutes was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

IX. Unfinished Business

(A) Ordinances

1. Ordinance *(2nd & 3rd readings)* - enacting City Code Section 13-200 to regulate the solicitation of money or donations from occupants of vehicles by standing in roadways, median dividers, or intersections

   Mr. Cohen provided background on the Ordinance, stating that the provisions would allow for an orderly way of permitting and conducting these types of solicitations.

   SECOND READING: The Ordinance was presented in title only for its second reading. The reading was interrupted and a motion was made by Frazier to suspend the second reading and move to the third after comment. Cioni seconded the motion and it passed on a vote of 4-0.

   Acting Mayor Bernard called for questions or comments. Being none, the Ordinance proceeded to its third reading.

   THIRD READING: The Ordinance was presented in title only for its third reading and was passed on a vote of 4-0.

   ORDINANCE NO. 3843

X. New Business

(A) Orders (Consent Agenda)

Mr. Rhodes and Mr. Cohen reviewed each item on the Consent Agenda and Acting Mayor Bernard called for questions or comments. Motion to approve Consent Agenda Items 1-8 was made by Cioni, seconded by Frazier, and was passed on a vote of 4-0.

1. Order authorizing the Chief of Police to enter into a Memorandum of Understanding with Maryland allied law enforcement agencies to create and operate the Western Maryland Information Center (WMIC), which will be responsible for the collection, evaluation, collation, analyzation, and dissemination of illegal criminal activity information

   ORDER NO. 26,359

2. Order authorizing the Chief of Police to enter into a Memorandum of Understanding with the Allegany County Health Department for an Overtime Grant of $3,000 to conduct mini-take back events within the community and provide medication pick up services to homebound individuals between November 1, 2018 and June 1, 2019 in an attempt to reduce opiate misuse

   ORDER NO. 26,360

3.

Order accepting the proposal of Whitman, Requardt and Associates for the 30% Initial Design of the 78" Parallel Pipeline from the Mill Race to the CSO Storage Facility at the WWTP in the estimated contract price of $498,429

ORDER NO. 26,361

4. Order accepting the Quitclaim Bill of Sale to transfer ownership of the Cumberland Street Bridge from CSX Transportation, Inc. to the City

   ORDER NO. 26,362

5. Order authorizing execution of an Assignment, Assumption and Guaranty of Lease Agreement by and between Rocon LLC, InSite Towers Development 2 LLC, and Insite Wireless Group LLC regarding the Ground Lease Agreement dated June 5, 2018 which granted Rocon LLC the use of certain premises at Eleanor Terrace, to provide the City's consent to the Assignment subject to certain conditions

   ORDER NO. 26,363

6. Order authorizing execution of a Memorandum of Ground Lease with Rocon, LLC giving notice of the existence of an unrecorded Ground Lease dated June 5, 2018 pertaining to the use of City-owned land on Eleanor Terrace

   ORDER NO. 26,364

7. Order authorizing execution of a Ground Lessor Estoppel regarding the Ground Lease Agreement with Rocon, LLC dated June 5, 2018 for the location of a communications tower on Eleanor Terrace and acknowledging the City's consent to the assignment of the Lease to Insite Wireless Group, LLC and InSite Towers Development 2, LLC

   ORDER NO. 26,365

8. Order authorizing the City Solicitor to execute a letter setting forth the agreement between the City, the UFCE Local 1994, and Cumberland Police Officers Tyler Cheng, Jacob Martel, and Joseph Ashby regarding an adjustment to be made to the officers' annual leave

   ORDER NO. 26,366

XI. Public Comments

Nick Gelles, 317 Pearl Street, asked when the stop signs would be installed at the Pearl Street / Pine Avenue intersection and Mr. Rhodes advised he would check on it. Mr. Gelles discussed concerns regarding junk vehicles that were parked on Pine and Chief Hinnant advised he would send officers up to check the situation out again.

Acting Mayor Bernard and Councilmen Caporale, Cioni, and Frazier thanked all the candidates who had run for council in the recent election and congratulated Ray Morriss on being the newly-elected mayor.

All public comments are limited to 5 minutes per person

XII. Adjournment

With no further business at hand, the meeting adjourned at 6:37 p.m.

Minutes approved on February 5, 2019

Raymond M. Morriss, Mayor

ATTEST: Marjorie A. Woodring, City Clerk

Regular Council Agenda
November 8, 2018

Description

5:30 p.m. - Convene in Open Session for the purpose of closing the meeting for an Executive Session pursuant to Sections 3-305 (b) (7) and (14) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice regarding negotiation of a franchise agreement

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description
Executive Session

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description
6:15 p.m. - Reconvene into Open Session

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description
Summary Statement of Closed Meeting

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Mayor and City Council of Cumberland

Closed Session Summary

November 8, 2018 at 5:30 p.m.

Second Floor Conference Room, City Hall

On Thursday, November 8, 2018, the Mayor and City Council met in closed session at 5:30 p.m. in the second floor conference room of City Hall to confer with counsel to obtain legal advice regarding negotiation of a franchise agreement. Authority to close the session was provided by the General Provisions Article of the Annotated Code of Maryland, Section 3-305 (b) (7) and (14).

Persons in attendance included Acting Mayor Seth Bernard; Council Members David Caporale, Richard Cioni, and Eugene Frazier; City Administrator Jeff Rhodes, City Solicitor Mike Cohen, and City Clerk Marjorie Woodring; Jeff Blomquist, Funk & Bolton, via conference phone

On a motion made by Councilman Frazier and seconded by Councilman Cioni, Council voted 3-0 to close the session, with Caporale absent at vote.

No actions were voted upon and the meeting was adjourned at 6:15 p.m.

Seth Bernard, Mayor pro tem

Entered into the public record on NOV - 8 2018

Regular Council Agenda
November 8, 2018

Description

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

CITY OF CUMBERLAND

UTILITY DIVISION

MONTHLY REPORTS

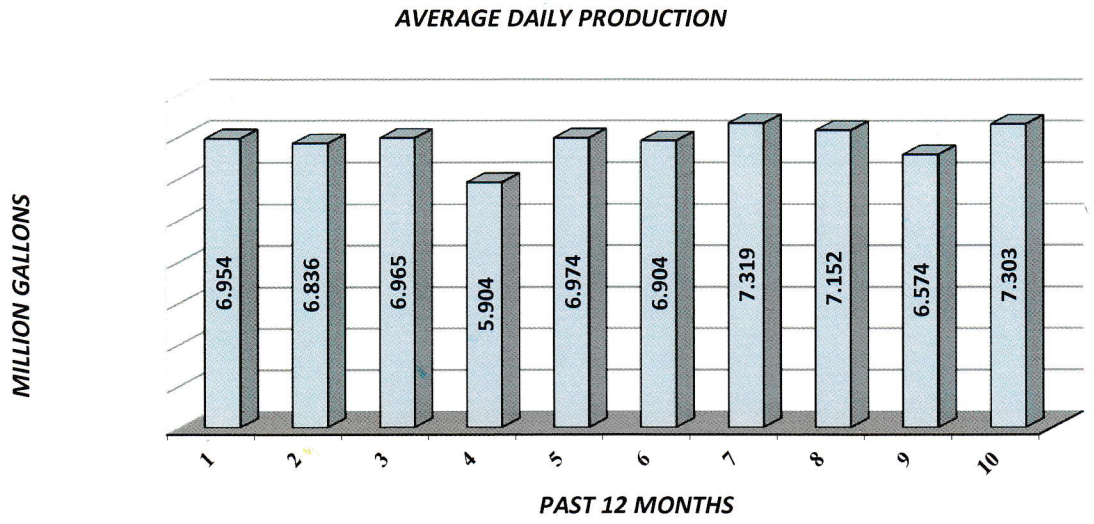
September 2018

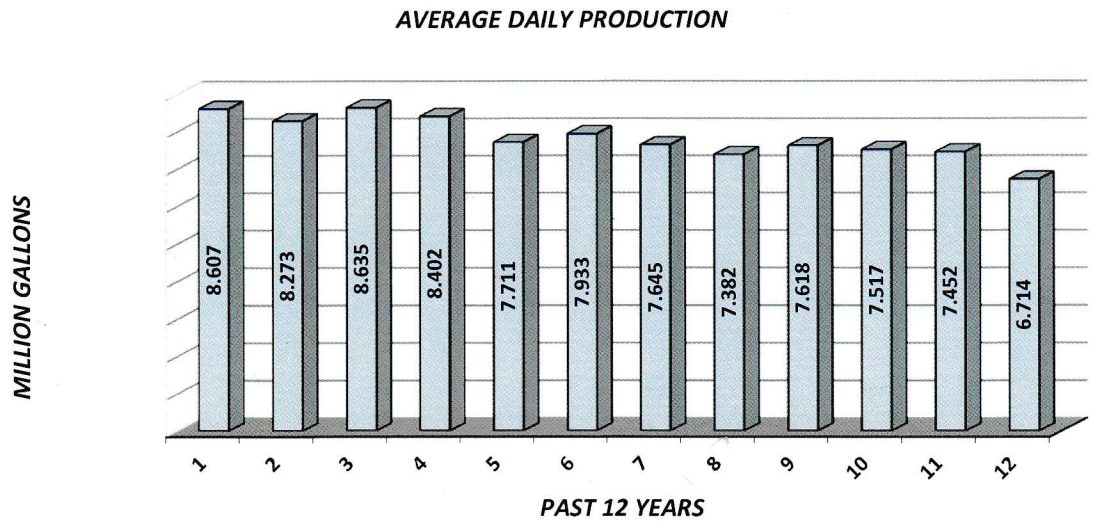
Wastewater & Water Filtration Plant

CITY OF CUMBERLAND'S WATER TREATMENT PLANT

MONTHLY UTILITY REPORT

SEPTEMBER 2018





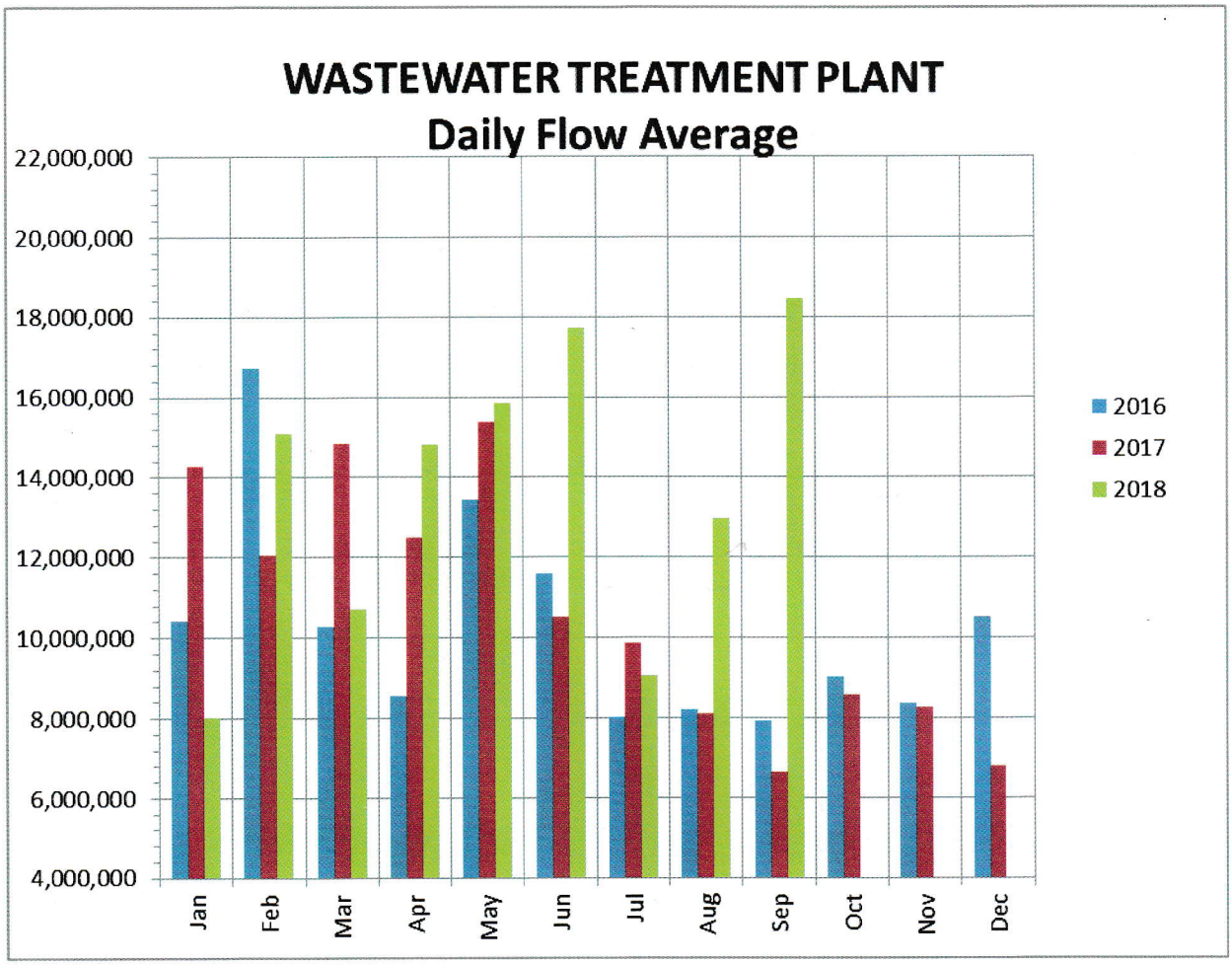
BRIEF LISTING of EVENTS

- *100% COMPLIANCE WITH ALL FEDERAL & STATE DRINKING WATER REGULATIONS*
- *OVER 100 PREVENTIVE MAINTENANCE TASKS COMPLETED/1,300 WATER ANALYSIS PERFORMED*
- *TREATMENT PLANT, PUMPING STATIONS, TANKS AND RESERVOIRS OPERATED/MAINTAINED CONTINUOUSLY 365/24/7*
- *WFP STAFF ARE CURRENTLY WORKING ON SUMMER LAKE AND RESERVOIR MAINTENANCE TASKS*
- *WORKED WITH GD&F ON INTIAL STAGES OF SMOUSES MILL PUMP STATION UPGRADES*
- *BOTH LAKE GORDON AND LAKE KOON AT 100% CAPACITY*
- *COMPLETED 2 YEAR CYCLE OF LT2 SOURCE WATER MONITORING FOR CRYPTOSPORIDIUM WITH FAVORABLE RESULTS*

Wastewater Treatment Plant – September 2018

OPERATIONS:

Treated 553,282,000 gallons @ an average of 18.443 million gallons per day. Removed 196,576 pounds of total suspended solids, 141,650 pounds of BOD, 36,865 pounds of total nitrogen, and 4,152 pounds of total phosphorous. Processed 785,269 gallons of sludge producing 67.05 Dry tons of Class "A" bio-solids. All Federal and State reporting requirements were in compliance. Monthly Flow Comparison Chart is attached.



Regular Council Agenda
November 8, 2018

Description
Utilities-Treatment Plants monthly report for September, 2018

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description
Administrative Services monthly report for August, 2018

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

MINUTES

MAYOR
Brian K. Grim

CITY ADMINISTRATOR
Jeff Rhodes

CITY SOLICITOR
Michael Scott Cohen

COUNCIL
Seth D. Bernard
David Caporale
Richard J. Rock" Cioni
Eugene T. Frazier

CITY CLERK
Marjorie A. Woodring

DATE: August 7, 2018 2018

I. Closed Session

1. 5:00 p.m. - Convene in Open Session for the purpose of closing the meeting for an Executive Session pursuant to Section 3-305(b)(7) to confer with legal counsel regarding the terms of a development agreement between the City, the Cumberland Economic Development Corporation, and Cumberland Gateway Real Estate LLC, and to confer with counsel regarding a code enforcement issue

   Mayor Grim convened the public meeting. Motion to move into closed session was made by Frazier, seconded by Caporale, and passed on a vote of 4-0.

2. Executive Session

II. Open Session

1. 6:15 p.m. - Reconvene into Open Session

III. Pledge of Allegiance

IV. Roll Call

PRESENT: Brian K. Grim, President; Council Members David Caporale, Richard J. Cioni, Eugene T. Frazier

ABSENT: Councilman Seth Bernard

ALSO PRESENT: Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Marjorie Woodring, City Clerk; Paul Kelly, CEDC Executive Director; Mike Getty, CEDC Legal Representative

V. Statement of Closed Meeting

1. Summary Statement of Closed Meeting

Mayor Grim announced that a Closed Session had been held on Tuesday, August 7, 2018 at 5:00 p.m. and read into the record a summary of that session, which is attached hereto and made a part of these minutes as required under Section 3-306(c)(2) of the General Provisions Article of the Annotated Code of Maryland.

VI. Certificates and Awards

1. Certificate of Recognition presented to Lt. Brian Lepley upon his retirement after 23 years of service with the Cumberland Police Department

Lt. Lepley was presented with a Certificate in recognition of his years of service to the department and the community. Mayor Grim and Mr. Rhodes commented on his rapport with the community and his successful career with the Cumberland Police Department. Lt. Lepley's family members who were in attendance were also recognized.

VII. Presentations

1. Presentation from the Fort Hill History team on their project, "A Hard Pill to Swallow"

Mr. Robby May, social studies teacher at Fort Hill High School and head of the Historical Research Methods class, discussed the class and advised that each year's oral history project was student-lead and produced. This year's project was a documentary on the local opioid epidemic and its effects on individuals and the community as a whole. Student representatives in attendance were Caleb Brown, producer; Todd Blankenship, history section; and Hannah Hardinger, script editor. The students showed a clip of the documentary. The Mayor and members of Council thanked the students for tackling this difficult issue and for challenging destructive stereotypes.

2. Presentation from WVU Law Land Use and Sustainable Development Law Clinic on the Cumberland Blight Action Plan

Katherine Garvey, Director of the WVU Land Use & Sustainable Development Law Clinic, provided a review of the Cumberland Blight Action Plan that had been cooperatively prepared by the law firm and Downstream Strategies, a firm with expertise in GIS mapping. Mr. Garvey discussed how the information had been gathered, the specifications used to rate each location, how public input was collected and used to prioritize criteria, and final recommendations for addressing blight in the

community were made.

Mayor Grim thanked Ms. Garvey for their firm's efforts and stated that moving forward, the Council would be interested in hearing more public input on ways to decrease blight and how to continue to fund efforts to remove blight from the neighborhoods.

VIII. Approval of Minutes

1. Approval of the Budget Work Session Minutes of May 1, 2018

   Motion to approve the minutes was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

2. Approval of the Closed Session Minutes of April 19 and May 1, 2018

   Motion to approve the minutes was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

3. Approval of the Regular Session Minutes of June 5, 2018

   Motion to approve the minutes was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

IX. New Business

(A) Resolutions

1. Resolution granting The Family Junction, Inc. a property tax credit for the tax year 2018-2019

   Mr. Rhodes introduced the Resolution, stating that the property tax credit was requested yearly and provided for by the Annotated Code of Maryland.

   The Resolution was presented in title only. Motion to approve the Resolution was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

   RESOLUTION NO. R2018-04

2. Resolution granting The Cumberland Outdoor Club a property tax credit for the tax year 2018-2019

Mr. Rhodes introduced the Resolution, stating that the property tax credit was requested yearly and provided for by the Annotated Code of Maryland.

The Resolution was presented in title only. Motion to approve the Resolution was made by Caporale, seconded by Frazier, and was passed on a vote of 4-0.

RESOLUTION NO. R2018-05

(B) Orders (Consent Agenda)

Mr. Rhodes reviewed each item on the Consent Agenda and Mayor Grim called for questions or comments. Motion to approve Consent Agenda Items 1-14 was made by Caporale, seconded by Cioni, and was passed on a vote of 4-0.

1. Order authorizing the Chief of Police to accept a GOCCP Sex Offender Compliance and Enforcement Grant in the amount of $20,719 for police overtime to perform compliance checks by conducting home visits of registered sex offenders to confirm residency and to purchase a field fingerprint scanner

   ORDER NO. 26,323

2. Order allowing for Special Taxing District tax exemptions for the 2018/2019 tax year for 47 Baltimore St. in the amount of $397.42, 107 S. Centre St. in the amount of $323.98, and 27 N. Centre St. in the amount of $379.62

   ORDER NO. 26,324

3. Order accepting the bid of Hoyman Painting to provide services for the "Repaint Primary Clarifier Equipment Project" (21-18-WWTP) in the estimated unit price of $116,728

   ORDER NO. 26,325

4. Order authorizing the Chief of Police to enter into a Memorandum of Understanding with the Family Crisis Resource Center to provide police overtime in the amount not to exceed $19,583 to assist with security at FCRC during supervised visitation and exchange

   ORDER NO. 26,326

5. Order approving the sole source Design and Install Contract with S&S Electric for the Cavanaugh Ball Field Lighting Project (02-18-RE) for the estimated cost of $49,720

ORDER NO. 26,327

6. Order authorizing the purchase of a Light Structure System with Total Light Control for Cavanaugh Ball Field from MUSCO Sports Lighting, LLC, through the NJPA (National Joint Powers Alliance) State Bid Contract for $104,920

   ORDER NO. 26,328

7. Order authorizing the Chief of Police to accept a Community Grant Program Fund (CGPF) grant entitled "2019 Community Program" in the amount of $15,720 for police overtime to conduct neighborhood foot and bike patrols and attend community events, and for the purchase of promotional items for distribution at community events

   ORDER NO. 26,329

8. Order authorizing the Chief of Police to accept a GOCCP Gun Violence Reduction grant entitled "Gun Violence Reduction Initiative" for FY19 in the amount of $7,000 for overtime support to perform gun-related investigations and specialized gun interdiction patrols and to assist in execution of search warrants to proactively combat street-level violent crime

   ORDER NO. 26,330

9. Order authorizing execution of an Employee Assistance Program Service Agreement with the Western MD Health System Corp. to provide assistance services to City employees and employees' spouses and dependents for a 1- year term retroactive to July 1, 2018 at the cost of $27.00/year per employee

   ORDER NO. 26,331

10. Order authorizing the Chief of Police to accept a GOCCP Heroin Coordinator Grant for FY19 in the amount of $56,066 for personnel to assist in developing and implementing strategies intended to reduce heroin overdoses and related crime and to facilitate the entering of heroin and opioid incident and case data into the HIDTA Case Explorer system

    ORDER NO. 26,332

11. Authorizing the Chief of Police to enter into a Memorandum of Understanding with the Allegany County Health Department to conduct six drug interdiction events between now and June 1, 2019 in an attempt to reduce the illicit supply of opioids in Cumberland. $10,000 in police overtime money has been appropriated by the Allegany County Health Department for this initiative.

ORDER NO. 26,333

12. Order adopting a revised Extended Leave Donor Program to be effective August 7, 2018

    ORDER NO. 26,334

13. Order authorizing the City Administrator to execute FY19 Employment Agreements for part-time employees, which shall not exceed one (1) year from the date of execution

    ORDER NO. 26,335

14. Order authorizing the execution of a Joint Use Agreement with the MD Department of Natural Resources and The Housing Authority of the City of Cumberland for the receipt of $149,000 in Community Parks and Playground funding to be used for improvements to the play facility at the Jane Frazier Village

    ORDER NO. 26,336

15. Order authorizing the execution of a Joint Use Agreement with the MD Department of Natural Resources and Allegany College of Maryland for the receipt of $98,290 in Community Parks and Playground funding to be used to construct two (2) outdoor sand volleyball courts that will be available for community use

    ORDER NO. 26,337

(C) Letters, Petitions

1. Letter from the City Clerk reporting the June 26, 2018 Primary Election results, as certified by the Allegany County Board of Elections and the Maryland State Board of Elections, and stating that, having received the two highest vote counts, Raymond Morriss and Brian K. Grim shall be the candidates placed upon the ballots for the municipal General Election

   The letter was accepted and entered into the public record.

X. Public Comments

Nick Gelles, 317 Pearl Street, raised concerns regarding his assertion that the City planned to put a "no right hand turn" sign on Pearl Avenue. He discussed traffic safety concerns regarding the Pine / Pearl intersection and zoning concerns regarding the

placement of a garage owned by Mr. Taccino. Mr. Rhodes advised that the Traffic Group would be taking a look at that intersection and would be making a recommendation.

Pam, Fredericks, 421 Independence Street, stated she owned property on Independence Street and she appreciated the more thorough look the City was taking into dilapidated properties. She stated that code enforcement was overwhelmed and recommended providing them more support. She requested that staff look at 419, 420 and 423 Independence Street for high grass and weeds. Councilman Frazier stated he had provided those addresses to code enforcement last week.

John Abrams, 765 Fayette Street, discussed concerns regarding the issue of blighted homes in neighborhoods where people were trying to keep up their own homes, making it difficult to maintain the neighborhood. He stated that Bedford, PA was able to somehow manage their blight and their neighborhoods looked entirely different than Cumberland's.

Mr. Rhodes commented that the City has increased its budget for addressing blighted property removal over the past 6-7 years and had spent well over $1M removing blight. The magnitude of what the City was dealing with was difficult to deal with.

All public comments are limited to 5 minutes per person

XI. Adjournment

With no further business at hand, the meeting adjourned at 7:26 p.m.

Minutes approved on _____

Brian K. Grim, Mayor _____

ATTEST: Marjorie A. Woodring, City Clerk _____

Mayor and City Council of Cumberland

Closed Session Summary

August 7, 2018 at 5:30 p.m.

Second Floor Conference Room, City Hall

On Tuesday, August 7, 2018, the Mayor and City Council met in closed session at 5:00 p.m. in the second floor conference room of City Hall to confer with legal counsel regarding the terms of a development agreement between the City, the Cumberland Economic Development Corporation, and Cumberland Gateway Real Estate LLC, and to confer with counsel regarding a code enforcement issue. Authority to close the session was provided by the General Provisions Article of the Annotated Code of Maryland, Section 3-305 (b) (7).

Persons in attendance included Mayor Brian Grim;

Council Members David Caporale, Richard Cioni, and Eugene Frazier; City Administrator Jeff Rhodes, City Solicitor Mike Cohen, City Clerk Marjorie Woodring; Paul Kelly, CEDC Executive Director; and Mike Getty, CEDC Legal Representative.

On a motion made by Councilman Frazier and seconded by Councilman Caporale, Council voted 4-0 to close the session.

No actions were voted upon and the meeting was adjourned at 6:15 p.m.

Brian K. Grim, Mayor

Entered into the public record on AUG - 7 2018

Regular Council Agenda
November 8, 2018

Description
Approval of the Public Session Minutes of August 7, 2018

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Mayor and City Council of Cumberland

Closed Session Minutes

City Hall, 57 N. Liberty Street, Cumberland, MD 21502
Second Floor Conference Room
Tuesday, August 7, 2018
5:00 p.m.

The Mayor and City Council convened in open session at 5:00 p.m. for the purpose of closing the meeting for an executive session pursuant to Section 3-305 (b) (7) of the General Provisions Article of the Annotated Code of Maryland to confer with legal counsel regarding the terms of a development agreement between the City, the Cumberland Economic Development Corporation, and Cumberland Gateway Real Estate, LLC, and to confer with counsel regarding a code enforcement issue.

MOTION: Motion to enter into closed session was made by Councilman Frazier, seconded by Councilman Caporale, and was passed on a vote of 4-0.

PRESENT: Brian K. Grim, President; Council Members, David Caporale, Richard Cioni, and Eugene T. Frazier

ABSENT: Councilman Seth Bernard

ALSO PRESENT: Jeffrey Rhodes, City Administrator; Michael Cohen, City Solicitor; Marjorie Woodring, City Clerk; Paul Kelly, CEDC Executive Director; Mike Getty, CEDC Legal Representative

Mayor and City Council of Cumberland

Closed Session Minutes

City Hall, 57 N. Liberty Street, Cumberland, MD 21502
Second Floor Conference Room
Tuesday, August 14, 2018
4:30 p.m.

The Mayor and City Council convened in open session at 4:30 p.m. for the purpose of closing the meeting for an executive session pursuant to Section 3-305 (b) (1), (7) and (8) of the General Provisions Article of the Annotated Code of Maryland to discuss efficiency issues relative to a particular city employee, to obtain legal advice regarding matters related to the CSX bridges, and to consult with staff regarding the CSX matters.

MOTION: Motion to enter into closed session was made by Councilman Caporale, seconded by Councilman Frazier, and was passed on a vote of 5-0.

PRESENT: Brian K. Grim, President; Council Members Seth Bernard, David Caporale, Richard Cioni, and Eugene T. Frazier

ALSO PRESENT: Jeffrey Rhodes, City Administrator; Michael Cohen, City Solicitor; Marjorie Woodring, City Clerk

Regular Council Agenda
November 8, 2018

Description
Approval of the Closed Session Minutes of August 7 and 14, 2018

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO ENACT SECTION 13-200 OF THE CODE OF THE CITY OF CUMBERLAND (1991 EDITION) FOR THE PURPOSE OF REGULATING THE SOLICITATION OF MONEY OR DONATIONS FROM OCCUPANTS OF VEHICLES BY STANDING IN ROADWAYS, MEDIAN DIVIDERS, OR INTERSECTIONS."

WHEREAS, section 21-507(f) of the Transportation Article of the Annotated Code of Maryland authorizes the governing body of a county or municipal corporation to enact a permit program to allow specified individuals to solicit money or donations from the occupants of vehicles by standing in a roadway, median divider, or intersection.

WHEREAS, the City receives requests for the authorization of such activities from time to time.

WHEREAS, the enactment of regulations governing such activities would serve the interests of public health, safety and welfare.

NOW, THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that section 13-200 of the Code of the City of Cumberland (1991 Edition) be and is hereby enacted, to read as follows:

Sec. 13-200. – Permits for roadway solicitations.

(a) In this section, "qualified organization" means a fire company or bona fide religious, fraternal, civic, war veterans', or charitable organization.

(b) *Permit required.* A permit shall be required in order to solicit money or

donations from the occupant of a vehicle by standing in a roadway, median divider or intersection. Such permits shall be issued exclusively to qualified organizations.

(c) *Fee*. There shall be no fee for a permit issued under this section.

(d) *Persons permitted to solicit*. Only individuals who are at least eighteen (18) years old and representatives of qualified organizations who are at least eighteen (18) years old are allowed to solicit money or donations with a solicitation permit.

(e) *Permit applications*. Applications for solicitation permits shall be submitted to the city police department on such forms as may be utilized by the city. An applicant shall be required to submit proof that the individual or qualified organization has a plan for safely soliciting money or donations from the proposed location. The exact location where the solicitation will occur must be identified in the application.

(f) *Permit approval*. The chief of the police department or his designee shall be responsible for approving permits.

(g) *Permit duration*. A permit shall be effective for no more than five (5) calendar days.

(h) No more than one (1) permit per qualified organization shall be issued in any calendar year.

(i) *Penalty*. This section is promulgated in accordance with section 21-507(f) of the Transportation Article of the Maryland Annotated Code. Violations of this section

constitute violations of that state law provision and are subject to the penalties provided under state law.

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

Passed this ____ day of _____, 2018.

_____
Brian K. Grim, Mayor

ATTEST:

_____
Marjorie A. Woodring, City Clerk

Regular Council Agenda
November 8, 2018

Description

Ordinance *(2nd & 3rd readings)* - enacting City Code Section 13-200 to regulate the solicitation of money or donations from occupants of vehicles by standing in roadways, median dividers, or intersections

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☑ 2nd Reading
☑ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
November 8, 2018

Description

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the Chief of Police be and is hereby authorized to enter into a Memorandum of Understanding (M.O.U.) with the Maryland State Police, Maryland Coordination and Analysis Center, Frederick Police Department, Frederick County Sheriff's Office, Washington County Sheriff's Office, Hagerstown Police Department, Allegany County Sheriff's Office, and the Provost Marshal's Office-Fort Detrick on behalf of the City of Cumberland Police Department, to create and operate the Western Maryland Information Center (WMIC), which will be responsible for collecting, evaluating, collating, analyzing and disseminating information of illegal criminal activity.

BE IF FURTHER ORDERED THAT, this M.O.U. will remain in effect for one (1) year and automatically renew for four (4) successive one (1)-year periods.

_____

Brian K. Grim, Mayor

MARYLAND STATE POLICE
Routing Slip

TO: MSP Legal Counsel Unit DATE: July 23, 2018

FROM: F/Sgt. Joseph S. Pompilii, CIS/MCAC

SUBJECT: Please see the attached, Memorandum of Understanding for the Western Maryland Information Center (WMIC).

COMMENT: Forwarded procedurally for your review and legal sufficiency.

TO: DATE:

FROM:

SUBJECT:

COMMENT:

Legally Sufficient
By
Date 8/3/18
Legal Counsel Unit
Maryland State Police

TO: Mr. Donald Lewis, Chief of Staff, Superintendent's Office DATE: August 8, 2018

FROM: Mr. David Engel, Director, Maryland Coordination and Analysis Center (MCAC)

SUBJECT: Please see the attached, MEMORANDUM OF UNDERSTANDING for the Western Maryland Information Center (WMIC).

COMMENT: Forwarded procedurally for your review and disposition.

TO: DATE:

FROM:

SUBJECT:

COMMENT:

TO: DATE:

FROM:

SUBJECT:

COMMENT:

TO: DATE:

FROM:

SUBJECT:

COMMENT:

MSP 145 (5-14)

MEMORANDUM OF UNDERSTANDING

WESTERN MARYLAND INFORMATION CENTER

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into this _____ day of _____, 2018 by and between the Maryland State Police, Maryland Coordination and Analysis Center, Frederick Police Department, Frederick County Sheriff's Office, Washington County Sheriff's Office, Hagerstown Police Department, Allegheny County Sheriff's Office, Cumberland Police Department, and Provost Marshal's Office, Fort Detrick, hereinafter identified as participating agencies.

Whereas, the participating agencies jointly agree to abide by the terms and provisions of this MOU;

Whereas, nothing within this MOU shall be construed to limit or impede current or existing Memorandums of Understanding or Mutual Aid Agreements between participating agencies;

Whereas, the participating agencies desire to formalize the rights, duties, and relationships required to create and operate a regional information center; hereinafter referred to as the Western Maryland Information Center (WMIC);

Whereas, it is the intent of the participating agencies to achieve maximum inter-agency cooperation, collaboration, and coordination necessary to develop and disseminate information and intelligence vital to crime fighting efforts within the Western Maryland region;

Whereas, the Frederick Police Department will provide access-controlled office space for use by WMIC operations and personnel; and

Whereas, pursuant to a separate Reimbursement Agreement between the Maryland State Police Grants Management Section and The City of Frederick, the Frederick Police Department will purchase equipment and supplies for the WMIC.

1. **MISSION**

The mission of the WMIC is to collect, evaluate, collate, analyze, and disseminate information on individuals and groups suspected of being involved in gang and other illegal activity identified as a priority to the WMIC. The WMIC will strive to be the repository for the collection and dissemination of information between local, state and federal law enforcement agencies in an effort to be proactive in initiating criminal investigations.

2. ORGANIZATIONAL STRUCTURE

A. Advisory Board

a. The WMIC Advisory Board, comprised of the Chief Executive or their designee of each participating agency, will guide and establish the strategic direction of the WMIC. The WMIC Advisory Board will assure the WMIC is provided with the necessary equipment, training, and administrative support required to fulfill the WMIC's mission.

b. The WMIC Advisory Board will meet semi-annually to establish operational, administrative, training, and fiscal objectives for the subsequent fiscal year.

B. Supervision

a. A supervisor assigned by the Maryland State Police will provide daily supervision of WMIC operations, personnel, and specific requests for support and will be designated as the WMIC Supervisor. Responsibilities of the WMIC supervisor include, but are not limited to:

i. Direct first line supervision of WMIC personnel to include performance appraisals.

ii. Manage internal investigation procedures of allegations of misconduct of WMIC personnel.

iii. Collection, analysis, and dissemination of information and intelligence specific to the Western Maryland region.

iv. Collection, analysis, and dissemination of information and intelligence obtained from both State and Federal resources as appropriate.

v. Ensure all investigative and intelligence related activities and products conform to both State and Federal laws and requirements.

vi. Primary liaison and coordinator with other State of Maryland, other State, and Federal Fusion Centers.

vii. Upon request, participate in command post operations during large scale events within the Western Maryland region.

viii. Prioritize specific investigative and analytical assistance provided to participating agencies.

ix. Prepare and submit annual budget specific to WMIC operations to the Frederick Police Department.

x. Prepare and submit procurement requests to the Frederick Police Department.

C. Participation

a. All participants acknowledge that the WMIC is a joint operation in which all agencies act as partners in the operation of the WMIC for the purposes of combining investigative and analytical resources. The direction and focus of WMIC operations will be determined by the Advisory Board, who will meet collectively to establish policy and provide oversight.

b. Participating agencies will assign personnel either full-time or part-time, depending on their agency's staffing levels. Part-time personnel assigned to the WMIC shall work a minimum of eight hours per week in the WMIC. The minimum number of hours spent in the WMIC may be accumulative between two or more persons from the same agency.

c. To facilitate WMIC communications, each participating agency will identify one individual from their agency to serve as the liaison officer for WMIC operations.

D. **Training**

a. Participating agencies agree that personnel assigned as liaison's to the WMIC may be required to attend training associated with civil rights protections and other analytical and/or intelligence related courses or conferences and/or other training the Advisory Board deems appropriate for WMIC operations. Each participating agency maintains the final approval for their personnel regarding training attendance.

b. The WMIC agrees, pending funding availability and to the extent budgeted funding allows, to provide funding associated with registration for the above noted training.

c. It is the responsibility of the participating agency to fund the cost of travel, lodging, per diem, and other associated costs to include payment of salaries and overtime expenses of their individual employees.

d. Training recommendations by the Advisory Board shall be advisory in nature.

i. It should be noted that requests to fund training will be prioritized based on the participating agency's level of participation, information/intelligence sharing, and support offered to WMIC operations.

E. **Administration**

a. WMIC Operational and Administrative Supervision

i. The WMIC Supervisor will establish priority of operations in conjunction with the MCAC liaison.

ii. The WMIC Supervisor will ensure a standardized process to facilitate collection, retention, and dissemination of intelligence information.

iii. The WMIC Supervisor will ensure all investigative operations and intelligence collection conform to State and Federal statutory requirements.

b. Participating agencies agree that all WMIC funding expenditures will be in accordance with The City of Frederick Purchasing Rules and Regulations.

i. All requests for funding must be approved through the Frederick Police Department command member assigned to provide operational and administrative assistance to the WMIC.

F. **Funding/Procurement**

a. Each participating agency is responsible for all liabilities, insurance, worker compensation claims, and personnel costs associated with personnel assigned as liaison to the WMIC.

b. Participating agencies will submit requests directly to the WMIC Supervisor when requesting WMIC assistance with the purchase of equipment or training. If approved, the WMIC Supervisor will forward the request to the appropriate Frederick Police Department command member assigned to provide operational and administrative assistance to the WMIC.

i. It should be noted that requests to fund operational expenses will be prioritized based on the participating agency's level of participation, information/intelligence sharing, and support offered to WMIC operations.

c. The Maryland State Police will reimburse the City of Frederick for all WMIC equipment purchases and/or training expenditures submitted through the Frederick Police Department.
d. Invoices received from WMIC purchases will be submitted to the Frederick Police Department Fiscal Affairs Manager. The Department's Fiscal Affairs Manager will coordinate reimbursement of the cost of items associated with WMIC purchases through the Maryland State Police Grant's Management Section.

G. Liability

a. Each participating agency will be responsible for any negligent or wrongful acts or omission of their respective employees assigned to the WMIC
b. Each participating agency indemnifies and holds harmless the WMIC and all other participating agencies, to the extent permitted by State law, for any claims or costs arising from participation in the WMIC.

H. Media

Participating agencies retain ownership of any and all intellectual property and related information provided to the WMIC. It is the responsibility of the participating agency to follow their individual agency and State of Maryland statutes regarding dissemination of public information. The WMIC will not release any information or provide media releases.

3. DURATION

This MOU will remain in effect for one year and automatically renew for four successive one year periods. A participating agency may withdraw from this MOU at any time by providing the remaining participating agencies a written notice within thirty days of its intent to withdraw. Upon withdrawal, all WMIC supplied equipment must be returned to the WMIC supervisor.

4. MODIFICATIONS

The terms of the MOU may be modified only by a formal written amendment signed by all parties.

5. PRIVACY AND CONSTITUTIONAL PROTECTIONS

Participating agencies and assigned personnel agree to comply with all applicable laws and regulations protecting individual and organizations' privacy rights, civil rights, and civil liberties in the use, analysis, retention, destruction, sharing and disclosure of personal information received and stored within the WMIC.

In WITNESS WHEREOF, the parties have hereunto set their hand and seal as of the date set forth above.

Colonel William Pallozzi
Maryland State Police

Director David A. Engel
Maryland Coordination and Analysis Center

Chief Ed Hargis
Frederick Police Department

Sheriff Charles Jenkins
Frederick County Sheriff's Office

Sheriff Douglas Mullendore
Washington County Sheriff's Office

Chief Paul Kifer
Hagerstown Police Department

Chief Charles Hinnant
Cumberland Police Department

Mr. Raymond Wharton
Provost Marshal Police Dept., Fort Detrick

Sheriff Craig Robertson
Alleghany County Sheriff's Officer

Regular Council Agenda
November 8, 2018

Description

Order authorizing the Chief of Police to enter into a Memorandum of Understanding with Maryland allied law enforcement agencies to create and operate the Western Maryland Information Center (WMIC), which will be responsible for the collection, evaluation, collation, analyzation, and dissemination of illegal criminal activity information

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the Mayor be and is hereby authorized to execute an Assignment, Assumption and Guaranty of Lease Agreement by and between Rocon LLC, InSite Towers Development 2 LLC, and Insite Wireless Group LLC regarding the Ground Lease Agreement dated June 5, 2018 granting Rocon LLC the use of certain premises at Eleanor Terrace and providing the City's consent to the Assignment subject to certain conditions.

_____

Brian K. Grim, Mayor

ASSIGNMENT, ASSUMPTION AND GUARANTY OF LEASE AGREEMENT AND CITY APPROVAL

THIS ASSIGNMENT, ASSUMPTION AND GUARANTY OF LEASE AGREEMENT ("Assignment") is made and entered into this _____ day of November, 2018 ("Effective Date"), by and between **Rocon, LLC**, a Maryland limited liability company ("Assignor"), **InSite Towers Development 2, LLC,** a Delaware limited liability company ("Assignee"), **Insite Wireless Group, LLC,** a Delaware limited liability company ("Guarantor"), and Mayor and City Council of Cumberland, a Maryland municipal corporation (the "City").

RECITALS

WHEREAS, Assignor, as Lessee, and the City, as Lessor, entered into a Ground Lease Agreement dated June 5, 2018 (the "Lease") pursuant to which the City agreed to lease to Assignor certain premises located at Eleanor Terrace in the City of Cumberland, Maryland and grant Assignor certain ancillary rights;

WHEREAS, under section 25.A of the Lease, Assignor has the right to assign the Lease to another financially responsible party;

WHEREAS, Assignor desires to assign all of its right, title and interest in the Lease to Assignee and Assignee desires to assume Assignor's obligations under the Lease as of the Effective Date;

WHEREAS, Assignee is a wholly owned subsidiary of Guarantor;

WHEREAS, although the City has not ascertained whether Assignee is a financially responsible party, the City has determined that Guarantor is a financially responsible party and in lieu of any bonding or other financial requirement of the Assignee, the City has agreed to accept the Guaranty set forth herein to satisfy the requirements of section 25.A of the Lease; and

WHEREAS, the City consents to this Assignment subject to Guarantor's absolute and unconditional guaranty of Assignee's obligations under the terms of the Lease as provided for hereinafter.

WITNESSETH:

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

1. Recitals. The recitals set forth above are not merely prefatory. They are incorporated by reference herein and form a part of this Assignment.

2. **Assignment.** Assignor hereby assigns to Assignee all of its right, title and interest in and to the Lease, subject to all of the terms, covenants, conditions and provisions of the Lease.

3. **Assumption.** Assignee hereby assumes, covenants and agrees to keep and perform each and every obligation of Assignor under the Lease to the extent that such arise or first become due and payable after the Effective Date hereof. Subject to the foregoing sentence, Assignee agrees to be bound by each and every provision of the Lease as if it had executed the same.

4. **Assignor's Representations and Warranties.** Assignor represents and warrants to Assignee that:

(a) the Lease is in full force and effect, unmodified except as provided in this Agreement;

(b) Assignor's interest in the Lease is free and clear of any liens, encumbrances or adverse interests of third parties;

(c) Assignor possesses the requisite legal authority to assign its interest in the Lease as provided herein.

(d) There are no sums due and owing by Assignor under the Lease as of the effective date hereof, and there exists no condition of default thereunder.

5. **Guaranty.** Guarantor absolutely and unconditionally guarantees the due and punctual payment of all rent, both basic and additional, and all other sums due, including interest and penalties (as permitted under the Lease, if any), and to be paid by Assignee pursuant to the Lease and the performance by Assignee of all the terms, conditions, covenants, and agreements of the Lease, and Guarantor agrees to pay all of the City's costs, expenses, and reasonable attorneys' fees incurred in enforcing the covenants and agreements of Assignee in the Lease or incurred by the City in enforcing the terms of this section of this Assignment.

Guarantor waives notice of the acceptance of this Assignment, and Guarantor covenants and agrees that the City may proceed directly against it without first proceeding or making claim or exhausting any remedy against Assignee or pursuant to any particular remedy or remedies available to the City.

Guarantor covenants and agrees that, without releasing, diminishing, or otherwise affecting liability of Guarantor or the performance of any obligation contained in this section and without affecting the rights of the City, the City may, at any time and from time to time, and without notice to or further covenant of Guarantor, all in accordance with the terms and conditions of the Lease: (a) make any agreement extending or reducing the term of the Lease or otherwise altering the terms of payment of all or any part of the rent, or granting any indulgences with respect to these matters, or modifying or otherwise dealing with the Lease; (b) exercise or refrain from exercising or waiving any right the City might have; (c) consent to any assignment or subletting in accordance with the Lease by Assignee, its successors and assigns, made with or without notice to each Guarantor, and (d) consent to any other modification of the Lease.

Guarantor agrees that in the event of any one of the following: (a) Assignee shall become insolvent or shall be adjudicated a bankrupt; (b) Assignee shall file a petition for reorganization, arrangements, or similar relief under any present or future provision of the Bankruptcy Code; (c) a petition for reorganization, arrangements, or similar relief under any present or future provision of the Bankruptcy Code filed by creditors of Assignee shall be approved by a court; (d) Assignee shall seek a judicial readjustment of the rights of its creditors under any present or future federal or state law; or (e) a receiver of all or part of its property and assets is appointed by any state or federal court, and in any such proceeding the Lease shall be terminated or rejected or the obligations of Assignee under the Lease shall be modified, then Guarantor will immediately pay to the City, or its successors or assigns an amount equal to all rent accrued to the date of the termination, rejection, or modification.

Guarantor's obligation relative to the timely payment of rent and its other obligations under this Assignment shall not be impaired, modified, changed, released, or limited in any manner whatsoever by any impairment, modification, change, release, or limitation of the liability of Assignee or its estate in bankruptcy or of any remedy for the enforcement resulting from the operation of any present or future provision of the federal Bankruptcy Code or from the decision of any court.

The City agrees and acknowledges that so long as the Guaranty in this Section 5 remains in full force and effect, Assignee shall be permitted to further assign the Lease to an affiliate or other wholly-owned subsidiary of Guarantor ("InSite Affiliate") in connection with an inter-company transfer without further approval from the City, and upon such assignment the InSite Affiliate shall be deemed the "Assignee" as used in this Section 5.

6. Insurance Requirements. Assignee shall provide the City with proof of compliance with the terms of section 11 of the Lease regarding insurance within five (5) days of the Effective Date of this Assignment.

7. Expenses. The parties hereto will bear their separate expenses in connection with this Assignment and its performance.

8. Entire Agreement and Covenant of Further Assurances. This Assignment embodies the entire understanding of the parties hereto and there are no other agreements or understandings written or oral in effect between the parties relating to the subject matter hereof unless expressly referred to by reference herein. This Assignment may be amended or modified only by an instrument of equal formality signed by the parties or their duly authorized agents. Each party agrees to take such further or additional action and execute and deliver to the other parties such further or additional instruments, agreements, or other documents as shall be reasonably requested by the other parties in order to complete, assure and/or evidence, or more fully complete, assure and/or evidence, the transactions contemplated or described herein, or to grant, secure and/or confirm, or more fully grant, secure and/or confirm, the rights and benefits intended to be conferred on each party by the transactions contemplated or described in this Assignment.

9. Governing Law. This Assignment and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State of Maryland. It shall be

enforceable in an action commenced in either the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County and the parties hereto waive any claims they may have that such courts lack jurisdiction over or constitute inconvenient fora for the resolution of their dispute(s).

10. **Successors and Assigns.** This Assignment and the provisions hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

11. **Attorneys' Fees**. In the event of a dispute arising under this Assignment, the prevailing party shall be entitled to recover all reasonable attorneys' fees, court costs and litigation expenses.

12. **Jury Trial Waiver. THE PARTIES HERETO WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH ANY OF THEM MAY BE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS ASSIGNMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS ASSIGNMENT.**

13. **Counterparts.** This Assignment 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.

14. **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 of this Assignment. Facsimile and/or other electronically transmitted copies shall have the same binding effect as would a signed original counterpart of the Assignment once delivered to the other parties.

15. **Recording**. The parties agree to execute a Memorandum of this Assignment which Assignee may record with the appropriate recording office.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have affixed their signatures hereto as of the date first above written.

WITNESS/ATTEST:

MAYOR AND CITY COUNCIL OF CUMBERLAND

_____
Marjorie A. Woodring, City Clerk

By:_____
Brian K. Grim, Mayor

ROCON, LLC, Assignor

_____

By:_____
William Rothman, Member

INSITE WIRELESS GROUP, LLC, Guarantor

_____

By:_____

_____
David E. Weisman, President and CEO

INSITE TOWERS DEVELOPMENT 2, LLC, Assignee

_____

By:_____

_____
David E. Weisman, President and CEO

Regular Council Agenda
November 8, 2018

Description

Order authorizing execution of an Assignment, Assumption and Guaranty of Lease Agreement by and between Rocon LLC, InSite Towers Development 2 LLC, and Insite Wireless Group LLC regarding the Ground Lease Agreement dated June 5, 2018 which granted Rocon LLC the use of certain premises at Eleanor Terrace, to provide the City's consent to the Assignment subject to certain conditions

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** _November 8, 2018_

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

THAT, the Chief of Police be and is hereby authorized to enter into a Memorandum of Understanding (M.O.U.) with the Allegany County Health Department on behalf of the City of Cumberland Police Department, to accept a FY19 "Opiate Misuse Prevention" Grant in an amount not-to-exceed Three Thousand Dollars and No Cents ($3,000.00), for police overtime to provide medication pick-up services to home-bound individuals and to conduct mini take-back events within the community; and

BE IF FURTHER ORDERED THAT, the time period for this M.O.U. is retroactive from November 1, 2018 to June 1, 2019.

_____

Brian K. Grim, Mayor

MEMORANDUM OF UNDERSTANDING

between

ALLEGANY COUNTY HEALTH DEPARMENT
12503 Willowbrook Road SE
Cumberland, MD 21502

and

CUMBERLAND CITY POLICE DEPARTMENT
20 Bedford Street
Cumberland, MD 21502

This agreement is funded through grant monies made available from the Behavioral Health Administration **Award Number F846N-AS212FED (Opiate Misuse Prevention) Fiscal Year 2019 – Time period for Memorandum of Understanding from November 1, 2018 to June 1, 2019. As the Health Department is a government agency, this award does not permit allowance for indirect costs or the cost for use of agency vehicles.**

This is a cost-reimbursement contract that provides for payment to the vendor on an agreed fixed amount as follows:

Overtime hours = Approx. 85 hours x $35.00 hourly rate* = $3,000.00
*Hourly overtime rate may vary per officer.

The Allegany County Health Department agrees to pay **Cumberland City Police Department** an amount not to exceed **$3,000.00** for the following services:

1. Provide medication pick up services to homebound individuals.
2. Conduct mini-take back events within community.

As a recipient of a Behavioral Health Administration mini-grant, the **Cumberland City Police Department** agrees to submit reports (see attachment #1) and invoices (including over time vouchers, and receipts) for the above stated services on a quarterly basis. **Invoices and reports should only reflect the services and expenses from this grant award, and should not be combined with any other Health Department grant funding (if applicable).** Deadlines for quarterly reports and invoices are: January 10, 2019, April 10, 2019, and **June 1, 2019.**

_____ Date: _____
Chief Charles Hinnant
Cumberland City Police Department

_____ Date: 10/29/18
Jenelle Mayer
Health Officer
Allegany County Health Department

The Cumberland City Police Department agrees to follow the policies of the Human Services Agreements Manual (HSAM) of the Department of Mental Health and Hygiene that is available upon request.

Regular Council Agenda
November 8, 2018

Description

Order authorizing the Chief of Police to enter into a Memorandum of Understanding with the Allegany County Health Department for an Overtime Grant of $3,000 to conduct mini-take back events within the community and provide medication pick up services to homebound individuals between November 1, 2018 and June 1, 2019 in an attempt to reduce opiate misuse

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

$3,000

Source of Funding (if applicable)

- Order -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** __November 8, 2018__

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

THAT, the proposal from Whitman, Requardt & Associates, 801 South Caroline Street, Baltimore, Maryland, 21231, to provide 30% Initial Design of the 78" Parallel Pipeline from the Mill Race to the CSO Storage Facility at the WWTP, in the estimated contract price of Four Hundred Ninety-eight Thousand, Four Hundred Twenty-nine Dollars and No Cents ($498,429.00) be and is hereby accepted.

_____

Brian K. Grim, Mayor

Source of Funding: 003.399P.63000

DRAFT SCOPE OF WORK

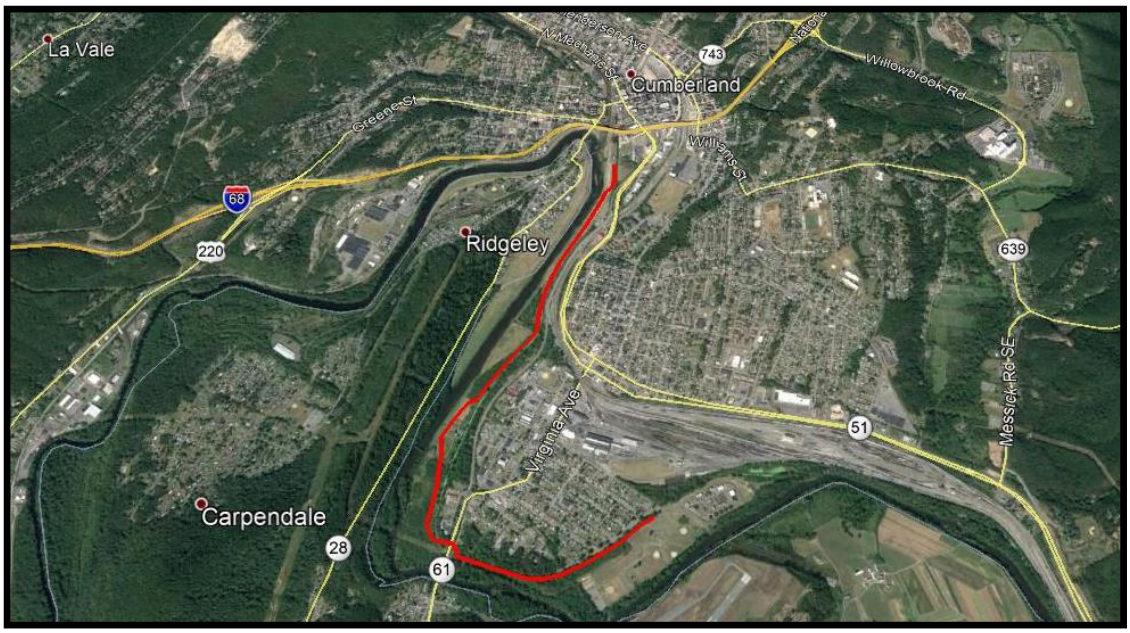
FINAL DESIGN SERVICES
FOR
78-INCH CSO PIPELINE
FROM MILL RACE TO CSO STORAGE FACILITY AT THE WWTP
Initial Design

CITY PROJECT NO. __-___-WWTP

September 4, 2018

The scope of work described herein includes the Initial Design of approximately 14,000 linear feet of 78-inch Combined Sewer Overflow (CSO) pipeline from Mill Race to the CSO storage facility. Initial efforts will include the NPS coordination and permitting. Additional permitting will be initiated during final design efforts. Some components of the initial design will be based on assumptions without the benefit of geotechnical borings, to be collected during latter stages of the project.

Associated with the CSO pipeline will be three junction structures and associated tunnels. The current alignment is anticipated to be as indicated in red on the following figure, which includes approximately 6,200 linear feet within the C&O Canal, with the associated coordination with the National Park Service (NPS).



Our scope of work for the Initial Design for this project includes the following design and permitting tasks:

Task I. National Park Service Coordination

There is significant anticipated coordination that will be required with the National Park Service for various work items including access for all subconsultants (geotechnical, test pits, surveys) and for the required Section 106 compliance. The Project Manager shall perform the following for coordination with the National Park Service. This coordination is assumed to overlap into the final design, as needed.

1. Coordination with Subconsultants and National Park Service.

Attend coordination meetings with subcontractors and NPS and issue meeting minutes for general coordination. One meeting for each of the four sub-consultants requiring access to the C&O Canal is assumed, for a total of four (4) meetings.

2. NEPA Coordination

a. Attend kickoff meeting and site visit.
b. Manage and facilitate one informational public scoping meeting, with associated poster board displays. It is assumed that Cumberland will be responsible for all draft public meeting notices, press releases, meeting sign-in sheets and comment forms.
c. Participate in monthly conference calls and provide summaries of conference calls (12 conference calls assumed).
d. Prepare and submit monthly progress reports to the NPS (12 assumed).
e. Prepare Communications Plan.
f. Attend misc. meetings as required with associated meeting minutes (3 assumed)

Task II. Environmental Assessment and Section 106 Compliance

WRA will prepare the Environmental Assessment as required by the NPS for construction within the C&O canal. All work will be completed in accordance with NPS requirements, which are included as **Appendix A** to this scope of work. Our sub-consultant for Section 106 work is **Suzanne Trussell**, who is the Owner of **Cultural Resources of Cumberland Maryland**. Our sub-consultant for the environmental assessment is **Smith Planning and Design, LLC** (S&S) of Cumberland, MD.

The Phase I archaeological and geomorphological investigation will be completed in compliance with regulations and standards of Section 106 of NHPA (National Historic Preservation Act) 1966 and the Environmental Assessment (EA) of NEPA (National Environmental Protection Act). Following *Standards and Guidelines for Archaeological Investigations in Maryland (1994*) and guidelines set by Archaeological Resource Protection Act (ARPA) of 1979, reports will be submitted for review to the Regional Director of the National Park Service (NPS) and Maryland Historic Trust (MHT) who have final authority on

eligibility determinations for newly documented cultural resources and over the course of action for the project. Artifacts, photographs, and paperwork will be curated by NPS standards and Global Information System (GIS) information will be submitted to National Park Service's Archeological Sites Management Information System (ASMIS).

In accordance with Appendix A, all archaeological investigations will be separated into Phase IA and IB.

1. Phase IA

The initial phase (Phase 1A) will research the historical context of the APE and land-use changes by accessing state SHPO files and local resources for previously recorded historic and prehistoric sites. Field reconnaissance will identify surface artifacts and historic buildings and structures like culverts and bridges as well as landscape features. Geomorphological investigations will determine depth and character of buried soils and landscape surfaces. Based on archival information and geomorphological assessment, the Phase IA report will include a detailed field strategy for further testing in areas determined to be high and medium potential for cultural deposits. The Regional Director of the National Park Service will review the Phase IA report and issue an Archaeological Resource Protection Act (ARPA) permit to work in C&O Canal National Historic Park.

2. Phase IB

Upon final approval of the Phase IA report and issuance of the ARPA, Phase IB work will be initiated. Test locations will be determined, field work will be performed, and a draft and final geoarcheological memo will be provided.

Specific assumptions made in developing costs for Phases IA and IB include the following:

- Approximately 210 shovel test pits will be performed along the alignment within the C&O Canal. The shovel tests will be staggered at 50-foot intervals, discounting areas drastically disturbed by flood control measures.
- Soils for shovel test pits will be able to reached by shovels, with excavation depths up to 3-feet in depth or by hand augers up to 11-feet in depth.
- Depending on the review and suggestions of the National Park Service and Maryland Historical Trust, it may be necessary to further test the deep soils at the canal crossings. A contingency has been included in the proposal assuming the requirements for a backhoe rental, Geoprobe rental & operator, and archeology team. This proposal assumes a contingency for five (5) days for these operations.
- No Phase II, Phase III, memorandums of agreement, or mitigation work is included in this current work effort.

3. Environmental Assessment

DRAFT

WRA's Subconsultant, **S&S** will develop and prepare the Draft Environmental Assessment (EA), incorporating appropriate sections, inclusions, and/or information provided by WRA and Cultural Resources. The EA shall contain a brief discussion of the purpose and need for the project, project alternatives, proposed environmental impacts broken down by alternatives, and a list of all agencies and/or persons consulted. The draft EA and related compliance documentation will be prepared for two (2) NPS reviews and submittal of final documents. S&S, in coordination with WRA and Cultural Resources, will prepare responses to review comments on all deliverables and submit to NPS for approval before incorporating changes into subsequent versions of the documents. A final review of the document will be conducted by NPS. Based on the adequacy of the final review, NPS will approve for public distribution.

S&S will prepare the EA in full compliance with the requirements of the National Environmental Policy Act of 1969, as amended; the Council on Environmental Quality Regulations (40 CFR 1500-1508); and the National Park Service NEPA Compliance Guideline (DO-12).

Upon receipt of comments, S&S will work with the project team, including WRA, Cultural Resources, and the City, to finalize and compile the Final EA, including the following:

- Submit camera ready EA draft to Region for permission to print.
- S&S will print five (5) bound hard copies of the EA.
- Four weeks prior to the public release of the EA, S&S will prepare a press release and a letter to stakeholders for NPS approvals announcing the availability of the EA and how comments on the EA can be submitted.
- The NPS will distribute the signed Memorandum of Agreement (MOA) letters and Edited EA to Stakeholders and for Public Review via hard copy. The NPS will also post the EA on the Planning, Environment and Public Comment (PEPC) website.

Task III. Surveys

1. Topographical Surveys

Detailed topographic surveys for the alignment will be performed by our surveyor **Coughenour Surveying**, who is local to Cumberland. Coughenour Surveying has assisted us in other local projects, including the Evitts Creek CSO Upgrades and the CSO storage facility. The surveys will be based on the Maryland State Plane Coordinate System NAD 83/91 and NAVD 88 elevations. The limits of survey will be 200 feet along the centerline of the proposed alignment. All physical features located within the survey limits will be located and shown on the topographic survey. A digital terrain model will be developed from the ground survey and will be used to generate one-foot contours within the survey limits. Existing gravity based utility systems will be located along with pipe sizes, types

DRAFT

and invert elevations. All surveys within the NPS will be performed in accordance with NPS requirements, which are contained as **Appendix B**.

2. Easement Plats

Prepare easement plats and legal descriptions for an estimated ten (10) properties. Submit original and three copies at intermediate stage submittal. Revise and resubmit original and three (3) copies at final submittal stage.

Task IV. Subsurface Investigations

1. Test Pits

Test pits at underground utility tie-ins and crossings will be performed for design and to minimize conflicts during construction. Fifteen (15) utility test pits are assumed. All test pits will be done by our MBE sub-consultant **AB Consultants, Inc**.

Task V. Preparation of Initial Design Documents

Initial Pipeline Design shall include design components, up to the 30 percent design level, associated with the 14,000 linear foot alignment including structural, civil, and mechanical components. Assumptions will be made regarding geotechnical conditions, to be verified during intermediate and final designs. All structural work associated with the junction structures will be performed by our WBE sub-consultant **Hunt Engineering**. The contract drawings and specifications will be prepared in accordance with standards for bidding and construction. It is assumed that there will be three junction structures and four tunneled crossings required along the alignment. It is also assumed that there will be three significant utility relocations (Storm Drains or others) required. Open cut of the C&O Canal in two locations along with associated restoration design is also included in this task. No corrosion control studies are assumed to be required. Six copies of plans and specs (where appropriate) will be provided for each submittal. Specific Items for Task V include:

1. Initial (30 Percent) Submittal

Contract documents shall be submitted at the initial stage for review and checking. The first submittal will include preliminary horizontal and vertical alignments. The 30 percent submittal will include a preliminary construction cost.

Monthly status reports will be provided and a project schedule updated before and after the submission, to illustrate the remaining tasks and milestones. Up to three (3) progress and/or coordination meetings will be included in this task.

This task will include a quality control review of the submittal to verify that it is coordinated, complete, and in compliance with requisite standards.

DRAFT

A review meeting or workshop will be attended to review City's 30 percent design comments.

FEE SUMMARY
Initial Design

The following is a summary of our fee as based on the Initial Design the 78" CSO pipeline from Mill Race to CSO Storage:

Whitman, Requardt, and Associates, LLP	**$267,929**	
Subconsultants:	Contract Amount	Percentage of Contract
AB Consultants	$35,000	7.3%
Smith Planning and Design	$50,000	10.4%
MBE Participation:	$85,000	17.7%
Hunt Engineering	$15,500	3.2%
WBE Participation:	$15,500	3.2%
MBE/WBE Subtotal	$100,500	20.9%
Coughenour Surveying	$85,000	17.7%
Cultural Resources	$45,000	9.4%
TOTAL	**$498,429**	

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MANHOUR ESTIMATE AND PROPOSAL

CLIENT:City of Cumberland

PROJECT DESCRIPTION: 78-inch CSO Pipeline Mill Race to CSO Storage Storage Facility at the WWTP, Initial Design

REVISION

DATE 9/4/2018

BY WFH/MB

TASK			Project Manager	Civil Associate Project Manager	Civil Engineer	Civil Designer/ CADD	Geotech. Assoc./ Proj. Engr.	Geotech Engineer	Struct. Assoc./ Proj. Engr.	Struct. Engineer	Struct. Designer/ CADD	Mech. Assoc./ Proj. Engr.	Mech. Engineer	SCADA Assoc. Engineer	SCADA Designer CADD	Environmental PM	Environmental Planner	Environmental Tech.	WR&A TOTALS	WR&A EXPENSES		Subcontractor hours	Subcontractor Payroll	Subcontractor Expenses	
	Use Labor Cost Rates for year:	2018	$77	$67	$47	$38	$80	$57	$64	$60	$50	$78	$58	$77	$39	$56	$36	$30		S,or L	Legend)			S,or L	Legend)
TASK I	**National Park Service Coordination**																		0					-	$
1	Coordination with Subconsultants and NPS for access			32	40	40										8			120	T	$800			-	$
2	NEPA Coordination			96	16	8										8	8		136	T	$1,000			-	$
																								-	$
	SUBTOTALS =		***0***	***128***	***56***	***48***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***16***	***8***	***0***	***256***	***$1,800***		***Subcontractor Total***		***$0***	
	SUB-TOTAL DOLLARS =		*$0*	*$20,462*	*$6,171*	*$4,323*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$2,124*	*$683*	*$0*	***$33,762***			***Profit on Sub***		***0.0%***	
				232	*Civil*	*$30,956*	*0*	*Geotech*	*0*	*Structural*	*$0*	*0*	*Mech.*	*0*	*$0*	*24*	*Envir.*	*$2,806*				***WR&A Total***		***$35,562***	
																						TASK I TOTAL		***$35,562***	

																				T, R,E S,or L	(See Legend)			T, R,E S,or L	(See Legend)
	Use Labor Cost Rates for year:	2018	$77	$67	$47	$38	$80	$57	$64	$60	$50	$78	$58	$77	$39	$56	$36	$30							
TASK II	**Environmental Assessment and Section 106 Compliance**																							-	$
1	Phase 1A		10													8	8		26	-			$10,000	-	$
2	Phase 1B		10													8	8		26	-			$35,000	-	$
3	Environmental Assessment		20													40	20	8	88				$50,000	-	$
	SUBTOTALS =		***40***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***56***	***36***	***8***	***140***	***$0***		***Subcontractor Total***		***$95,000***	
	SUB-TOTAL DOLLARS =		*$7,309*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$7,432*	*$3,072*	*$569*	***$18,382***			***Profit on Sub***		***0.0%***	
				0	*Civil*	*$0*	*0*	*Geotech*	*0*	*Structural*	*$0*	*0*	*Mech.*	*0*	*$0*	*100*	*Envir.*	*$11,073*				***WR&A Total***		***$18,382***	
																						TASK II TOTAL		***$113,382***	

																				T, R,E S,or L	(See Legend)			T, R,E S,or L	(See Legend)
	Use Labor Cost Rates for year:	2018	$77	$67	$47	$38	$80	$57	$64	$60	$50	$78	$58	$77	$39	$56	$36	$30							
TASK III	**Topographic Surveys**																							-	$
1	Topographical Surveys		4	16		8													28	-			$65,000	-	
2	Easement Plats		8	16		8													32	-			$20,000	-	
	SUBTOTALS =		***12***	***32***	***0***	***16***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***60***	***$0***		***Subcontractor Total***		***$85,000***	
	SUB-TOTAL DOLLARS =		*$2,193*	*$5,115*	*$0*	*$1,441*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	***$8,749***			***Profit on Sub***		***0.0%***	
				48	*Civil*	*$6,556*	*0*	*Geotech*	*0*	*Structural*	*$0*	*0*	*Mech.*	*0*	*$0*	*0*	*Envir.*	*$0*				***WR&A Total***		***$8,749***	
																						TASK III TOTAL		***$93,749***	

E = Equipment Rental

																				T, R,E S,or L	(See Legend)			T, R,E S,or L	(See Legend)
	Use Labor Cost Rates for year:	2018	$77	$67	$47	$38	$80	$57	$64	$60	$50	$78	$58	$77	$39	$56	$36	$30							
TASK IV	**Subsurface Investigations**																							-	
1	Test Pits		4		8														12				$35,000	-	$2,700
	SUBTOTALS =		***4***	***0***	***8***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***0***	***12***	***$0***		***Subcontractor Total***		***$37,700***	
	SUB-TOTAL DOLLARS =		*$731*	*$0*	*$882*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	***$1,613***			***Profit on Sub***		***0.0%***	
				8	*Civil*	*$882*	*0*	*Geotech*	*0*	*Structural*	*$0*	*0*	*Mech.*	*0*	*$0*	*0*	*Envir.*	*$0*				***WR&A Total***		***$1,613***	
																						TASK IV TOTAL		***$39,313***	

																				T, R,E S,or L	(See Legend)			T, R,E S,or L	(See Legend)
	Use Labor Cost Rates for year:	2018	$77	$67	$47	$38	$80	$57	$64	$60	$50	$78	$58	$77	$39	$56	$36	$30							
TASK V	**Preparation of Initial Design Documents**																							-	$
1	Initial (30 Percent) Submittal		100	360	440	360	88	120				30	40						1538	R	$200		$15,500	-	$
																								-	$
	SUBTOTALS =		***100***	***360***	***440***	***360***	***88***	***120***	***0***	***0***	***0***	***30***	***40***	***0***	***0***	***0***	***0***	***0***	***1538***	***$200***		***Subcontractor Total***		***$15,500***	
	SUB-TOTAL DOLLARS =		*$18,273*	*$57,548*	*$48,490*	*$32,422*	*$16,685*	*$16,211*	*$0*	*$0*	*$0*	*$5,578*	*$5,517*	*$0*	*$0*	*$0*	*$0*	*$0*	***$200,724***			***Profit on Sub***		***0.0%***	
				1160	*Civil*	*$138,460*	*208*	*Geotech*	*0*	*Structural*	*$0*	*70*	*Mech.*	*0*	*$0*	*0*	*Envir.*	*$0*				***WR&A Total***		***$200,924***	
																						TASK V TOTAL		***$216,424***	

		Project Manager	Civil Associate Project Manager	Civil Engineer	Civil Designer/ CADD	Geotech. Assoc./ Proj. Engr.	Geotech Engineer	Struct. Assoc./ Proj. Engr.	Struct. Engineer	Struct. Designer/ CADD	Mech. Assoc./ Proj. Engr.	Mech. Engineer	SCADA Assoc. Engineer	SCADA Designer CADD	Environmental PM	Environmental Planner	Environmental Tech.
Bare Labor Cost rates for year	**2018**	$77.10	$67.45	$46.50	$38.00	$80.00	$57.00	$64.00	$59.50	$50.00	$78.45	$58.20	$77.25	$39.00	$56.00	$36.00	$30.00
Contract Rates - LOADED LABOR AT A FACTOR OF:	**2.37**	$182.73	$159.86	$110.21	$90.06	$189.60	$135.09	$151.68	$141.02	$118.50	$185.93	$137.93	$183.08	$92.43	$132.72	$85.32	$71.10

Subcontract TOTAL	***$230,500***
TOTAL	***$498,429***

S = Subcontractor

L= laboratory Cost

R=Reproduction

T = Travel

Regular Council Agenda
November 8, 2018

Description

Order accepting the proposal of Whitman, Requardt and Associates for the 30% Initial Design of the 78" Parallel Pipeline from the Mill Race to the CSO Storage Facility at the WWTP in the estimated contract price of $498,429

Approval, Acceptance / Recommendation

It is the Engineering Department's recommendation to award the 30% design to WR&A for the 78" Parallel Pipeline from the Mill Race to the CSO Storage Facility at the WWTP. The scope of work described herein includes the Initial Design of approximately 14,000 linear feet of 78-inch Combined Sewer Overflow (CSO) pipeline from Mill Race to the CSO storage facility. Initial efforts will include the NPS coordination and permitting. Additional permitting will be initiated during final design efforts. Some components of the initial design will be based on assumptions without the benefit of geotechnical borings, to be collected during latter stages of the project. The contract value will be $498,429.

☑ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

$498,429

Source of Funding (if applicable)

003.399P.63000

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the Quitclaim Bill of Sale from CSX Transportation, Inc. to the Mayor and City Council of Cumberland, which transfers ownership of the Cumberland Street Bridge to the City, be and is hereby accepted.

_____

Brian K. Grim, Mayor

QUITCLAIM BILL OF SALE

THIS QUITCLAIM BILL OF SALE is made this 23rd day of October, 2018, by CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, ("**Seller**"), in favor of the MAYOR AND CITY COUNCIL OF CUMBERLAND, a Maryland municipal corporation ("**Buyer**").

In consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration (the sufficiency and receipt of which are hereby acknowledged), Seller does hereby quitclaim unto Buyer, all of Seller's right, title and interest, if any, in and to all of the Cumberland Street Bridge and associated tangible personal property that is now affixed to said bridge located at railroad milepost BA 179.27 in Cumberland, Allegany County, Maryland, as further described in Exhibit "A" and used in connection with the management, operation, or repair thereof (collectively, "**Personal Property**").

TO HAVE AND TO HOLD the Personal Property unto Buyer and Buyer's successors and assigns forever.

THE PERSONAL PROPERTY IS BEING QUITCLAIMED "**AS IS**", "**WHERE IS**", AND "**WITH ALL FAULTS**" AS OF THE DATE OF THIS BILL OF SALE, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PERSONAL PROPERTY OR SELLER'S TITLE THERETO. BUYER IS HEREBY THUS ACQUIRING THE PERSONAL PROPERTY BASED SOLELY UPON BUYER'S OWN INDEPENDENT INVESTIGATIONS AND INSPECTIONS OF THAT PROPERTY AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY SELLER OR SELLER'S AGENTS OR CONTRACTORS. EXCEPT AS PROVIDED FOR IN THE INTERIM AGREEMENT REGARDING CUMBERLAND STREET BRIDGE DATED AUGUST 21, 2018, SELLER HAS MADE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE ANY OF THE PERSONAL PROPERTY.

IN WITNESS WHEREOF, Seller has hereunto affixed its corporate name by the officer duly appointed and authorized to do so, the day and year first above written.

Signed, sealed and delivered
in the presence of:

_____

_____

Print Name:_____

CSX TRANSPORTATION, INC.:

By: _____
Print Name: Shantel N. Davis
Print Title: Vice President - Real Estate and Facilities

Attest_____(SEAL)
Secretary

STEVEN ARMBRUST
ASST. CORPORATE SECRETARY

EXHIBIT "A"

Personal Property Description

All that certain personal property of Seller located at or near the City of Cumberland, Allegany County, Maryland, known as the Cumberland Street Bridge, being an elevated bridge structure and associated appurtenances over Seller's operating railroad corridor at railroad milepost BA-179.27; Latitude 39.65357451, Longitude -78.7691383, and being further described and identified as Seller's bridge number 68-A; State bridge number Ac09; US DOT Crossing Inventory Number 144689H, all as depicted on Seller's Baltimore and Ohio RR System Cumberland Division Bridge map No. 68-A dated November 7, 1949, and shown on Seller's Right-of-Way and Track Map - The Baltimore and Ohio Railroad Company Cumberland Division map V402/S1 dated June 30, 1918.

Regular Council Agenda
November 8, 2018

Description

Order accepting the Quitclaim Bill of Sale to transfer ownership of the Cumberland Street Bridge from CSX Transportation, Inc. to the City

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the Mayor be and is hereby authorized to execute a Memorandum of Ground Lease by and between the Mayor and City Council of Cumberland and Rocon, LLC, giving notice of the existence of an unrecorded Ground Lease dated June 5, 2018 pertaining to the use of a certain parcel of City-owned land at Eleanor Terrace and placing the same on record in the Land Records of Allegany County, Maryland.

_____

Brian K. Grim, Mayor

This instrument prepared by
and upon recording return to:
J. Matthew Gilmore, Esq.
Geppert, McMullen, Paye & Getty
21 Prospect Square
Cumberland, MD 21502

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is made and entered into as of the _____ day of November, 2018, by and between Mayor and City Council of Cumberland, a Maryland municipal corporation with its principal offices at 57 N. Liberty Street, Cumberland, Maryland 21502 ("Lessor") and Rocon, LLC, a Maryland Limited Liability Company with its principal offices at 9101 Chesapeake Avenue, Sparrows Point, Maryland, 21219 ("Lessee").

RECITALS:

A. Lessor and Lessee are parties to that certain unrecorded Ground Lease dated June 5, 2018 (the "Lease").

B. Lessor is the owner of a certain parcel of land consisting of approximately 10,000 square feet located in Allegany County, Maryland, being a portion of the property described in Deed Liber 161, folio 209 and Liber 2062, folio 352 recorded among the Land Records of Allegany County, Maryland, and as more particularly described on Exhibit A attached hereto and made a part hereof (the "Land").

C. Subject to and in accordance with the Lease, Lessor leased the Land described in Exhibit A to Lessee and Lessee leased the Land from Lessor.

D. Lessor and Lessee desire to execute and record this Memorandum for the purpose of giving notice of the existence of the Lease and placing the same on record in the Land Records of Allegany County, Maryland.

E. Unless otherwise provided herein, all capitalized words and terms in this Memorandum shall have the meanings ascribed to such words and terms in the Lease.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. The Recitals are incorporated herein and constitute part of this Memorandum.

2. Land. For and in consideration of the rents reserved and the covenants and agreements contained in the Lease, Lessor has leased the Land unto Lessee and Lessee has leased the Land from Lessor.

3. Lease Term. The initial term of the Lease is for a period of five (5) years commencing on August 1, 2018 and expiring on July 31, 2023 and is subject to extension for five (5) additional five (5) year terms.

4. Subordination and Non-Disturbance. Prior to subordinating the Lease to any future security interest covering the Land, Lessor must obtain a Non-Disturbance Agreement recognizing Lessee's right to remain in occupancy of and have access to the Land so long as Lessee is not in default of the Lease.

5. Easements. Together with the Land, the Lease grants to Lessee a non-exclusive Access Easement thirty (30) feet in width and a non-exclusive Utility Easement ten (10) feet in width, which easements are shown on Exhibit A and are in effect throughout the term of the Lease as renewed or extended, subject to terms and conditions as set forth in the Lease.

6. Assignment. The Lease is freely assignable by Lessee to any party deemed by Lessor to be acceptably financially responsible.

7. Memorandum of Lease. This Memorandum is executed in accordance with the terms of the Lease. The Lease is deemed to be a material part hereof as though set forth in length herein. Whenever a conflict of provisions between this Memorandum and the Lease shall occur, the provisions of the Lease shall govern and control.

IN WITNESS WHEREOF, Lessor and Lessee hereto have caused their duly authorized officer or representative to execute and deliver this Memorandum as of the date first written above.

[SIGNATURE PAGE FOLLOWS.]

LESSOR:

MAYOR AND CITY COUNCIL OF CUMBERLAND

By: _____

Name: _____

Title: _____

Date: _____

STATE OF MARYLAND,

COUNTY/CITY OF _____, to-wit:

I HEREBY CERTIFY that on the _____ day of _____, 2018, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I set my hand and official seal.

[NOTARY SEAL] _____

Notary Public

_____

Printed Name of Notary Public

My Commission Expires:_____

LESSEE:

ROCON, LLC

By: _____

Name: _____

Title: _____

Date: _____

STATE OF MARYLAND,

COUNTY/CITY OF _____, to-wit:

I HEREBY CERTIFY that on the _____ day of _____, 2018, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I set my hand and official seal.

[NOTARY SEAL] _____

Notary Public

_____

Printed Name of Notary Public

My Commission Expires:_____

Regular Council Agenda
November 8, 2018

Description

Order authorizing execution of a Memorandum of Ground Lease with Rocon, LLC giving notice of the existence of an unrecorded Ground Lease dated June 5, 2018 pertaining to the use of City-owned land on Eleanor Terrace

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the Mayor be and is hereby authorized to execute a Ground Lessor Estoppel regarding the Ground Lease Agreement with Rocon, LLC dated June 5, 2018, for the location of a communications tower on certain City-owned property on Eleanor Terrace and acknowledging the City's consent to the assignment of the Lease to Insite Wireless Group, LLC, and Insite Towers Development 2, LLC.

_____

Brian K. Grim, Mayor

GROUND LESSOR ESTOPPEL

MD030 Euclid (Cumberland)

Mayor and City Council of Cumberland, a Maryland Municipal Corporation ("Lessor"), being the lessor under that certain Ground Lease Agreement (as amended from time to time, the "Lease") dated as of June 5, 2018 with **ROCON, LLC** ("Lessee"), for use by Lessee for the location of its communications tower, building, and related equipment on the Property located at Eleanor Terrace, Cumberland, Allegany County, Maryland does hereby consent to the assignment of the Lease to and certifies to INSITE WIRELESS GROUP, LLC, INSITE TOWERS DEVELOPMENT 2, LLC, its affiliates, successors, creditors and/or assigns, or any other person or entity that purchases substantially all of Lessee's assets (hereinafter "Purchaser") as set forth herein. Such assignment is to be effective on such date as Lessee assigns its interest under the Lease to Purchaser. Unless otherwise defined herein, all terms used in this document shall have the meaning ascribed to them in the Lease.

Lessor hereby certifies to Purchaser that:

(i) Lessee is the present lessee under the Lease;

(ii) Attached hereto as Exhibit "A" is a true and correct copy of the Lease in effect by and between Lessor and Lessee together with all amendments thereto, which Lease and amendments, if any, constitute the entire agreement between the parties;

(iii) The Lease is in full force and effect in accordance with its terms, and neither Lessor nor, to the best of Lessor's knowledge, Lessee has commenced any action under the Lease, has communicated its intention to do so to the other party, or has given or received any notice with respect to the termination of the Lease;

(iv) The current monthly rental fees under the Lease are to be paid by Lessee to Lessor, payable to "City Clerk, City of Cumberland", at the following address:

57 N. Liberty Street
Cumberland, MD 21502
Attention: City Administrator

(v) The current annual rent due under the Lease is $9,600.00, but such rent is subject to increase(s) if and when co-location tenants pay rent to Lessee under the terms of Section 4.d of the Lease;

(vi) The Lease commenced on August 1, 2018 and the initial lease term expires on July 31, 2023. Pursuant to Section 5 of the Lease, unless

terminated in writing by the Lessee, the Lease automatically renews for five additional five-year terms;

(vii) All rents and other sums due and payable under the Lease have been paid in full through November 2018;

(viii) Neither Lessor nor, to the best of Lessor's knowledge, Lessee, is in default under the Lease; and

(ix) Pursuant to the Lease, Lessee has the right to sublet the Leased Premises to third party(s) for the use authorized in the Lease without the Lessor's consent.

Lessor consents to Purchaser's pledging and/or mortgaging of its interest in the Lease in conjunction with a general pledge of Purchaser's assets in connection with credit facility(s) granted to Purchaser and its affiliates from time to time in the ordinary course of Purchaser's business. Lessor agrees to notify Purchaser's lender in writing (at an address to be specified by Purchaser in writing to Lessor) of any breach or default by Purchaser of its obligations under the Lease. In the event of any such breach or default by Purchaser, Lessor will permit lender to cure and correct such breach or default within the applicable cure period with the same effect as if such cure had been made or performed by Purchaser; and thereafter permit lender to attorn to Lessor under the Lease and to perform the rights and obligations of Purchaser provided the lender assumes the obligations of Purchaser and becomes the lessee of the "Premises" identified in the Lease.

Lessor acknowledges that Purchaser and its successors, creditors and/or assigns will rely on this Estoppel Certificate in agreeing to acquire the rights under the Lease from the Lessee, and that Lessor will be estopped from raising any claim or term with respect to the Lease which is contrary to the certifications made by Lessor herein.

[SIGNATURE PAGE FOLLOWS.]

LESSOR:
Mayor and City Council of Cumberland,
A Maryland municipal corporation
("Lessor")

By: _____
Print Name: Brian K. Grim
Print Title: Mayor
Date: _____

STATE OF MARYLAND)
) ss.
COUNTY OF ALLEGANY)
On _____, before me, _____, the undersigned notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:_____ (Affix Notarial Seal)

Commission No.:_____

My Commission Expires:_____

EXHIBIT "A" TO LESSOR CONSENT AND ESTOPPEL

Lease Agreement and All Amendments Thereto

SITE NAME: Cumberland

GROUND LEASE AGREEMENT

This Cellular Tower Ground Lease Agreement ("Agreement"), made this 5th day of June, 2018, between Mayor and City Council of Cumberland, a Maryland municipal corporation, with its principal offices at 57 N. Liberty Street, Cumberland, Maryland 21502 (hereinafter designated "LESSOR") and Rocon, LLC, a Maryland Limited Liability Company, with its principal offices at 9101 Chesapeake Avenue, Sparrows Point, Maryland 21219 (hereinafter designated "LESSEE"). LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain real property ("the Tower Space") on LESSOR's existing property located at Eleanor Terrace, Cumberland, Allegany County, Maryland and being further described in the deeds recorded among the Land Records of Allegany County, Maryland in Deed Liber 161, folio 209 and in Deed Liber 2062, folio 352 (the entirety of LESSOR's property which is described in said deeds is referred to hereinafter as the "Property"), together with a parcel of land approximately 100' x 100' containing 10,000 square feet (the "Land Space") sufficient for the installation of LESSEE's equipment building(s)/cabinets; together with the Easements (defined below in Paragraph 2) for ingress and egress, twenty four (24) hours a day, seven (7) days a week. The Tower Space, Land Space and Easements are substantially described in Exhibit "A" attached hereto and made a part hereof and are collectively referred to hereinafter as the "Premises".

LESSOR hereby grants permission to LESSEE to construct a Tower (defined below in Paragraph 9) and to install, maintain and operate the radio communications equipment, antennas and appurtenances described in Exhibit "B" attached hereto. It is understood that this grant of permission is contingent upon the approval of the City of Cumberland Board of Zoning Appeals and obtaining a building permit from the City of Cumberland. It is also understood that other government approvals are required for the conduct of the operations described herein, and that this Agreement does not constitute and may not be interpreted to be a grant of such approvals.

2. GRANT OF EASEMENTS. LESSOR hereby grants to LESSEE a non-exclusive access easement thirty (30) feet in width from the Tower Space to the nearest accessible public right-of-way (the "Access Easement") and a non-exclusive utility easement ten (10) feet in width to the nearest suitable utility company-approved service connection points (the "Utility Easement"); the Access Easement and the Utility Easement are collectively referred to herein as the "Easements"; the lands underlying the Access Easement and the Utility Easement are collectively referred to herein as the "Easement Parcels," which Easement Parcels are further described in Exhibit A attached hereto and incorporated herein. LESSOR shall have the absolute right to determine the location of the Easement Parcels. The Easements granted herein shall include, but not be limited to:

a. The right to clear vegetation, cut timber, and move earthen materials upon the Easement Parcels,

b. The right to improve an access road within the Access Easement Parcel,

c. The right to place, use, repair, replace, modify and upgrade utility lines and related infrastructure and equipment within the Utility Easement Parcel,

d. The right to enter and temporarily rest upon the Property and/or LESSOR's adjacent lands for the purposes of:

(i) Installing, repairing, replacing and removing the Improvements (as defined below in Paragraph 9) and any other personal property of LESSEE from the Tower Space, and

(ii) Improving the Easement Parcels, including the right to bring in and use all necessary tools and machinery, and

(iii) Should LESSEE cause any damage to LESSOR's adjacent lands or anything thereon or therein, LESSEE shall immediately repair the same, at its sole liability and expense.

e. The right of pedestrian and vehicular ingress and egress to and from the Tower Space at any time over and upon the Access Easement Parcel. LESSOR agrees to make such additional direct grants of easement, such grants not to be unreasonably withheld, conditioned or delayed, as LESSEE may request in order to further the purposes for which LESSEE has been granted the easements set forth in this Paragraph 2. Notwithstanding the foregoing, LESSOR reserves the right to withhold said consent in the event such additional grants of easement would interfere with its present or planned use of the subject area.

3. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and Premises and said survey shall then become Exhibit "C" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A", provided said survey is approved by LESSOR's City Engineer in writing, said approval not to be unreasonably withheld. Cost for such work shall be borne by LESSEE.

4. TERM; RENTAL; ELECTRICAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of Nine Thousand Six Hundred and 00/100 Dollars ($9,600.00), subject to annual adjustments as are provided for hereinafter, to be paid in equal monthly installments on the first day of the month, in advance, without deduction, set-off, recoupment, counterclaim or demand, to "City Clerk, City of Cumberland", or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 26 below. The

Agreement shall commence based upon the date LESSEE commences construction activities on the Premises. In the event the date LESSEE commences construction activities on the Premises falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if the date construction commences falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after a written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to LESSOR the rental payments for January 1 and February 1 by February 13.

On every annual anniversary of the Commencement Date, throughout the duration of this Agreement, whether during the initial term or any renewal term, the annual rental shall increase by three percent (3%) over the prior year's rent.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. LESSOR hereby agrees to provide to LESSEE the following documentation (the "Rental Documentation"): (i) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding Paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.

c. LESSOR shall, at all times during the Term, provide electrical service access within the Premises. If permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the alternative, if permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical sub-meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the event such sub-meter is installed, LESSEE shall pay the utility directly for its power consumption, if billed by the utility, and if not billed by the utility, then LESSEE shall pay LESSOR thirty (30) days after receipt of an invoice from LESSOR indicating the usage amount based upon LESSOR's reading of the

sub-meter. All invoices for power consumption shall be sent by LESSOR to LESSEE at 9101 Chesapeake Avenue, Sparrows Point, Maryland 21219. LESSEE shall be permitted at any time during the Term, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LESSOR. LESSEE shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises.

d. Following the Commencement Date, LESSOR shall only be entitled to the rental payments in accordance the provisions of Paragraph 4(a), until such a time that a second carrier seeks to co-locate its equipment at the Tower Space and Land Space. In such instances, LESSEE shall pay to LESSOR twenty-five percent (25%) of the annual co-location rent LESSEE receives from each additional carrier. LESSEE shall verify the amount of any such co-location rent by providing to LESSOR the co-location lease. This Paragraph 4(d) does not apply to the initial carrier that places its equipment in the Tower.

e. In the event that LESSEE does not obtain all required approvals necessary for the construction of the Tower, LESSEE may, at its sole discretion, terminate this Agreement. Any termination under this Paragraph 4(e) shall terminate any and all obligations under this Agreement, thereby rendering it null and void.

5. EXTENSIONS. This Agreement shall automatically be extended for five (5) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

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7. INTENTIONALLY LEFT BLANK.

8. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any

personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this Paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

9. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Tower Space and Land Space to construct, operate, repair, modify as necessary, and maintain thereon a 170' communications antenna monopole tower (including aviation hazard lights when required) (the "Tower"), one or more equipment buildings, back-up power devices and a security fence, together with all necessary lines, anchors, connections, devices, legally required signage and equipment for the transmission, reception, encryption, and translation of voice and data signals by means of radio frequency energy and landline carriage (collectively, the "Improvements"); LESSEE's use described in this Paragraph 9 is hereinafter referred to as the "Permitted Use". LESSEE shall have unlimited access to the Premises twenty-four (24) hours a day, seven (7) days a week. All improvements, equipment, antennas and conduits shall be installed at LESSEE's expense and their installation shall be subject to the approval of LESSOR, said approval not to be unreasonably withheld. Subject to the other terms of this Agreement, LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term.

It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests and structural analysis which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; or (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner, LESSEE shall have the right to terminate this Agreement.

10. INDEMNIFICATION. Subject to Paragraph 11 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property

damage (1) resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents, or (2) resulting from or arising out of a material breach in the terms of this Agreement.

Notwithstanding anything herein to the contrary, LESSEE shall indemnify and hold LESSOR harmless against any claim of liability or loss from personal injury or property damage (1) resulting from or arising out of the negligence or willful misconduct of any Co-Locator (as that term is defined hereinafter), its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of LESSOR, or its employees, contractors or agents, or (2) resulting from or arising out of a Co-Locator's failure to comply with its obligations under the terms of this Agreement or the obligations of LESSOR under Paragraphs 9, 11(b), 15 and 16 of this Agreement had they been made applicable to a Co-Locator.

The indemnifications provided for in this Paragraph and elsewhere in this Agreement shall include indemnity against all reasonable costs, expenses (including, but not limited to, attorneys' fees), and liabilities incurred in or in connection with any such claim, and the defense thereof. The Parties' respective obligations under this Paragraph shall survive the expiration or termination of this Agreement.

11. INSURANCE.

a. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or to the Property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, to the extent such insurance is now or hereafter carried by the Parties, or either of them. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

b. LESSEE shall maintain commercial general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of Two Million and No/100 Dollars ($2,000,000). In addition, LESSEE shall maintain worker's compensation in statutory amounts, employer's liability insurance with combined single limits of One Million and No/100 Dollars ($1,000,000); and all risk property insurance covering all personal property of LESSEE for full replacement value. LESSEE shall provide LESSOR with evidence of such insurance in the form of a certificate of insurance prior to obtaining occupancy of the Premises and throughout the term of this Agreement or any Renewal Term, upon the request of LESSOR. LESSOR shall be named as an additional insured under the terms of the aforesaid commercial general liability insurance policy ,which shall provide that LESSOR be given no less than fifteen (15) days advance notice of cancellation. LESSEE's leases with Co-Locators shall include provisions requiring them to procure the same coverages LESSEE is required to procure under the terms of this Paragraph, subject to the terms and conditions set forth herein.

c. The Parties understand that LESSOR is self-insured and that it shall not be required to maintain any insurance coverages pursuant to the terms of this Agreement.

12. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 10 and 32, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

13. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior written notice is given to LESSOR.

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15. TOWER COMPLIANCE. LESSEE and/or any additional carriers co-locating at the Tower Space and/or Land Space in accordance with Paragraph 4(d) ("Co-Locators") covenant that they will keep the Tower in good repair as required by all Laws (as defined in Paragraph 36 below). LESSEE and Co-Locator(s) shall also comply with all rules and regulations enforced by the Federal Communications Commission with regard to the lighting, marking and painting of towers and it shall comply with all federal, state and local laws, rules, regulations and ordinances now or hereafter enacted by any governmental authority or administrative agency having jurisdiction over the Premises and LESSEE's and/or Co-Locator(s)' operations thereon. If LESSEE fails to make such repairs, including, but not limited to, maintenance or have such repairs made within thirty (30) days of the date of LESSOR's written demand therefor, LESSOR may make the repairs and the costs thereof shall be payable to LESSOR by LESSEE on demand together with interest thereon commencing ten (10) days after the date of demand at ten percent (10%) per annum.

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances. LESSEE shall repair any damages caused by, arising out of or as an incident to the installation of its equipment and/or any Co-Locator's equipment on the Tower or the presence of that equipment on the Tower, said repairs to be made in a good and workmanlike manner and subject to the reasonable satisfaction of LESSOR. LESSEE shall be solely responsible for ensuring that the locations on the Tower where its equipment and/or any Co-Locator's equipment is mounted have sufficient structural capacity to support that equipment.

All of LESSEE's and/or Co-Locator(s)' antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all of LESSEE's and/or Co-Locator(s)' transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

Not later than fifteen (15) days following the execution of this Agreement, LESSEE shall supply to LESSOR copies of all structural analysis reports that have been done with respect to the Tower and, throughout the Term, LESSEE shall supply to LESSOR copies of all structural

analysis reports that are done with respect to the Tower promptly after the completion of the same. Notwithstanding the foregoing, this Agreement imposes no obligations upon LESSEE for the performance of structural analyses of the Tower.

LESSEE shall be responsible for Co-Locators' compliance with their obligations under the terms of this Paragraph.

16. INTERFERENCE. LESSEE agrees that it and any Co-Locators shall install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's (or Co-Locator's) equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue, subject to the limitation that the interference must be reasonably remedied no later than thirty (30) days from the date of LESSOR's notice to LESSEE. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE, provided, as to LESSOR's tenants other than LESSEE, existing leases permit LESSOR to prohibit tenants from causing such interference. The Parties acknowledge that there may not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

LESSEE shall be responsible for Co-Locators' compliance with their obligations under the terms of this Paragraph.

17. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove the Tower and any building(s), antenna(s), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear excepted. LESSOR agrees and acknowledges that the Tower and all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the Tower, building, antenna structure, fixtures and all personal property is completed. LESSEE's obligations under this Paragraph shall survive the expiration or termination of this Agreement.

18. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 17 herein, unless the Parties are negotiating a new lease or lease extension in good faith, in which event the rent payable shall be equal to that paid on a monthly basis for the preceding year subject to the annual increase provided for in Paragraph 4 of this Agreement. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, and LESSEE holds over in violation of Paragraph 17 and this Paragraph 18, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 17 shall be equal to double the rent applicable during the month immediately preceding such expiration or earlier termination.

19. INTENTIONALLY LEFT BLANK.

20. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of constructing, operating and maintaining cellular communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of constructing, operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

21. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

22. TITLE. LESSEE understands that the Property and this Agreement are subject to (1) any and all matters as would be disclosed by a properly conducted title search of the Property, and (2) such other matters as would be disclosed by a visual inspection of the Property. It is understood that the parcels owned by the City which are described in the deed recorded among the Land Records in Deed Liber 146, folio 406 and which abut the Property on its southwestern side are subject to the terms of a certain Ground Lease between the City and USOC of Cumberland, Inc. dated May 15, 2007, a copy of which has been provided to LESSEE. The rights LESSOR is granting to LESSEE under the terms of this Agreement are subject and subordinate to those granted to USOC of Cumberland, Inc. under the terms of the aforesaid Ground Lease. Further, LESSEE agrees to indemnify and hold LESSOR harmless from and against any claims or liabilities asserted against LESSOR by USOC of Cumberland, Inc., its successors and/or assigns by virtue of LESSEE's and any Co-Locator's presence on the Premises or the conduct of its business or operations thereon.

23. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this

Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 4. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

24. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located. It shall be enforceable in an action commenced in either the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County and the Parties waive any claims they may have that such courts lack jurisdiction over or constitute inconvenient fora for the resolution of the Parties' dispute(s).

25. ASSIGNMENT AND SUBLEASE.

a. Subject to the following terms of this paragraph, this Agreement shall be freely assignable by LESSEE to any other financially responsible party ("Assignee") without the necessity of obtaining LESSOR's consent. LESSEE's right to effect an outright transfer of this Agreement, and the right of any collateral assignee to seize the Premises as defaulted security, is subject only to the limitation that the Premises shall be used for the purposes permitted herein, provided that, should LESSOR reasonably and with good cause object to Assignee's financial responsibility, LESSOR may require that LESSEE or Assignee post a bond in an amount sufficient to satisfy the cost to discharge LESSEE's obligations under Paragraph 17 above, in order to secure the performance of said obligations. LESSEE shall notify LESSOR in writing of the name and address of any assignee or collateral assignee.

b. LESSEE shall have the unreserved and unqualified right to sublet or license all or any portion of the Tower and/or Land Space to sublessees without the necessity of obtaining LESSOR's consent. Further, LESSOR shall not be entitled to any increase in rent for any portion of the Premises sublet by LESSEE, except as provided by Paragraph 4(d).

26. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested, or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: Mayor and City Council of Cumberland
57 N. Liberty Street
Cumberland, MD 21502
Attention: City Administrator

LESSEE: Rocon, LLC
9101 Chesapeake Avenue
Sparrows Point, MD 21219

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing or three (3) days from the date of mailing, whichever is first to occur.

27. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

28. SUBORDINATION AND NON-DISTURBANCE. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Premises; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest.

29. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

30. DEFAULT.

a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSEE fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSEE if the failure to perform such an obligation interferes with LESSOR's or other of LESSOR's tenants' ability to conduct their business on the Property; provided, however, that if the nature of LESSEE's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

31. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located.

32. ENVIRONMENTAL.

a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises or such conditions or concerns were caused by the activities of any of LESSOR's other tenants in the Premises.

b. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by LESSEE.

c. Notwithstanding the foregoing or any other contrary provisions of this Agreement, LESSOR shall not be required to hold LESSEE harmless and indemnify it as provided for in Subsection b of this Paragraph as to any conditions or concerns that were disclosed by any environmental assessments of the Property performed by LESSEE or at its request prior to the effective date of this Agreement.

33. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

34. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation

of the Premises, LESSEE, in LESSEE's reasonable discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest) only to the extent that such claim does not result in the diminution of funds available for the payment of LESSOR's claim. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

35. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

36. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property and all structural elements of the Premises in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

37. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

38. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:
Mayor and City Council of Cumberland, a Maryland municipal corporation

WITNESS

By: _____
Brian K. Grim
Its: Mayor

Date: June 5, 2018

LESSEE:
Rocon, LLC

WITNESS

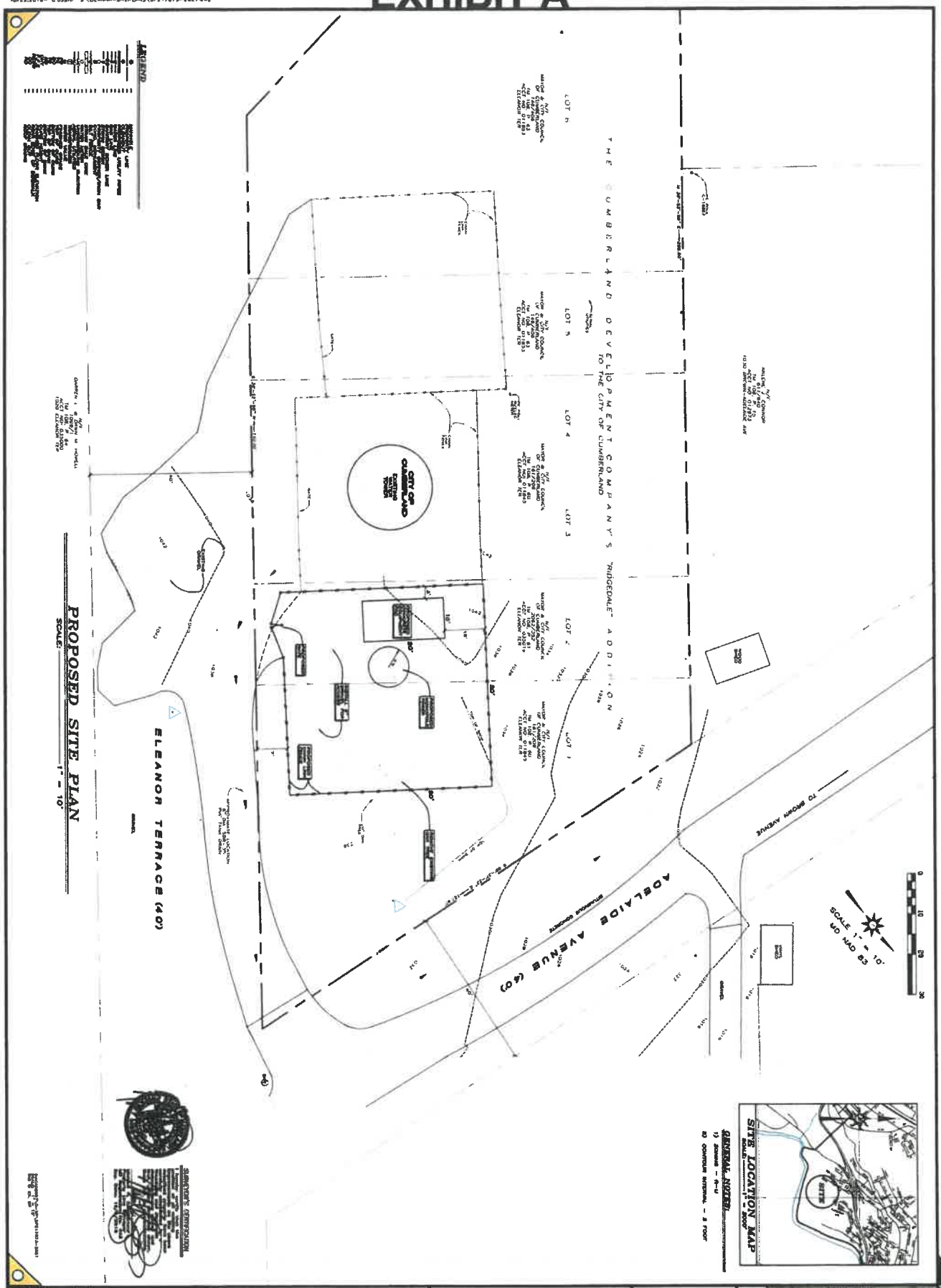
By: _____
William Rothman, Member
Its:

Date: 6-10-18

City/County of Baltimore
State of Maryland
The foregoing instrument was acknowledged before me this 10 day of June, 2018
by William Edward Rothman
Notary Public
My commission expires 02/17/2021

NICHOLAS CORNIAS
NOTARY PUBLIC
EXP. 02/17/2021
BALTIMORE CITY, MD.

EXHIBIT A



DRAWING NUMBER: 1 of 1	PROPOSED SITE PLAN FOR ROCON, LLC	PREPARED FOR: ROCON, LLC 9101 CHESAPEAKE AVENUE SPARROWS POINT, MARYLAND 21219 TELEPHONE:	DATE: REVISIONS
PROJECT NUMBER: 217073-2821	LOCATED AT 1027 ELEANOR TERRACE ALLEGANY COUNTY CUMBERLAND ELECTION DISTRICT NO. MARYLAND		DATE: APRIL, 2018 SCALE: 1" = 10' FIELD BOOK: 2821.CRD DRAWN BY: S. L. COUCHENOUR CHECKED BY: M. COUCHENOUR APPROVED BY: M.R. COUCHENOUR

EXHIBIT B

1 Fairholm Avenue
Peoria, IL 61603 USA
Phone 309-566-3000
FAX 309-566-3079

April 11, 2018

Rocon LLC
Attn: Bill Rothman
9101 Chesapeake Avenue
Sparrow's Point, MD. 21219

Reference: Cumberland West, Allegany County, MD.
170' Tapered Steel Pole

File Number: 225409

Enclosed, please find the following for your use:

Copies	Drawing Number	Description
2	225409-01-D1	Design Drawing Sealed for the State of Maryland
2	225409-01-F1	Foundation
2	B090548R2	Standard Foundation Notes
2		Sealed Letter

Contact Phone Number: 443 804 8007

Email Also: roconllc@gmail.com

Sincerely,

Ray Adams
Ken Cordrey

crp

1 Fairholm Avenue
Peoria, IL 61603 USA
Phone: (309)-566-3000
Fax: (309)-566-3079

DATE: APRIL 11, 2018

PURCHASER: ROCON LLC.

PROJECT: 170 FT TAPERED STEEL POLE
CUMBERLAND WEST, MARYLAND

FILE NUMBER: 225409

DRAWINGS: 225409-01-D1 , 225409-01-F1 , B090548

I CERTIFY THAT THE REFERENCED DRAWINGS WERE PREPARED UNDER MY SUPERVISION IN ACCORDANCE WITH THE DESIGN AND LOADING CRITERIA SPECIFIED BY THE PURCHASER AND THAT I AM A REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.

THE REFERENCED FOUNDATION DESIGN IS BASED ON PRESUMPTIVE SOIL PARAMETERS. A GEOTECHNICAL SITE INVESTIGATION SHALL BE PERFORMED PRIOR TO INSTALLATION FOR COMPETENT PROFESSIONAL EXAMINATION AND VALIDATION OF THE SUITABILITY OF THE PRESUMPTIVE SOIL PARAMETERS FOR THE SITE.

CERTIFIED BY: _____

DATE: 4/11/18

STATE OF MARYLAND
PROFESSIONAL ENGINEER

Products for a Growing World of Technology®

ROHN™ Products LLC

1 Fairholm Avenue
Peoria, IL 61603 USA
Phone 309-566-3000
FAX 309-566-3079
Toll Free 800-727-ROHN

April 11, 2018

Rocon LLC
9101 Chesapeake Ave
Sparrow's Point, MD 21219

Attn: Bill Rothman

Reference: 170' Tapered Steel Pole
Site Name: Cumberland West
Allegany County, MD
File # 225409

Dear Mr. Rothman

The referenced pole is designed to meet the specified loading requirements in accordance with ANSI/TIA-222-G for a 115 MPH ASCE 7-10 Factored wind speed with no ice and a 30 MPH 3-second gust wind speed with 0.75 inch radial ice, Structure Class: II; Exposure Category: C and Topographic Category: 1.

It is our understanding that the design of the referenced pole requires consideration of a contained fall radius in the event that a catastrophic wind speed would result in collapse. Although the pole is not designed to fail, stronger sections than required by analysis is provided in the lower sections of the pole. This will result in an increased safety factor in the lower sections. This design enables the pole to fail through a combination of bending and buckling in the upper portion of the pole under a catastrophic wind loading. Failure in this manner will result in the upper portion of the pole folding over the lower portion, resulting in a fall radius no greater than **50** ft. The failure mode will theoretically be a local buckling failure involving a crippling of the pole wall on one side of the pole as opposed to the pole shearing off or completely breaking off and hitting the ground.

Please contact us at your convenience should you have further questions concerning the safety of pole structures or other aspects of pole design.

Sincerely,

Habib Azouri, P.E.
Engineering Manager

cc: Ken Cordrey

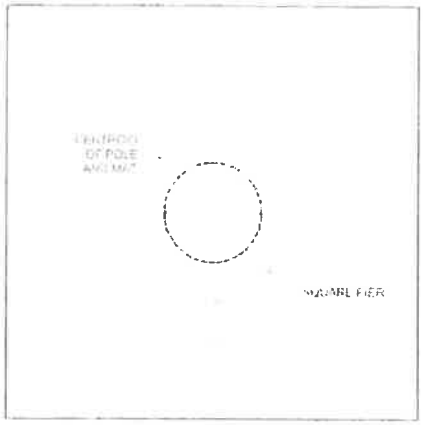
POLE DESIGN LOADING

MAXIMUM ADJUSTED FACTORED REACTIONS

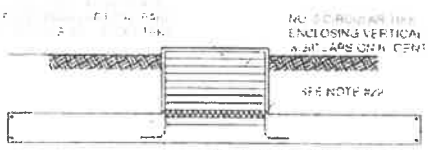
SECTION SCHEDULE

LENGTH (FT)	DIAMETER TOP	WALL THICK (IN)	Fy (KSI)	WEIGHT (KIPS)

NOTE: SEE DRAWING NO. E090548 FOR STANDARD FOUNDATION NOTES



PLAN VIEW



ELEVATION VIEW

ADJUSTED FACTORED REACTIONS

CONCRETE VOLUME

STANDARD FOUNDATION NOTES
ANSI/TIA-222-G

ROHN

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File: W:\Jobs\2018\225409\225409.out
Contract: 225409
Project: 170 FT TSP
Date and Time: 4/10/2018 2:32:15 PM

ROHN Products

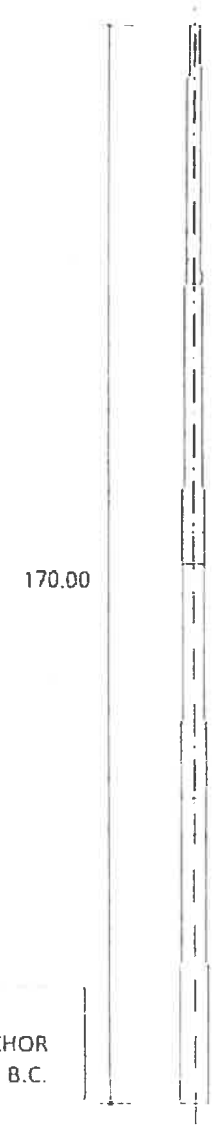
Licensed to: ROHN Products LLC
Peoria, IL

Revision: 0
Site: CUMBERLAND WEST- MD
Engineer: AS

DESIGN SPECIFICATION

Design Standard: ANSI/TIA-222-G-2005 Add.2
Ultimate Design Wind Speed (No Ice) = 115.0 (mph)
Nominal Design Wind Speed (No Ice) = 89.1 (mph)
Basic Wind Speed (With Ice) = 30.0 (mph)
Design Ice Thickness = 0.75 (in)
Structure Class = II
Exposure Category = C
Topographic Category = 1

Sct.	Length (ft)	Overlap (ft)	Top Dia. (in)	Bot Dia. (in)	Thick. (in)
1	48.21	6.00	44.15	54.00	0.5000
2	48.00	5.00	36.56	46.37	0.5000
3	48.00	3.92	28.52	38.33	0.3750
4	40.71	0.00	21.50	29.82	0.2500



BASE PLATE 2.50" X 65.50" ROUND
W/ (18) 2.25" DIA. X 84.00" LONG ANCHOR
BOLTS EQUALLY SPACED ON A 60.375" B.C.

MAXIMUM BASE REACTIONS

		ADJUSTED REACTIONS
Download (Kips)	136.7	144.5
Shear (Kips)	44.0	46.5
Moment (Kipsft)	6216.0	6572.8

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Peoria, IL

Revision: 0
Site: CUMBERLAND WEST- MD
Engineer AS

Section A: PROJECT DATA

WIND ONLY SERVICEABILITY CONDITIONS:
Serviceability Wind Speed:
Directionality Factor Kd:
Importance Factor I:
Wind Load Factor:
Dead Load Factor:

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Site: CUMBERLAND WEST- MD
Engineer: AS

Section B: STRUCTURE GEOMETRY

Bottom Diameter (in)	Top Diameter (in)
54.00	21.50

Seg No	Height (ft)	Overlap (ft)	[illegible]	[illegible]	[illegible]	[illegible] (kg)	[illegible]	Calculated Taper Length	[illegible]
[illegible]	6.00	34.00	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0.20441	
[illegible]	5.00	46.57	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0.20441	
[illegible]	3.62	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0.20441	
[illegible]	0.00	29.82	[illegible]	[illegible]	[illegible]	[illegible]	2560.7	0.20441	

Total Mass: [illegible]

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Revision. 0
Site: CUMBERLAND WEST- MD
Engineer: AS

		2921.61
	100.31	2921.39
	100.31	3221.47
	103.41	3221.27
62	103.41	3523.57
63	106.61	3523.40
55	106.61	3830.46
55	109.90	3830.35
49	109.90	4140.66
49	112.95	4140.55
42	112.95	4392.68
42	116.90	4392.59
35	116.90	4692.95
35	121.33	4692.87
28	121.33	4994.03
28	124.45	4994.01
21	124.45	5298.34
21	127.32	5298.30
14	127.32	5602.62
14	131.40	5602.63
7	131.40	5909.50
7	134.53	5909.50
0	134.53	6215.97
	136.55	6215.98

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Engineer. AS

TowerSoft
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Project: 170 FT TSP
Date and Time: 4/10/2018 2:32:15 PM

ROHN Products
Licensed to: ROHN Products LLC

Revision: 0
Site: CUMBERLAND WEST- MD
Engineer: AS

Section M: SECTION PROPERTIES DATA

88.38
101.33
101.33
115.17
115.17
129.89
129.89
145.49
145.49
161.98
161.98
171.16
244.37
272.42
272.42
302.00
302.00
333.10
333.10
365.73
365.73
399.88
399.88
422.43
535.70
580.59
580.59
627.29
627.29
675.79
675.79
726.10
726.10
778.22
778.22
821.80
786.17
837.65
837.65
890.76
890.76
945.51
945.51
1001.88
1001.88
1059.89
1059.89
1119.53

Customer
Project
Site
Page File
Build Date

RDHN Products

Mat Foundation

ver 2.2.9

Design Parameters

Description	Load Case 1	2	3	4	5	Service
Total Moment, ft-kips	6,572.79	6,436.35	1,020.86	167.93	162.03	1,657.15
Total Shear, kips	46.49	46.43	6.03	1.06	1.06	11.79
Total Tower Wt, kips	77.54	58.11	144.54	77.71	58.28	64.74
Max. Uplift, kips	N/A	N/A	N/A	N/A	N/A	N/A
Shear, kips	N/A	N/A	N/A	N/A	N/A	N/A
Max Dowload, kips	N/A	N/A	N/A	N/A	N/A	N/A
Shear	N/A	N/A	N/A	N/A	N/A	N/A
Soil L.F	1.20	0.90	1.20	1.20	0.90	1.00
Concrete L.F	1.20	0.90	1.20	1.20	0.90	1.00

Foundation	
Ht. AGL, ft	0.50
Depth, ft	6.00
Pole	
Butt OD, ft	4.50
Offset, in	.00
Soil	N/A
Blow Count	N/A
Inplace Unit Wt, pcf	110.00
Submerged Unit Wt, pcf	60.00
Friction Angle, ϕ, deg	30.00
Cohesion, ksf	N/A
Uplift Angle, deg	30.00
Water Depth, ft	None
Ult. Bearing Capacity, ksf	5.00

Mat	
Thickness, ft	2.00
Width, ft	28.00
EA, in	21.00
Batter, in/ft	0.00

Anchor Bolts	
Diameter, in	2.2500
No.	18
Length, in	84.00
Bolt Circle, in	60.38
Projection, in	9.00
Concrete	
28 Day Strength, ksi	4.50
Dry Unit Wt, pcf	150.00
Wet Unit Wt, pcf	88.00

Pier	
Height, ft	4.50
Diameter, ft	7.50
No. Piers	1
Shape	Square

Pocket	
Diameter, in	N/A
Thickness, ft	N/A

Rebar Fy	
Vertical, ksi	60.00
Circular, ksi	60.00
Horizontal, ksi	60.00

Results

ϕM_n - Parallel Axis	6,941.11	ft-kips
ϕM_n - Diagonal Axis	7,056.30	ft-kips
Moment - Interaction Ratio	0.971	
ϕV_n - Lateral Load	156.69	kips
Lateral Load - Interaction Ratio	0.296	

Total Mat Volume: [illegible]

Total Pocket Dimensions: Pockets not required

Total Volume: [illegible] cyd

Designed By:

Date: [illegible]

Customer	ROCOR LLC
Engineer	170 FT 135'
Site	CUMBERLAND WEST - MD
Edge Tele	225409
Build Code	ANSI/TIA 222-G 2005

RDHN Products

Mat Foundation

ver.2.2.9

OTM Capacity

Controlling Load Case: 2 [Wind w/Min Dead Load]
Foundation Width = 28.00 ft
M_U = 6,738.1 ft-kips

	ϕM_N, ft-kips	x, ft	N	σ_{ur}
Parallel	6,941.1	5.871	0.210	5.00
Diagonal	7,056.3	12.822	0.324	5.00

ϕM_N= 6,941.11 ft-kips IRatio = 0.971
ϕV_N = 156.69 kips IRatio = 0.296

Mat Design

γ_c = 123.33 pcf

Exterior Slab	x, ft	N	σ_R, ksf	P_s kips	P_{su} kips	Moment, ft-kips/ft DownLoad Side	Moment, ft-kips/ft Uplift Side	Shear, kips/ft Download Side	Shear, kips/ft Uplift Side
Parallel	6.489	0.232	3.39	19.55	0.00	119.12	53.14	17.68	9.74
Diagonal	13.565	0.343	3.35	19.55	0.00	74.84	30.96	18.19	7.68

Punching Shear	Download Interior	Download Edge	Download Corner	Uplift Interior	Uplift Edge	Uplift Corner	Description
b_o, ft	36.33	N/A	N/A	N/A	N/A	N/A	2-Way Shear
Vsu, psi	122.20	N/A	N/A	N/A	N/A	N/A	
ϕVc, psi	213.43	N/A	N/A	N/A	N/A	N/A	
IR	0.57	N/A	N/A	N/A	N/A	N/A	
0.5*M_{ut}, ft-kips	2,034.6				N/A		Moment transfer to slab
B_e, ft	13.5				N/A		
M_{un} ft-kips/ft	150.7				N/A		

Edge Distances: a = 14.00 ft. b = 14.00 ft. c = 14.00 ft

Summary	Max. Value	Utilization
Slab Moment, ft-kips/ft	150.71	0.992
Slab Shear, kips/ft	18.19	0.699
Punching Shear, psi	122.20	0.573
Soil Bearing Required, σ_{ur}, ksf	4.52	0.904

Mat Reinforcement	
Min. Steel Area (Strength)	1.792 in²/ft.
Min. Steel Area (Temperature)	.259 in²/ft.
Steel Strain Actual	0.011
Minimum Steel Strain Required	0.005

40 - #10 Horizontal bars equally spaced @8.46 in., each way, top and bottom, total of 160, A_s = 1.810 in²/ft

Customer: [illegible]
Project: [illegible]
Site: [illegible]
Engr. File: [illegible]
Build Code: [illegible]

RDHN Products

Mat Foundation

ver.2.2 9

Pier Design

Controlling Load Case: 1 [Wind w/Max. Dead Load]

C = 77.54 kips	Vc = 46.49 kips	Mc = 6,782.00 ft-kips
T = .00 kips	Vt = .00 kips	Mt = .00 ft-kips
Fy = 60.00 ksi	Fyt = 60.00 ksi	L.F. = 1.00
H = 90.00 in.	Ds = 81.00 in.	F'c = 4.50 ksi
U = 1.00	Irs = Square	

*** NOTE: Pier cross section is Square ***

SUMMARY OF ANALYSIS

Minimum area of steel required	= 41.843 in^2	(Rhomin = 0.0052)
Area of steel provided.	= 43.070 in^2	(Rhoactual = 0.0053)
Maximum steel area limit	= 508.939 in^2	(Rhomax = 0.0628)

(34) #10 Vertical Bars equally spaced w/ #5 Circular Ties @ 6" on center

CIRCULAR TIE DATA

Vu < 0.85*Vc/2, shear reinforcement is not required

Use maximum tie spacing specified in ACI 318,
Section 7.10.5 for compression reinforcement.

DEVELOPMENT LENGTH MODIFIERS FOR BAR DEVELOPMENT

Modifier for tension development = 1.000
Modifier for compression development = 0.669
REQUIRED Ld = MODIFIER * BASIC Ld * ACI 318 MODIFIERS, (12 in. min.)

Regular Council Agenda
November 8, 2018

Description

Order authorizing execution of a Ground Lessor Estoppel regarding the Ground Lease Agreement with Rocon, LLC dated June 5, 2018 for the location of a communications tower on Eleanor Terrace and acknowledging the City's consent to the assignment of the Lease to Insite Wireless Group, LLC and InSite Towers Development 2, LLC

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)

- ORDER -

of the

Mayor and City Council of Cumberland

MARYLAND

ORDER NO. _____ **DATE:** November 8, 2018

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

THAT, the City Solicitor be and is hereby authorized to execute a lettering setting forth the agreement between the City, United Food and Commercial Workers Local 1994 MCGEO and Cumberland Police Officers Tyler S. Cheng, Jacob P. Martel, and Joseph A. Ashby regarding an adjustment to be made to the officers' annual leave.

_____

Brian K. Grim, Mayor

THE LAW OFFICE
OF
MICHAEL SCOTT COHEN, LLC

Michael Scott Cohen
Steven Andrew Trader

213 Washington Street
Cumberland, MD 21502
Telephone: (301) 724-5200
Facsimile: (301) 724-5205

michaelcohen@atlanticbbn.net
stevetrader@atlanticbbn.net

_____, 2018

L. Wilsonia Blackwell
UFCW Local 1994 MCGEO
600 S. Frederick Ave., Ste. 200
Gaithersburg, MD 20877

Re: Adjustment to Annual Leave for PFCs Tyler S. Cheng, Jacob P. Martel and Joseph A. Ashby

Dear Lisa:

The purpose of this letter is to set forth the agreement between the City, United Food and Commercial Workers Local 1994 MCGEO (the "Union") and the above-referenced officers of the Cumberland Police Department. As discussed, the City and the Union disagree with the manner in which Section 19.2 of the Collective Bargaining Agreement applies to employees (like those referenced above) who are hired on July 1 of any particular year. It is the City's position that such employees are treated in the same manner as those hired on any other date within the inclusive period from July 1 to December 31. The Union believes they should be classified as having been hired during the period of the preceding January 1 to June 30. Rather than formally disputing the matter, we have agreed that an accommodation would serve the best interests of all concerned.

I have attached a copy of the Order of the Mayor and City Council authorizing me to extend the proposal set forth herein. The substantive provisions are as follows:

1. Each of the officers will have forty (40) hours added to their annual leave as soon as practicable following the complete execution of this letter agreement.

2. Solely for the purpose of calculating annual leave, they shall be treated as though they were hired within the January 1 to June 30 preceding the date of their actual hire.

3. In exchange for the foregoing, each of the officers agrees that any payout of accrued leave (sick or annual) upon their separation from employment with

the City shall be reduced by eighty (80) hours in the event the separation occurs on or prior to June 30, 2021. Further, the officers agree that they will not seek alternative employment during this period of time.

4. The accommodation provided for herein shall not be of any precedential value. Further, the Union and the City agree that the dates set forth in Section 19.2 of the Collective Bargaining Agreement are inclusive, e.g., if an officer's employment commences either July 1 or December 31, regardless of the time of day the employment actually or theoretically commences, that employee shall be treated as having been hired within the July 1 to December 31 period.

If the foregoing is acceptable to the Union and PFCs Cheng, Martel and Ashby, each of you will need to sign where indicated below. This document may be executed in counterparts. Electronically transmitted counterparts shall be effective as originals.

Very truly yours,

MICHAEL SCOTT COHEN, LLC

By:_____
Michael Scott Cohen

Agreed as to form and content:

WITNESS:

UFCW LOCAL 1994 MCGEO

By:_____
Gino Renne, President

Tyler S. Cheng

Jacob P. Martel

Joseph A. Ashby

...\Police Issues\Ltr Agreement re Annual Leave

Regular Council Agenda
November 8, 2018

Description

Order authorizing the City Solicitor to execute a letter setting forth the agreement between the City, the UFCE Local 1994, and Cumberland Police Officers Tyler Cheng, Jacob Martel, and Joseph Ashby regarding an adjustment to be made to the officers' annual leave

Approval, Acceptance / Recommendation

☐ Budgeted

☐ 1st Reading
☐ 2nd Reading
☐ 3rd Reading

Value of Award (if applicable)

Source of Funding (if applicable)