**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: May 1, 2018

## I. Closed Session

1. 5:45 p.m. - Convene in Open Session for the purpose of closing the meeting for an Executive Session pursuant to Section 3-305 (b) (1) and (9) of the General Provisions Article of the Annotated Code of Maryland to discuss personnel matters involving a certain city employee and to discuss issues pertaining to negotiations with the UFCW #1994, which represents members of the Cumberland Police Department

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

2. Executive Session

## II. Open Session

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

   Mayor Grim reconvened the open meeting at 6:30 p.m.

## III. Pledge of Allegiance

## IV. Roll Call

PRESENT: Mayor Brian K. Grim; Council Members Seth Bernard, David Caporale, Richard J. Cioni, Eugene Frazier

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

## V. Statement of Closed Meeting

1. Summary Statement of Closed Meeting(s)

Mayor Grim announced that Closed Sessions had been held on Thursday, April 19, 2018 and Tuesday, May 1, 2018 and read into the record a summary of those sessions, which are 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. Approval of Minutes

1. Approval of the Regular Session Minutes of April 3 2018

Motion to approve the minutes was made by Bernard, seconded by Caporale, and was passed on a vote of 5-0.

## VII. Approval of Minutes

1. Approval of the Closed Session Minutes of February 20, 2018

Motion to approve the minutes was made by Caporale, seconded by Bernard, and was passed on a vote of 5-0.

## VIII. Unfinished Business

### (A) Ordinances

1. Ordinance (2nd and 3rd readings) - amending Section 8.06(7) of the Zoning Ordinance to allow requests for modifications of the setback requirements for communications towers to be presented to the Zoning Board of Appeals as conditional uses, subject to the requirement that the setback be no less than the tower's fall zone

Mr. Rhodes reviewed the proposed changes to Section 8.06(7) of the Zoning Ordinance.

SECOND READING: The Ordinance was presented in title only. The reading was interrupted and motion to suspend the second reading and proceed to the third after comment was made by Caporale, seconded by Bernard and was passed on a vote of 5-0.

Mayor Grim 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 adopted on a vote of 5-0.

ORDINANCE NO. 3831

### (B) Resolutions

1. Resolution approving the application and receipt of financing for 2018 Community Legacy Projects totaling $575,095

Kathy McKenney, Community Development Programs Manager, reviewed the projects being recommended for FY19 Community Legacy and Strategic Demolition Funding. She discussed that the Sustainable Communities Work Group had worked to develop the project list and had prioritized the list for submittal to the State according to readiness, timelines,

and leveraging of funds. Community Legacy funds would be requested in the amount of $576,095. Strategic Demolition Funding in the amount of $200,00 would also be requested for the Cumberland Housing Blight Removal and Redevelopment Project.

Councilman Caporale questioned whether alternate funding was available for the two Allegany College projects being included in the application. McKenney advised that it was possible that there were other funding avenues and the State would direct the project that way if that were the case. Caporale stated that he had received messages from Secretary Holt's office and as a result he recommended that the CEDC also apply for Community Legacy funds for the Baltimore Street redesign project. McKenney advised that the CEDC had indicated they would not have a project ready to submit in this round. Mr. Rhodes advised that the remaining portion of the Baltimore Street project that needed funding was infrastructure related and Community Legacy did not typically fund that type of project.

Mr. Kenneth Wilmot stated that the property owners should be responsible for taking down blighted properties rather than the City. Referring to the blight study performed by WVU, he questioned why the City paid for outside help to list blighted properties. Mayor Grim advised that they had experts in the field, and had more resources to survey and map the properties than the City had.

With no further comments, the Resolution was presented in title only. Motion to approve the Resolution was made by Caporale, seconded by Bernard, and was passed on a vote of 5-0.

RESOLUTION NO. R2018-02

## IX. New Business

### (A) Ordinances

1. Ordinance (1st reading) - authorizing the issuance and sale of General Obligation Bonds to the Maryland Water Quality Financing Administration (MWQFA) in an amount not to exceed $562,500 to finance, reimburse, or refinance costs associated with the Willowbrook Road Waterline Replacement Project, together with related costs and costs of issuance

   Mr. Rhodes introduced the Ordinance and discussed the project that would be funded by the bond and details of the bond issuance.

   FIRST READING: The Ordinance was presented in title only for its first reading. Motion to approve the reading and table for two weeks was made by Caporale, seconded by Bernard, and was passed on a vote of 5-0.

### (B) Orders (Consent Agenda)

Rhodes reviewed each item on the Consent Agenda and Mayor Grim entertained questions or comments. Motion to approve Consent Agenda Items 1-4 was made by Caporale, seconded by Bernard, and was passed on a vote of 5-0.

1. Order authorizing execution of a Lease Agreement with Ristorante Ottaviani, LLC for the use of public right-of-way adjacent to 25 N. Centre Street for outdoor dining purposes

ORDER NO. 26,284

2. Order authorizing execution of a Deed Surrendering Possibility of Reverter / Right of Entry with Nazil Gul to surrender all right, title and interest of the City in the property at 534-536 Maryland Avenue to Mr. Gul as the requirements of the Deed of transfer of the property have been satisfied

   ORDER NO. 26,285

3. Order recommending Councilman Eugene Frazier for appointment by the Allegany County Commissioners as the City of Cumberland's representative on the Board of Directors of the Tri-County Council

   ORDER NO. 26,286

4. Order approving the submission of a request for an estimated $710,000 in 2018 Community Development Block Grant (CDBG) funding for certain proposed projects, authorizing that the award amounts for each project may be adjusted proportionately to equal the final award amount, and authorizing the Mayor to execute documents pertaining to the submission and final awards

   ORDER NO. 26,287

## X. Public Comments

Robin H.Constitution, 623 Quebec Avenue, questioned Mayor Grim regarding his plans for an upcoming mayoral forum at Frostburg State University and an event that the Mayor planned for City Hall.

All public comments are limited to 5 minutes per person

## XI. Adjournment

With no further business at hand, the meeting adjourned at 6:58 p.m.

Minutes approved on July 17, 2018

Brian K. Grim, Mayor

ATTEST: Marjorie A. Woodring, City Clerk

Regular Council Agenda
May 1, 2018

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**Description**

5:45 p.m. - Convene in Open Session for the purpose of closing the meeting for an Executive Session pursuant to Section 3-305 (b) (1) and (9) of the General Provisions Article of the Annotated Code of Maryland to discuss personnel matters involving a certain city employee and to discuss issues pertaining to negotiations with the UFCW #1994, which represents members of the Cumberland Police Department

**Approval, Acceptance / Recommendation**

☐ Budgeted

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

**Value of Award (if applicable)**

**Source of Funding (if applicable)**

Regular Council Agenda
May 1, 2018

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**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
May 1, 2018

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**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
May 1, 2018

---

**Description**
Summary Statement of Closed Meeting(s)

**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**

Thursday, April 19, 2018 at 4:00 p.m.

Second Floor Conference Room, City Hall

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On Thursday, April 19, 2018, the Mayor and City Council met in closed session at 4:00 p.m. in the second floor conference room of City Hall to discuss issues pertaining to negotiations with the UFCW Local #1994. Authority to close the session was provided by the General Provisions Article of the Annotated Code of Maryland, Section 3-305 (b) (9).

Persons in attendance included Mayor Brian Grim;

Council Members Seth Bernard, David Caporale, and Eugene Frazier;

City Administrator Jeff Rhodes, City Solicitor Mike Cohen, City Comptroller Ken Tressler; Charles Hinnant, Chief of Police; City Clerk Marjorie Woodring

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 6:00 p.m.

Brian K. Grim, Mayor

Entered into the public record on MAY - 1 2018

**Mayor and City Council of Cumberland**

**Closed Session Summary**

May 1, 2018 at 5:45 p.m.

Second Floor Conference Room, City Hall

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On Tuesday, May 1, 2018, the Mayor and City Council met in closed session at 5:45 p.m. in the second floor conference room of City Hall to discuss issues personnel matters involving a certain city employee and to discuss issues pertaining to negotiations with the UFCW Local #1994. Authority to close the session was provided by the General Provisions Article of the Annotated Code of Maryland, Section 3-305 (b) (1) and (9).

Persons in attendance included Mayor Brian Grim; Council Members Seth Bernard, David Caporale, Richard Cioni via conference phone, and Eugene Frazier; City Administrator Jeff Rhodes, City Solicitor Mike Cohen, City Clerk Marjorie Woodring; Jonathan Hutcherson, Cumberland Economic Development Commission, and Charles Hinnant, Chief of Police

On a motion made by Councilman Frazier and seconded by Councilman Caporale, Council voted 5-0 to close the session.

No actions were voted upon and the meeting was adjourned at 6:27 p.m.

Brian K. Grim, Mayor

Entered into the public record on MAY - 1 2018

**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: April 3, 2018

## I. Pledge of Allegiance

## II. Roll Call

The meeting was called to order at 6:15 p.m.

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

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

## III. Proclamations

1. Proclamation honoring Curtis Coney Island Famous Weiners on their 100 year anniversary

   Presentation of this proclamation was postponed due to a scheduling conflict.

2. Proclaiming the month of April, 2018 as Fair Housing Month

   Mayor Grim read the proclamation and presented it to Kathleen Breighner, Chairwoman of the Human Relations Commission and Lee Borror, Community Development Specialist and staff representative to the Commission.

3. Proclaiming April 26, 2018 as Cumberland Arbor Day

   Mayor Grim read the proclamation and presented it to Gary Mallow, Shade Tree Commission, and Paul Eriksson, Natural Resource Technician and staff representative to the Commission. Both Mr. Eriksson advised of upcoming events pertaining to Arbor Day and Mr. Mallow thanked the Council for their support of the Shade Tree Commission and its initiatives.

## IV. Public Hearings

1. Public Hearing for the presentation of staff recommendations for 2018 project award funding through Community Development Block Grant (CDBG)

Mayor Grim convened the Public Hearing at 6:21 p.m.

Lee Borror, Community Development Specialist, provided an overview of the CDBG 5-year Plan, the 2018 annual plan process and timelines, and application review criteria. She advised that an estimated $710,000 was expected to be awarded in funding for the 2018 funding cycle. Ms. Borror reviewed the projects that were being proposed for funding by category and advised that comments would be accepted through April 20, 2018. It was anticipated that the Mayor and Council would vote on the recommendations at the May 1, 2018 public meeting.

Mayor Grim opened the floor for public comments and there were none.

The Public Hearing was adjourned at 6:25 p.m.

## V. New Business

### (A) Ordinances

1. Ordinance (1st reading) - amending Section 8.06(7) of the Zoning Ordinance to allow requests for modifications of the setback requirements for communications towers to be presented to the Zoning Board of Appeals as conditional uses, subject to the requirement that the setback be no less than the tower's fall zone

Mr. Rhodes provided background on the purpose of the Ordinance. He advised that current communication tower designs allowed for the tower to collapse upon itself rather than topple over. The Ordinance provide the ability for those who want to construct a communications tower that collapses to appeal to the Board of Zoning Appeals for a conditional appeal with certain conditional stipulated in the permit process. He advised that the City currently had interest for the installation of such a project and had run into a similar project a while back, but found that the current zoning provisions were antiquated.

FIRST READING: The Ordinance was presented in title only for its first reading. Motion to approve the first reading was made by Caporale, seconded by Cioni, and was passed on a vote of 5-0.

### (B) Orders (Consent Agenda)

Mr. Rhodes reviewed each Order on the Consent Agenda and Mayor Grim called for questions or comments. Motion to approve Consent Agenda Items 1-4 was made by Caporale, seconded by Bernard, and was passed on a vote of 5-0.

1. Order approving the Sole Source purchase of three (3) replacement garage doors at the Public Safety Building, Fire Department, from Overhead Door Company for the amount of $30,561

ORDER NO. 26,269

2. Order authorizing execution of Lease Agreements with City Lights American Grill and Bar, Embassy Theater Corp., and Mezzos for the use of the public right-of-way for outdoor dining and entertainment purposes through March 31, 2019

   ORDER NO. 26,270

3. Order declaring a 2010 Chevy Aveo (VIN No. KL1TD6DE6AB127973) as surplus equipment and authorizing it for sale, trade-in, or disosal

   ORDER NO. 26,271

4. Order authorizing execution of a Concession License Agreement with Joyce Wormack for the operation of the Constitution Park Pool concession area for the period of April 1 - October 31, 2018 and a license fee of $1,800

   ORDER NO. 26,272

## VI. Public Comments

Tammy Fraley, 913 Growden Terrace, discussed that the Council needed to consider the younger generation in the city as well as the economic impact of services provided by the City when dealing with the budget. She discussed the importance of providing recreational activities for children and the impact recreational activities also have on economic development. She also discussed the importance of continuing to fund public safety and the impact it has on attracting employers and maintaining a safe environment.

Brandin Lynch, 222 Wills Creek Avenue, stated he was a drive for Queen City Taxi and discussed concerns regarding the city's worn down streets, bridges and infrastructure. He questioned what was being done about the sewage that had been spilling into Wills Creek and was advised that the source of flow has not yet been found, but the sewage had been captured some time ago and was being diverted back into the system and was not, therefore, flowing into the creek any longer. Regarding the streets, he was advised that the Highway User Revenues were being restored to the towns and municipalities. Mr. Rhodes also discussed the pavement management program that was somewhat dated and plans to move to a low-cost alternative plan that would bring the street data up to date.

Rolfe Singerman, 737 Dale Avenue, discussed the architectural importance of Washington Street and the book he had written about the homes on the street. He stated many people come to town to explore the street and it was too important to be cut in half by a broken bridge. He urged Council to find a way to fix the bridge.

All public comments are limited to 5 minutes per person

## VII. Adjournment

With no further business at hand, the meeting adjourned at 6:45 p.m.

Minutes approved on _____

Brian K. Grim, Mayor _____

ATTEST: Marjorie A. Woodring, City Clerk _____

Regular Council Agenda
May 1, 2018

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**Description**
Approval of the Regular Session Minutes of April 3 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, February 20, 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) (1), (7), and (8) of the General Provisions Article of the Annotated Code of Maryland to discuss board and commission appointments, to obtain legal advice regarding CSX bridge issues, and to consult with staff regarding issues that could be relevant to potential litigation.

**MOTION:** Motion to enter into closed session was made by Councilman Cioni, seconded by Councilman Caporale, 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; John DiFonzo, City Engineer; and Marjorie Woodring, City Clerk

Regular Council Agenda
May 1, 2018

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**Description**
Approval of the Closed Session Minutes of February 20, 2018

**Approval, Acceptance / Recommendation**

☐ Budgeted

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

**Value of Award (if applicable)**

**Source of Funding (if applicable)**

Regular Council Agenda
May 1, 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, ENTITLED "AN ORDINANCE TO AMEND SECTION 8.06(7) OF THE CITY OF CUMBERLAND ZONING ORDINANCE PERTAINING TO STANDARDS APPLICABLE TO COMMUNICATIONS TOWERS FOR THE PURPOSE OF ALLOWING FOR REQUESTS FOR MODIFICATIONS OF THE SETBACK REQUIREMENTS TO BE PRESENTED TO THE ZONING BOARD OF APPEALS AS CONDITIONAL USES, SUBJECT TO THE REQUIREMENT THAT THE SETBACK BE NO LESS THAN THE TOWER'S FALL ZONE."

**WHEREAS,** Title 4, Subtitle 2 of the Land Use Article of the Annotated Code of Maryland grants the Mayor and City Council the power to enact a zoning ordinance, to amend it from time to time, and to provide for its administration and enforcement.

**WHEREAS**, the Mayor and City Council deem it necessary to amend the City of Cumberland Zoning Ordinance from time to time for the purpose of promoting the health, safety, morals, and/or general welfare of the City.

**WHEREAS,** in reviewing the standards for specific uses applicable to communications towers in Section 8.06(7) of the Zoning Ordinance, City staff observed that the standards do not include provisions that take into account modern designs and advances in engineering applicable to the fall zones of such structures, i.e., where they are likely to fall in the event they collapse or fail.

**WHEREAS**, the existing standards require that communications towers be set back from adjacent property lines no less than one (1) foot for every foot of height of the tower regardless of whether the tower is designed to fall intact, bend in half, collapse in on itself or otherwise. These standards are overly burdensome as applied to towers that are designed to have smaller fall zones.

**WHEREAS**, the City of Cumberland Municipal Planning and Zoning Commission held a public hearing on the subject matter of this ordinance on the 26th day of March, 2018, and determined that it should recommend that the Mayor and City Council pass an ordinance adopting the amendments to the City of Cumberland Zoning Ordinance which were proposed by staff.

**WHEREAS**, notice of the time and place of the hearing was published in the Cumberland Times-News, a newspaper of general circulation in the City of Cumberland, once each week for two successive weeks (on March 12, 2018 and March 19, 2018), the

first such notice having been published at least 14 days prior to the hearing, as required by Section 15.04.02 of the Zoning Ordinance.

**WHEREAS**, the Mayor and City Council held a public hearing regarding the subject matter of this Ordinance on April 17, 2018, having published notice of the time and place of the hearing together with a summary this Ordinance in the Cumberland Times-News, a newspaper of general circulation in the City of Cumberland, once each week for two successive weeks (on April 2, 2018 and April 9, 2018), the first such notice having been published at least 14 days prior to the hearing, as required by Section 4-203(b) of the Land Use Article of the Annotated Code of Maryland.

**WHEREAS**, consistent with the recommendation of the Municipal Planning and Zoning Commission, the Mayor and City Council have determined that they should approve the proposed amendments to the Zoning Ordinance.

**NOW, THEREFORE:**

**SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND**, that the standards applicable to communications towers set forth in Section 8.06(7) of the City of Cumberland Zoning Ordinance are hereby amended as follows[1]:

(7) Communications Towers

(a) The tower shall have a setback of one foot from all adjacent property lines for every foot of height of the tower.

(b) The tower shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.

(c) The tower shall be protected to discourage climbing of the tower by unauthorized persons.

(d) Towers greater than fifty (50) feet in height shall be located at least two hundred (200) feet from existing dwellings.

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[1] Bold print text denotes language added to the Zoning Ordinance.

(e) **Requests for modifications of the setbacks requirements set forth herein shall be treated as conditional uses. The Zoning Board of Appeals may not provide for a setback which is less than the fall zone of the tower, as set forth in its engineering specifications.**

**SECTION 2: AND BE IT FURTHER ORDAINED**, that this Ordinance shall take effect ten (10) days from the date of its passage.

Passed this _____ day of _____, 2018.

_____
Brian K. Grim, Mayor

ATTEST:

_____
Marjorie A. Woodring, City Clerk

1st reading: _____

Public Hearing: _____

2nd reading: _____

3rd reading: _____

Passed: _____

Regular Council Agenda
May 1, 2018

---

**Description**

Ordinance (2nd and 3rd readings) - amending Section 8.06(7) of the Zoning Ordinance to allow requests for modifications of the setback requirements for communications towers to be presented to the Zoning Board of Appeals as conditional uses, subject to the requirement that the setback be no less than the tower's fall zone

**Approval, Acceptance / Recommendation**

1st reading was approved on April 3, 2018.

Public Hearing was held on April 17, 2018.

☐ Budgeted

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

**Value of Award (if applicable)**

**Source of Funding (if applicable)**

# City of Cumberland

## - Maryland -

## RESOLUTION

**No. _____**

**Resolution of the Mayor and City Council of Cumberland, Maryland approving the application and receipt of financing for Community Legacy Project(s) (the "Project") further described in the Community Legacy Application ("The Application"), to be financed either directly by the Department of Housing and Community Development (the "Department") of the State of Maryland or through other departments or agencies of the State of Maryland.**

WHEREAS, the Mayor and City Council of Cumberland, Maryland recognizes that there is a significant need for reinvestment and revitalization of the communities in Allegany County; and,

WHEREAS, the Department, either through Community Legacy or through other Programs of the Department, or in cooperation with other State departments or agencies, may provide some or all of the financing for the Project (the "Project Financing") in order to assist in making it financially feasible; and

WHEREAS, the Project is located within a priority funding area under Section 5-7B-02 of the Smart Growth Act and the Project will conform to the local zoning code; and

WHEREAS, the applicable law and regulations require approval of the Community Legacy Project and the Project Financing by the Mayor and City Council of Cumberland, Maryland and, where appropriate, by the chief elected executive official of the local subdivision;

NOW, THEREFORE BE IT RESOLVED THAT, the Mayor and City Council of Cumberland, Maryland hereby endorses the Project; and, HEREBY approves the request for financial assistance in the form of a grant or loan, up to the amount of $576,095.00; and

BE IT FURTHER RESOLVED THAT, the chief elected executive official be, and is hereby requested to endorse this Resolution, thereby indicating his approval thereof; and,

BE IT FURTHER RESOLVED THAT, the City Administrator is hereby authorized to execute documents and take any action necessary to carry out the intent of these resolutions; and,

BE IT FURTHER RESOLVED THAT, copies of this Resolution are sent to the Secretary of the Department of Housing and Community Development of the State of Maryland.

**GIVEN UNDER OUR HANDS AND SEALS THIS 17TH DAY OF APRIL, 2018, WITH THE CORPORATE SEAL OF THE CITY OF CUMBERLAND HERETO ATTACHED, DULY ATTESTED BY THE CITY CLERK**

Attest:

Mayor and City Council
Of Cumberland

Marjorie A. Woodring
City Clerk

Brian K. Grim
Mayor

# 2018 Community Legacy Prioritization

1. **CBD Commercial Accessibility Improvement Project - $50,000**

The City of Cumberland, working with the Downtown Development Commission, has requested funding in the amount of $10,000 from the Community Development Block Grant Program to provide a program to property owners within the Central Business District to obtain specifications from a design professional to provide accessibility to their commercial structure. The City of Cumberland is seeking funding from the Maryland Community Legacy program to provide grant funding to property owners or to lessees (who have the written authorization from the property owner) to make the required improvements to the structure using those specification provided by the design professional.

2. **ALLEGANY MUSEUM INTERIOR RESTORATION WORK $200,000**

. Just one additional piece of the puzzle is missing—namely creating a new façade in the rear in our building to make it our new grand entrance to better capture tourist traveling on Interstate 68. While $500,000 is needed to complete the project, providing $300,000 in the 2019 budget would allow us to install the outside façade creating the new entrance to the museum but not the remaining internal infrastructure work to accommodate the new façade. The interior work would involve moving structural beams along with improving our security systems.

3. **ADA Sidewalk & Parking Improvements – Gordon Roberts House (History House) $80,000**

This project proposes improvements for both the sidewalks and adjacent parking that would improve pedestrian safety and increase accessibility. It would grant improved access to the Gordon-Roberts

House, in particular the Carriage House, where alternative programming could be made available for those who are unable to access upper floors of the museum. This project would include removing, leveling, and resetting the brick sidewalk in the public right-of-way outside of the Gordon-Roberts House while also providing an on-street ADA complaint parking space adjacent to pedestrian access to the museum and the Carriage House.

4. **ALLEGANY MUSEUM INSTALLATION OF ACOUSTIC PANELS $16,095.00**

We are not able to maximize our ballroom rentals because of the poor acoustics in the room. Our ballroom was restored to its 1932 condition as a federal courtroom. With 16 foot high ceilings and wood paneled walls, the sound reverberation makes listening to either live music deafening or to speakers unintelligible. This unfortunate acoustic problem has reduced the rental demand for the ballroom.

To solve our dilemma, we had the private sound firm, DLS Sound Inc., analyze the ballroom sound structures. They did four analysis measures and found the entire space falling into the Unacceptable range for speech intelligibility. They recommended adding acoustic panels along the walls that would match the room's historic wall coverings.

Their analysis with the acoustic panels installed shows the sound measures were all within the optimal range. With all the acoustic additions the ballroom sound would improve dramatically allowing us to increase our rental income from this space.

5. **ACM Campus Theatre Renovation $200,000**

Sound and lighting upgrades are needed in the ACM Campus Theatre. The community uses the theatre for public meetings and forums, shows, etc. The college only charges a nominal fee for renting the space. There are 360 seats. The projects estimate is between $300K-400K, but can be done in phases.

6. **ACM Continuing Education Building-Room 12-14 upgrade $30,000**

The Continuing Education Building at ACM hosts multiple trainings, speakers, and events for the public and members of the community. The largest room in the building, CE 12-14, is in need of kitchen renovations as well as 75 new chairs. The estimated costs are around $25-$30K.

**Strategic Demolition Fund:**

**Cumberland Housing Blight Removal and Redevelopment $200,000**

The CHRP program addresses the growing problem of severely distressed and blighted properties, suffering from trash and deplorable conditions that have been unattended for years in Cumberland's residential neighborhoods. These properties contribute to poor appearances, increased crime, safety conditions and create a negative impact upon the surrounding community as well as on the city as a whole. CHRP will rehabilitate salvageable blighted properties and remove no longer habitable homes, cleanup properties, and replace them with affordable housing that will be available for purchase by low and medium income families desiring to live within the city.

**Community Parks & Playgrounds Fund:**

**ACM Outside Volleyball Courts (2 sand courts) $40,000**

The community is in need of new sand volleyball courts after the ones at Rocky Gap were removed. ACM and local groups would maintain the courts. The estimate is for $30-$40K for two sand volleyball courts.

Regular Council Agenda
May 1, 2018

---

**Description**

Resolution approving the application and receipt of financing for 2018 Community Legacy Projects totaling $575,095

**Approval, Acceptance / Recommendation**

☐ Budgeted

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

**Value of Award (if applicable)**

**Source of Funding (if applicable)**

Regular Council Agenda
May 1, 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 ENTITLED AN ORDINANCE TO AUTHORIZE AND EMPOWER MAYOR AND CITY COUNCIL OF CUMBERLAND (THE "CITY"), FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING COSTS OF A PROJECT THAT THE CITY GENERALLY REFERS TO AS THE WILLOWBROOK ROAD WATERLINE REPLACEMENT PROJECT AND RELATED COSTS AS PROVIDED HEREIN, TO ISSUE AND SELL FROM TIME TO TIME, UPON ITS FULL FAITH AND CREDIT, ONE OR MORE SERIES OF (1)(A) GENERAL OBLIGATION BONDS AND (B) GENERAL OBLIGATION BOND ANTICIPATION NOTES, EACH IN AN AGGREGATE ORIGINAL PRINCIPAL AMOUNT NOT TO EXCEED $562,500, AND (2) GENERAL OBLIGATION REFUNDING BONDS, PROVIDED THAT THE AGGREGATE ORIGINAL PRINCIPAL AMOUNT OF ANY SERIES OF REFUNDING BONDS SHALL NOT EXCEED ONE HUNDRED THIRTY PERCENT (130%) OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS REFUNDED THEREFROM; DETERMINING THAT ANY SUCH SERIES OF BONDS BE SOLD TO THE MARYLAND WATER QUALITY FINANCING ADMINISTRATION (THE "ADMINISTRATION") BY PRIVATE SALE, WITHOUT PUBLIC BIDDING; AUTHORIZING THE APPROVAL BY RESOLUTION OF ONE OR MORE LOAN AGREEMENTS WITH THE ADMINISTRATION AND, WITH RESPECT TO ANY SUCH LOAN AGREEMENT, ACKNOWLEDGING THE ADMINISTRATION'S RIGHTS THEREUNDER, MAKING A PLEDGE OF CERTAIN REVENUES RECEIVABLE FROM THE STATE OF MARYLAND, AND ACKNOWLEDGING

CERTAIN PAYMENT RESPONSIBILITIES OF THE CITY; PROVIDING THAT THE MAYOR AND CITY COUNCIL BY RESOLUTION SHALL DETERMINE OR PROVIDE FOR CERTAIN DETAILS OF ANY SUCH SERIES OF GENERAL OBLIGATION BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS (EACH, A "SERIES OF OBLIGATIONS" OR "OBLIGATIONS"), INCLUDING WITH RESPECT TO ANY DEBT SERVICE RESERVE ACCOUNT REQUIRED BY THE ADMINISTRATION; PROVIDING THAT ANY SUCH SERIES OF GENERAL OBLIGATION BOND ANTICIPATION NOTES OR REFUNDING BONDS WILL BE SOLD BY PRIVATE SALE UNLESS THE MAYOR AND CITY COUNCIL BY RESOLUTION DETERMINES OTHERWISE; PLEDGING THE CITY'S FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER TO PAYMENT OF ANY SUCH OBLIGATIONS AND PROVIDING FOR THE IMPOSITION OF AD VALOREM TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE CITY SUBJECT TO ASSESSMENT FOR UNLIMITED MUNICIPAL TAXATION TO PAY ANY SUCH OBLIGATIONS; IDENTIFYING OR PROVIDING FOR THE DETERMINATION OF THE SOURCES FROM WHICH DEBT SERVICE ON ANY SUCH SERIES OF OBLIGATIONS WILL BE PAYABLE IN THE FIRST INSTANCE; AUTHORIZING THE MAYOR AND CITY COUNCIL BY RESOLUTION TO PROVIDE FOR POST-CLOSING MODIFICATIONS AFFECTING ANY SERIES OF BONDS OR REFUNDING BONDS ISSUED TO THE ADMINISTRATION; PROVIDING THAT CERTAIN ACTIONS MAY BE TAKEN OR PROVIDED FOR BY RESOLUTION IN CONNECTION WITH THE REISSUANCE OF ANY OF THE OBLIGATIONS; PROVIDING THAT ANY SUCH OBLIGATIONS MAY BE

CONSOLIDATED WITH OTHER OBLIGATIONS OF THE CITY; AUTHORIZING AND DIRECTING OFFICIALS AND EMPLOYEES OF THE CITY TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE SALE, ISSUANCE AND DELIVERY OF ANY SUCH SERIES OF OBLIGATIONS AND TO CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE; PROVIDING THAT THIS TITLE CONSTITUTES A FAIR SUMMARY OF THIS ORDINANCE; AND OTHERWISE GENERALLY RELATING TO THE SALE, ISSUANCE, DELIVERY AND PAYMENT OF AND FOR ANY SUCH SERIES OF OBLIGATIONS.

RECITALS

1. Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland and a municipality within the meaning of the Enabling Act identified below (the "City"), is authorized and empowered by Sections 19-301 to 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Sections 81 and 82A of the Charter of the City of Cumberland, as replaced, supplemented or amended (the "Charter"), to borrow money for any proper public purpose in connection with the water supply system serving the City and surrounding areas and to evidence such borrowing by the issuance and sale of its general obligation bonds.

2. The City has determined to undertake activities relating to a project that the City generally refers to as the Willowbrook Road Waterline Replacement Project, and in connection with such activities and project, to acquire or pay for, as applicable, necessary property rights and equipment, related site and utility improvements, related architectural, engineering, planning, design, bidding, permitting, acquisition, construction, improvement, installation,

modification, demolition, removal, renovation, reconstruction, rehabilitation, equipping, inspection and construction management expenses, costs of related activities, improvements and appurtenances, related administrative, financial and legal expenses, and costs of activities related to any of the foregoing, and has determined to borrow money for the public purpose of financing, reimbursing or refinancing all or a portion of the costs of any components of such activities, together with, to the extent determined by the Mayor and City Council by resolution, costs of issuance of any borrowing therefor (collectively, "Costs of the Project"), by issuing one or more series of its general obligation bonds.

3. The federal Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), authorizes the U.S. Environmental Protection Agency (the "EPA") to award grants to qualifying states to establish and capitalize drinking water treatment revolving loan funds ("SRFs") for the purpose of providing loans and certain other forms of financial assistance to finance, among other things, the construction and improvement of publicly-owned and privately-owned water supply systems.

4. As contemplated by the Safe Drinking Water Act, the General Assembly of Maryland has amended the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (as replaced, supplemented or amended, the "MWQFA Act"), establishing an SRF designated the Maryland Drinking Water Revolving Loan Fund (the "Fund") to be maintained and administered by the Maryland Water Quality Financing Administration (the "Administration").

5. The MWQFA Act authorizes the Administration, among other things, to make a loan from the Fund to a "local government" (as defined in the MWQFA Act) for the purpose of

financing or refinancing all or a portion of the cost of a "water supply system" project (as defined in the MWQFA Act).

6. The City is a "local government" within the meaning of the MWQFA Act, the Project is a "water supply system" project within the meaning of the MWQFA Act, and the City has applied to the Administration for a loan or loans from the Fund for Project purposes.

7. The MWQFA Act authorizes a local government to issue one or more bonds, notes or other evidences of obligation (each, a "loan obligation" as defined in the MWQFA Act) to evidence its indebtedness under a loan agreement with respect to a loan from the Administration, to sell any such bond, note or other evidence of obligation to the Administration at private sale, without public bidding, and to establish a dedicated source of revenues for repayment of such loan.

8. Pursuant to the authority of the MWQFA Act, the Enabling Act, Sections 81 and 82A of the Charter and any other applicable law, the City has determined to borrow money from the Administration for the public purpose of financing, reimbursing or refinancing Costs of the Project or such components of Costs of the Project as the Administration shall approve.

9. In connection with the issuance and sale of any series of the general obligation bonds contemplated hereby, and pursuant to the MWQFA Act, the City will enter into one or more loan agreements with the Administration.

10. Prior to issuing any such series of bonds to the Administration, the City may need to obtain interim financing in order to finance Costs of the Project on a timely basis through the issuance of one or more series of its general obligation bond anticipation notes pursuant to the authority of Sections 19-211 to 19-223, inclusive, of the Local Government Article of the Annotated

Code of Maryland, as replaced, supplemented or amended (the "Bond Anticipation Note Act"), and the Charter.

11. Subsequent to the issuance to the Administration of any series of bonds provided for herein, the City may desire to currently refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 19-207 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Refunding Act").

12. The City has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any such series of bonds, bond anticipation notes or refunding bonds contemplated hereby.

13. The City expects to pay the principal of, and interest on, as applicable, any such bonds, bond anticipation notes or refunding bonds in the first instance from revenues received by the City in connection with the operation of the water supply system serving the City, including fees for use of or connection to such system and, to the extent required by the purchaser of any such series of obligations, from revenues received by the City in connection with the operation of the wastewater system serving the City (referred to herein as the "wastewater system"), including fees for use of or connection to such system, all to the extent lawfully available for such purpose or, with respect to the Administration, any other dedicated source of revenues agreed to by the City and the Administration.

14. In connection with the issuance of any series of bonds contemplated by this Ordinance (and any series of refunding bonds contemplated hereby that are issued to the Administration), the Administration may require the City to establish, fund and maintain for a period of time acceptable to the Administration a debt service reserve account in a manner that satisfies the Administration's debt service coverage requirements.

15. The City, as authorized by the MWQFA Act, may pledge any moneys that the City is entitled to receive from the State of Maryland, including the City's share of the State income tax, to secure its obligations under any loan agreement with the Administration contemplated hereby.

16. Pursuant to the authority of the Charter, the City shall issue any series of bonds, bond anticipation notes or refunding bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Mayor and City Council of the City, the governing body of the City (the "Mayor and City Council"), pursuant to the Charter and this Ordinance.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND:

SECTION 1. (a) The Recitals to this Ordinance are deemed a substantive part of this Ordinance and incorporated by reference herein. Capitalized terms used in this Ordinance and not otherwise defined in the Sections of this Ordinance shall have the meanings given to such terms in the Recitals.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter, the code of ordinances of the City (the "City Code") or other applicable law or authority to act in such titled official's stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting or interim capacity under the Charter, the City Code or other applicable law or authority, (iii) to any person who serves in a "deputy", "associate" or "assistant" capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the Charter, the City Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however

known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

(c) References in this Ordinance to the "principal amount" of any of the Bonds, the BANs, the Refunding Bonds or the Obligations (each as defined herein) shall be construed to mean the par amount of such Bonds, BANs, Refunding Bonds or Obligations, as applicable.

(d) References in this Ordinance to the Project are intended to include any modifications or amendments to components of the Project as provided for in City budgetary materials or made by other appropriate actions and that are acceptable to the Administration to the extent such modifications or amendments impact Obligations issued to the Administration.

SECTION 2. Pursuant to the authority of the MWQFA Act, the Enabling Act, Sections 81 and 82A of the Charter and any other applicable law, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing any one or more components of Costs of the Project, all to the extent permitted by the Administration. The total Costs of the Project not otherwise payable from other sources is not expected to exceed Five Hundred Sixty-two Thousand Five Hundred Dollars ($562,500).

SECTION 3. To evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the City, acting pursuant to the authority of the MWQFA Act, the Enabling Act, Sections 81 and 82A of the Charter and any other applicable law, hereby determines to issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bonds in an aggregate original principal amount not to exceed Five Hundred Sixty-two Thousand Five Hundred Dollars ($562,500) (individually, a "Bond" and, collectively, the "Bonds"). Each such series may consist of one or more bonds and any Bond may be issued in installment form and/or draw-down form.

SECTION 4. Pursuant to the authority of the MWQFA Act, the Enabling Act, Sections 81 and 82A of the Charter and any other applicable law, the City hereby determines to sell each series of the Bonds to the Administration by private sale, without public bidding, due, in part, to the ability to issue any series of the Bonds as draw-down obligations and the beneficial formulas by which the Administration establishes interest rates on bonds purchased by the Administration.

SECTION 5. The proceeds of each series of the Bonds shall be used and applied by the City exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless, with the approval of the Administration, a supplemental ordinance is enacted by the Mayor and City Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the MWQFA Act.

SECTION 6. (a) As required by the MWQFA Act, the City is hereby authorized to enter into one or more loan agreements with the Administration (each, a "Loan Agreement" and collectively, the "Loan Agreements") in connection with any series of the Bonds. The final or substantially final form of each Loan Agreement shall be approved by the Mayor and City Council by resolution and the execution and delivery of each Loan Agreement shall be authorized by the Mayor and City Council by resolution.

(b) The City hereby acknowledges that the provisions of each Loan Agreement may allow for, among other remedies, all payments on any series of the Bonds subject to such Loan Agreement to be declared immediately due and payable upon the occurrence of any event of default provided for in such Loan Agreement.

SECTION 7. As authorized by Section 9-1606(d) of the MWQFA Act, the City hereby pledges any moneys that the City is entitled to receive from the State of Maryland, including the

City's share of the State income tax, to secure its obligations under the Loan Agreements. Such pledge shall be evidenced and detailed in each Loan Agreement.

SECTION 8. Pursuant to the authority of the Enabling Act, Sections 81 and 82A of the Charter, and any other applicable law, the Mayor and City Council, prior to the issuance, sale and delivery of any series of the Bonds, shall adopt a resolution or resolutions specifying, prescribing, determining or providing for the determination of, providing for, or approving or providing for the approval of, such matters, details, forms (including, without limitation, the form of the Bonds of such series), documents or procedures as may be required by the MWQFA Act, the Enabling Act, the Charter, other applicable law or this Ordinance or as the Mayor and City Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or redemption of or for such series of the Bonds. A resolution shall or may set forth, determine or provide for the determination of, provide for, or approve or provide for the approval of, among other things, as applicable, the aggregate original principal amount of such series of the Bonds; the designation of such series of the Bonds; the denomination or denominations of such series of the Bonds; the maturity or maturities of such series of the Bonds; the principal installment or installments of, or the method of determining the principal installment or installments of, such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable, payable on such series of the Bonds; provisions relating to the payment of any late fees or penalties with respect to such series of the Bonds; the components of the Costs of the Project on which proceeds of such series will be expended, if limited in any way; provisions for the appropriation and disposal of such proceeds; provisions relating to the prepayment of such series of the Bonds, if applicable; provisions for the application of unexpended proceeds of such series of the Bonds; provisions relating to the sale of such series of the Bonds by private sale, without public

bidding; provisions relating to the principal forgiveness of such series of the Bonds, if applicable; certifications, representations, determinations, designations or elections relating to the tax-exempt status of interest payable on such series of the Bonds, if applicable; and all other terms and conditions upon which such series of the Bonds will be issued, sold and delivered. By resolution the Mayor and City Council may delegate to one or more City officials the authority to make any final determinations, approvals or decisions with respect to a series of the Bonds. Any resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval of, the details required or authorized by this Section 8 for more than one series of the Bonds.

(b) In the event the Administration requires the City establish a debt service reserve account to be funded from non-Bonds proceeds in order to provide security for any series of the Bonds as a condition to the issuance of such series of the Bonds, provisions relating to the establishment, funding and maintenance of such debt service reserve account and the investment and application of moneys held in such debt service reserve account shall be determined, approved or provided for by resolution, and any such debt service reserve account may be identified in the applicable Loan Agreement as a dedicated source of revenues contemplated by the MWQFA Act.

SECTION 9. The City is hereby authorized and directed to pay any fees or costs provided for in any Loan Agreement which are not payable from proceeds of the Bonds, including, without limitation, any administrative fees and any ongoing fees or costs. The obligation of the City to pay such amounts shall be absolute and unconditional as further provided in any Loan Agreement.

SECTION 10. Notwithstanding anything to the contrary contained in this Ordinance, the City shall use and apply proceeds of each series of the Bonds only as permitted by the related Loan

Agreement, the Safe Drinking Water Act (as defined in such Loan Agreement) and the MWQFA Act (which may be referred to in each Loan Agreement as the "Act").

SECTION 11. (a) Pursuant to the authority of the Bond Anticipation Note Act, Sections 81 and 82A of the Charter and any other applicable law, the City may issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bond anticipation notes in an aggregate original principal amount not to exceed Five Hundred Sixty-two Thousand Five Hundred Dollars ($562,500) (each, a "series of the BANs" and, collectively, the "BANs") prior to and in anticipation of the sale of any series of the Bonds in order to finance or reimburse Costs of the Project on an interim basis, including paying costs of issuance and capitalized interest on such series of the BANs within the limitations of the Bond Anticipation Note Act. Any such series of the BANs may consist of one or more notes and any note may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the BANs, the Mayor and City Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Act, Sections 81 and 82A of the Charter, any other applicable law and this Ordinance authorizing such series of the BANs and specifying, prescribing, determining or providing for the determination of, or approving or providing for the approval of, the same types of matters, details, forms, documents, procedures or determinations detailed in Section 8 hereof that may be made or addressed with respect to any series of the Bonds, to the extent applicable with respect to such series of the BANs, and as otherwise may be authorized or required by applicable law. Unless the Mayor and City Council determines otherwise in a resolution providing for any series of the BANs, pursuant to the authority of the Bond Anticipation Note Act, each series of the BANs shall be sold by private sale (including, without limitation, through a direct purchase transaction). Any such sale by private sale is hereby determined to be in the public interest

due to the ability to time the market, negotiate with potential purchasers and thereby achieve a beneficial interest rate or rates and other beneficial terms by undertaking a private (negotiated) sale, and, with respect to a private sale that involves a direct purchase, the lower costs of issuance typically incurred with such method of private sale as compared to a negotiated underwriting or a public sale at competitive bid. By resolution the Mayor and City Council may delegate to one or more City officials the authority to make any final determinations, approvals or decisions with respect to a series of the BANs. Any resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized by this Section 11 for more than one series of the BANs.

(b) The City hereby covenants (i) to pay from the proceeds of one or more series of the Bonds the principal of any series of the BANs actually issued, (ii) to the extent that interest on any series of the BANs is not paid from proceeds of the BANs, to pay the interest on such series of the BANs, and (iii) to issue the applicable series of the Bonds as soon as there is no longer a reason for deferring its issuance. This covenant shall not be construed to prevent the City from paying principal of and/or interest on any series of the BANs from sources of funds other than proceeds of the Bonds, to the extent such other proceeds are available for such purpose.

(c) As authorized by the Bond Anticipation Note Act, by resolution the Mayor and City Council may provide for the renewal of any series of the BANs at maturity with or without resale, as well as any amendments of or modifications to such series of the BANs and any related documentation.

SECTION 12. (a) Pursuant to the authority of the Refunding Act, the Enabling Act, Sections 81 and 82A of the Charter and any other applicable law, the City is hereby authorized and empowered to issue and sell from time to time, upon its full faith and credit, one or more

series of general obligation bonds (each, a "series of the Refunding Bonds" and, collectively, the "Refunding Bonds") for the purpose of currently refunding or advance refunding any of the Bonds issued pursuant to the authority of this Ordinance then outstanding, including paying all or any portion of outstanding principal, prepayment premium and/or interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, and paying costs and expenses in connection with the issuance, sale and delivery of such series of the Refunding Bonds, and, to the extent determined by the Mayor and City Council by resolution, interest on such series of the Refunding Bonds, for the public purpose of (A) reducing the total cost of debt service on a direct comparison or present value basis or (B) debt restructuring that is permitted by applicable law; provided that, the aggregate original principal amount of any such series of the Refunding Bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Mayor and City Council shall adopt a resolution or resolutions authorizing such series of the Refunding Bonds and specifying, prescribing, determining or providing for the determination of, or approving or providing for the approval of, such matters, details, forms, documents, procedures or determinations detailed in Section 8 hereof that may be made or addressed with respect to each series of the Bonds, to the extent applicable with respect to such series of the Refunding Bonds, and as otherwise may be authorized or required by applicable law. Unless the Mayor and City Council determines otherwise in a resolution providing for any series of the Refunding Bonds, pursuant to the authority of the Refunding Act, each series of the Refunding Bonds shall be sold at a private sale, without soliciting bids (including, without limitation,

through a direct purchase transaction). Any such sale on a private basis is hereby determined to be in the public interest due to the ability to time the market, negotiate with potential purchasers and thereby achieve a beneficial interest rate or rates and other beneficial terms (including restructuring terms, if applicable) by undertaking a private (negotiated) sale and, with respect to a private sale that involves a direct purchase, the lower costs of issuance typically incurred with such method of private sale as compared to a negotiated underwriting or a public sale at competitive bid. By resolution the Mayor and City Council may delegate to one or more City officials the authority to make any final determinations, approvals or decisions with respect to a series of the Refunding Bonds. Any resolution may specify, prescribe, determine or provide for the determination of, provide for, or approve or provide for the approval of, the details required or authorized by this Section 12 for more than one series of the Refunding Bonds.

(b) To the extent any series of the Refunding Bonds is sold to the Administration, the Mayor and City Council by resolution may specify, prescribe, determine or provide for the determination of, approve or provide for the approval of any determinations contemplated by in this Ordinance that may be made with respect to any series of the Bonds, including, without limitation, entry into a new loan agreement or any modification to an existing Loan Agreement, as applicable, provisions for the potential forgiveness of any such series of the Refunding Bonds, a pledge of the City's right to receive revenues from the State in the nature referred to in Section 7 above, the obligation of the City to pay any administrative fees or ongoing fees and expenses in the nature of those referred to in Section 9 above, the identification of any source of dedicated revenues and provisions for any debt service reserve account with respect to such series of the Refunding Bonds required by the Administration.

SECTION 13. The Mayor and City Council is hereby authorized, by resolution, to make any further determinations or approvals or provide for any matters or actions deemed necessary or desirable in connection with the issuance of any series of the BANs or the Refunding Bonds, including, without limitation, (i) any determination authorized by the Bond Anticipation Note Act or the Refunding Act, as applicable, (ii) to commit or provide for the commitment of the City to pay to the purchaser or purchasers of any series of the BANs or the Refunding Bonds (A) any commitment fee or similar fee and any legal costs in connection with such purchaser's or purchasers' agreement to purchase such series of the BANs or the Refunding Bonds and/or (B) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the City fails to deliver such series of the BANs or the Refunding Bonds and, in connection therewith, to approve or provide for the approval of, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of the BANs or the Refunding Bonds), and (iii) to approve or provide for any offering documents, credit enhancement, liquidity enhancement, ratings, or continuing disclosure undertakings relating to such series of the BANs or the Refunding Bonds.

SECTION 14. (a) The full faith and credit and unlimited taxing power of the City are hereby pledged to the prompt payment of the principal of and interest on each series of the Bonds, the BANs and the Refunding Bonds (each, a series of the "Obligations") as and when the same are payable and to the imposition of the taxes hereinbelow described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of each series of the Obligations. Subject to the further provisions of this Section 14, the City hereby covenants with the registered owners of each series of the Obligations to impose ad valorem taxes

on all real and tangible personal property in the City that is subject to assessment for unlimited municipal taxation at a rate and in an amount sufficient to pay the principal of and the interest on the Obligations in each fiscal year in which any of the Obligations are outstanding and to take any further action that may be lawfully appropriate from time to time during the period that the Obligations of such series remain outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon. If the proceeds from the taxes so levied in any such fiscal year are inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up such deficiency.

(b) Notwithstanding the provisions of subsection (a) of this Section 14, the principal of and interest on each series of the Obligations will be payable in the first instance from revenues received by the City in connection with the operation of the water supply system serving the City and surrounding areas, including charges for the use of or connection to such water supply system and, to the extent required by the purchaser of such series of the Obligations, from revenues received by the City from the operation of the wastewater system serving the City, including charges for the use of or connection to such wastewater system, all to the extent such revenues are lawfully available for such purpose. (Any such identification of wastewater system revenues as a source of payment for the applicable series of the Obligations shall be provided for in any resolution relating to a series of the BANs or the Refunding Bonds or a Loan Agreement, as applicable.) To the extent of any funds received or receivable as described in this subsection (b) in any fiscal year, the taxes required to be imposed in accordance with subsection (a) of this Section 14 may be reduced proportionately.

(c) The foregoing provisions shall not be construed so as to prohibit the City from paying the principal of and interest on any series of the Obligations from the proceeds of the

sale of any other obligations of the City (including, without limitation, (i) with respect to any series of the BANs, from the proceeds of any series of the Bonds, and (ii) with respect to any series of the Bonds, from the proceeds of any series of the Refunding Bonds) or from any other funds legally available for that purpose. Within any applicable limitations of Maryland or federal law (including, without limitation, the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder), the City may apply to the payment of the principal of or interest on any series of the Obligations any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the City for the purpose of assisting the City in accomplishing the type of project or projects which such series of the Obligations are issued to finance, reimburse or refinance or are otherwise available for such purpose, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

(d) Any source of revenues referred to in this Section 14, and any additional source of revenues agreed to by the City and the Administration and provided for by resolution, if applicable, may be identified as a dedicated source of revenue contemplated by the MWQFA Act in any Loan Agreement entered into by the City with the Administration in connection with a series of the Obligations. Any applicable Loan Agreement exhibits may describe such dedicated revenues by references that are similar but not identical to any references contained in this Ordinance or in any resolution relating to such series of the Obligations.

SECTION 15. In addition to the refunding authority provided for in Section 12 of this Ordinance, subsequent to the sale, issuance and delivery of any series of the Bonds or the Refunding Bonds to the Administration, the Mayor and City Council by resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval

of, any amendments or modifications to such series of the Bonds or the Refunding Bonds and/or the related Loan Agreement or Loan Agreements and any other documents, agreements or instruments executed and delivered in connection with the sale, issuance and delivery of such series of the Bonds or the Refunding Bonds, and/or provide for the execution and delivery of additional documents, agreements, certificates or instruments relating to such amendments or modifications (including, without limitation, any bond or bonds to be issued and exchanged for one or more of such series of the Bonds or the Refunding Bonds originally issued and delivered and any new or restated Loan Agreement), whether or not such amendments or modifications constitute a refunding or reissuance for purposes of federal and/or Maryland law.

SECTION 16. By resolution, the Mayor and City Council may make any appropriate arrangements (including, without limitation, by authorizing one or more appropriate officials to make any elections, designations, determinations or filings on the City's behalf) in the event any right of the registered owner of an Obligation to put or cause the redemption or prepayment of such Obligation at its option, or any change in the interest rate of an Obligation, or any other modification to an Obligation could lead to a reissuance of such Obligation for purposes of the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

SECTION 17. The Mayor and City Council by resolution may determine that any series of the Obligations authorized hereby may be consolidated with any bond anticipation notes, bonds and/or refunding bonds authorized by the Mayor and City Council, as applicable, and issued as a single series of obligations.

SECTION 18. The following City officials: the Mayor, the City Administrator, the Comptroller, the Treasurer, the City Clerk, and all other appropriate officials and employees of the City, are hereby authorized and directed to (i) take any and all action necessary to complete and

close the sale, issuance and delivery of any of the Bonds, the BANs and the Refunding Bonds authorized hereby, (ii) negotiate, approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection with any such sale, issuance and delivery, and (iii) carry out the transactions contemplated by this Ordinance, any resolution adopted in furtherance of this Ordinance and any such documents, certificates or instruments executed and delivered in connection with the issuance of a series of the Obligations.

SECTION 19. The title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 20. The provisions of this Ordinance shall be liberally construed in order to effectuate the transactions authorized or contemplated by this Ordinance.

SECTION 21. This Ordinance shall become effective thirty (30) days after its passage pursuant to the provisions of Section 82A of the Charter, subject to the petition-to-referendum provisions of Section 82A(c) of the Charter.

MAYOR AND CITY COUNCIL OF
CUMBERLAND

(SEAL)

_____
Brian K. Grim
Mayor

ATTEST:

_____
Marjorie A. Woodring, City Clerk

Introduced: _____, 2018

Passed: _____, 2018

_____
Underlining : Indicates material added to this Ordinance after introduction
~~Strike-through~~ : Indicates material deleted from this Ordinance after introduction

Votes for passage:_____
Votes against passage: _____
Abstentions: _____

Effective: _____, 2018

#203442;10002.069

Regular Council Agenda
May 1, 2018

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**Description**

Ordinance (1st reading) - authorizing the issuance and sale of General Obligation Bonds to the Maryland Water Quality Financing Administration (MWQFA) in an amount not to exceed $562,500 to finance, reimburse, or refinance costs associated with the Willowbrook Road Waterline Replacement Project, together with related costs and costs of issuance

**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:** May 1, 2018

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

**THAT,** the Mayor be and is hereby authorized to execute a Lease Agreement with Ristorante Ottaviani, LLC to allow for the use of the public right-of-way adjacent to its building at 25 N. Centre Street for outdoor dining and entertainment purposes through March 31, 2019.

_____

**Mayor Brian K. Grim**

**THIS LEASE AGREEMENT** ("Lease") is made and executed this _____ day of _____, 2018, by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND**, a Maryland municipal corporation (the "City") and **RISTORANTE OTTAVIANI, L.L.C.** ("Lessee").

**WHEREAS**, Lessee operates a restaurant at 25 N. Centre Street, Cumberland, MD 21502;

**WHEREAS**, the City maintains and/or owns the public right-of-way immediately in front of the restaurant;

**WHEREAS**, Lessee wishes to expand its operation to include outside café dining on a portion of the public right-of-way adjacent to its restaurant; and

**WHEREAS**, the City has determined that it is in the interest of the general public to permit the use of a portion of the right-of-way for café dining.

**NOW, THEREFORE**, the parties hereto hereby agree as follows:

**1.** **Demise**. The City hereby leases to Lessee a certain parcel of property located on the public right-of-way adjacent to Lessee's restaurant, the area of which encompasses that portion of the right-of-way as shown on the attached map **(Exhibit I)**, and hereinafter referred to as the "Demised Premises," the corners of which shall be marked by the Lessee subject to the approval of the City. Notwithstanding the foregoing, Lessee shall be responsible for allowing pedestrian traffic to pass through the Demised Premises at a location or locations to be approved by the City or as directed by the City, subject to modification as directed by the City during the term of this Lease.

**2.** **Term.** The term of this lease shall commence on April 1, 2018, and shall terminate on March 31, 2019, unless sooner terminated as provided for herein.

**3.** **Use of Property.** The Demised Premises shall be occupied and used by Lessee so as to provide outdoor café dining to Lessee's restaurant customers. Lessee agrees that, in its use of the Demised Premises, it will comply with all present and future valid local, state and federal laws, ordinances, rules and regulations related to the occupancy or use of the Demised Premises.

Lessee shall have the right to place its chairs, tables and other furnishings in the Demised Premises during the hours of 4:00 p.m. to 1:00 a.m. They shall be removed therefrom at all other times. At those other times, members of the public shall have free and unfettered use of the Demised Premises subject to any limitations that may be imposed by applicable law. During the hours of 4:00 p.m. through 1:00 a.m., members of the public may traverse the Demised Premises by means of the approximately 5-foot wide pathway shown on the Exhibit I attached hereto.

Lessee shall not make any alterations, additions or improvements to the Demised Premises without Landlord's prior written approval, which approval may be withheld for any reason or no reason at all. Lessor shall repair any damages the Demised Premises sustains on account of the Lessee's alterations, additions or improvement to the Demised Premises, said repairs to be

performed in such a manner as to restore the Demised Premises to at least as good of a condition as it was in prior to the damage.

4. **Special Events.** The City shall be entitled to suspend Lessee's use of the Demised Premises during special events, such as Heritage Days, and shall give Lessee notice of such suspension at least ten (10) days prior to the scheduled event.

5. **Rent.** Lessee, in consideration of the leasing of the Demised Premises and the performance by the City of the covenants to be performed by it, agrees to pay rent to the City in the amount of One Dollar ($1.00).

6. **Permits, Licenses, Fees.** In addition to the rent specified above, Lessee shall obtain all permits and licenses required by any laws, ordinances, rules or regulations of the City and/or any Federal, State or other governmental agency and shall pay all related fees. The execution of this Lease does not constitute permit approval or licensure by or on the part of the City.

7. **Demarcation / Alcoholic Beverages.** Lessee shall place stanchions and chains along the perimeter of the Demised Premises so as to control ingress and egress therefrom. Lessee shall be responsible for monitoring the area so as to assure that patrons do not take alcoholic beverages off the premises of the Lessee.

8. **Furnishings.** Lessee shall be responsible for providing all furnishing and equipment for use by its staff and patrons within the area of the Demised Premises. Any and all such furnishings must be approved by the City before use within said area. Said furnishings may only be placed on the Demised Premises during the hours of operation of Lessee's restaurant. At all other times, said furnishings must be stored in a neat and orderly manner.

9. **Rules And Regulations.** The City shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations with respect to the Demised Premises. Lessee shall faithfully observe and comply with such rules and regulations.

10. **Assignment And Subletting.** This Lease and the rights granted hereby shall not be assigned or sublet by Lessee except with the prior written consent of the City. Said consent may be withheld for any reason or no reason at all.

11. **Termination.** Except as provided for hereinafter, either party shall have the right to cancel this Lease by giving the other thirty (30) days advance written notice.

12. **Right of Entry.** The City shall have the right to enter upon the Demised Premises at any time for the purpose of operating, maintaining, repairing, restoring or replacing any public utilities. It may also enter upon the Demised Premises for the purpose of inspecting it to ensure that Lessee is complying with its obligations under the terms of this Lease.

13. **Maintenance.** Lessee shall be responsible for keeping the Demised Premises and all items located therein in good condition and repair. The Demised Premises shall be kept free of garbage and refuse.

**14.** **Insurance.** So long as this Lease is in effect, Lessee shall, at its expense, maintain comprehensive general public liability insurance covering personal injury and property damage occurring on the Demised Premises which shall include the **"MAYOR AND CITY COUNCIL"** as an additional insured. Such policy shall have minimum single combined liability limits of One Million Dollars ($1,000,000.00) and shall be written on an occurrence basis. The insurance policy shall include an endorsement requiring the insurer to provide the City with no less than thirty (30) days advance written notice of the cancellation of the policy. Immediately upon the execution of this Lease, Lessee shall provide the City with a certificate of insurance evidencing its compliance with the requirements of this section.

**15.** **Indemnification.** Lessee shall indemnify, hold harmless and defend the City, its officers, officials, agents, and employees from and against any and all any and all liabilities, damages, claims, costs and expenses, including, but not limited to, attorneys' fees, court costs and litigation expenses, arising from, as a result of, or as an incident to:

a) Lessee's use of the Demised Premises or the conduct of its business on the Demised Premises;

b) any act or omission done, permitted or suffered by Lessee, its contractors, licensees, invitees, agents, representatives, or employees on or about the Demised Premises; or

c) any breach or default in the performance of any obligation of Lessee under the terms of this Lease.

**16.** **Default.** After the occurrence of any of the following events, the City shall have the right to terminate this Lease immediately:

a) In the event that Lessee shall fail to keep and perform, or shall violate the terms, covenants, and conditions of this Lease on its part to be kept and performed, and Lessee shall not have cured or corrected this failure within five (5) days after written notice shall have been given to Lessee.

b) If Lessee shall make an assignment for the benefit of its creditors, or shall file a petition in bankruptcy or shall be adjudged bankrupt, or the interest of Lessee under this Lease shall be levied upon and sold upon execution or shall, by operation of law, become vested in another person, firm or corporation, because of the insolvency of Lessee, or in the event that a receiver or trustee shall be appointed for Lessee or the interest of Lessee under this Lease.

c) In the event that Lessee shall vacate or abandon the Demised Premises (or its restaurant located adjacent thereto), or shall permit them to remain vacant and unoccupied without the consent of the City first obtained.

**17.** **Repossession Upon Default.** Upon the occurrence of any one or more of the events of default or the expiration of any termination notice, Lessee's right to possession of the Demised Premises shall terminate, and Lessee shall surrender possession of it immediately. In this event, Lessee grants to the City full and free license to enter into and upon the Demised Premises to take possession with or without process of law, and to expel and remove Lessee or any other person who may be occupying it.

**18.** **Other Remedies.** Each and every of the rights, remedies and benefits provided by this Lease shall be cumulative and shall not be exclusive of any other of such rights, remedies and benefits, or of any other rights, remedies and benefits allowed by law or equity.

**19.** **Waiver.** One or more waivers of any term, covenant or condition of this Lease by the City shall not be construed to be a waiver of a further or subsequent breach of the same term, covenant or condition.

**20.** **Notice.** Except as otherwise provided herein, all notices required to be given by the parties to one another under this Lease shall be properly given only if made in writing and either deposited in the United States mail, postage prepaid, certified with return receipt requested, or delivered by hand (which may be through a messenger or recognized delivery or courier service) and addressed as follows:

To the City:
Jeffrey Rhodes
City Administrator
57 N. Liberty Street
Cumberland, MD 21502

To Lessee:
Toni Ottaviani
Ristoranti Ottaviani, L.L.C.
25 N. Centre Street
Cumberland, MD 21502

**21.** **Governing Law.** The laws and decisions of the State of Maryland shall govern and control the construction, enforceability, validity and interpretation of this Lease, and all other agreements, instruments, documents, exhibits, or schedules executed by the parties pertaining or relating to this Lease or the transactions contemplated herein. Any litigation arising out of this Lease or its terms shall be instituted in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and the parties hereto waive any objection to the venue of such proceedings being in said courts and they further waive any claims that such courts constitute inconvenient fora.

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

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

**23.** **Severability.** Should any provision of this Lease be found, held or deemed to be unenforceable, voidable or void, as contrary to law or public policy, the parties intend that its remaining provisions shall nevertheless continue in full force and effect and be binding upon the parties and their respective successors and assigns.

**24. 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 LEASE. 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 LEASE.**

**25. Entire Agreement.** This Lease contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained.

**26. Binding Effect.** This Lease shall inure to the benefit of the parties hereto and it shall be binding upon their respective personal representatives, heirs, successors and assigns.

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

WITNESS/ATTEST:

**MAYOR AND CITY COUNCIL OF CUMBERLAND**

_____
Marjorie A. Woodring, City Clerk

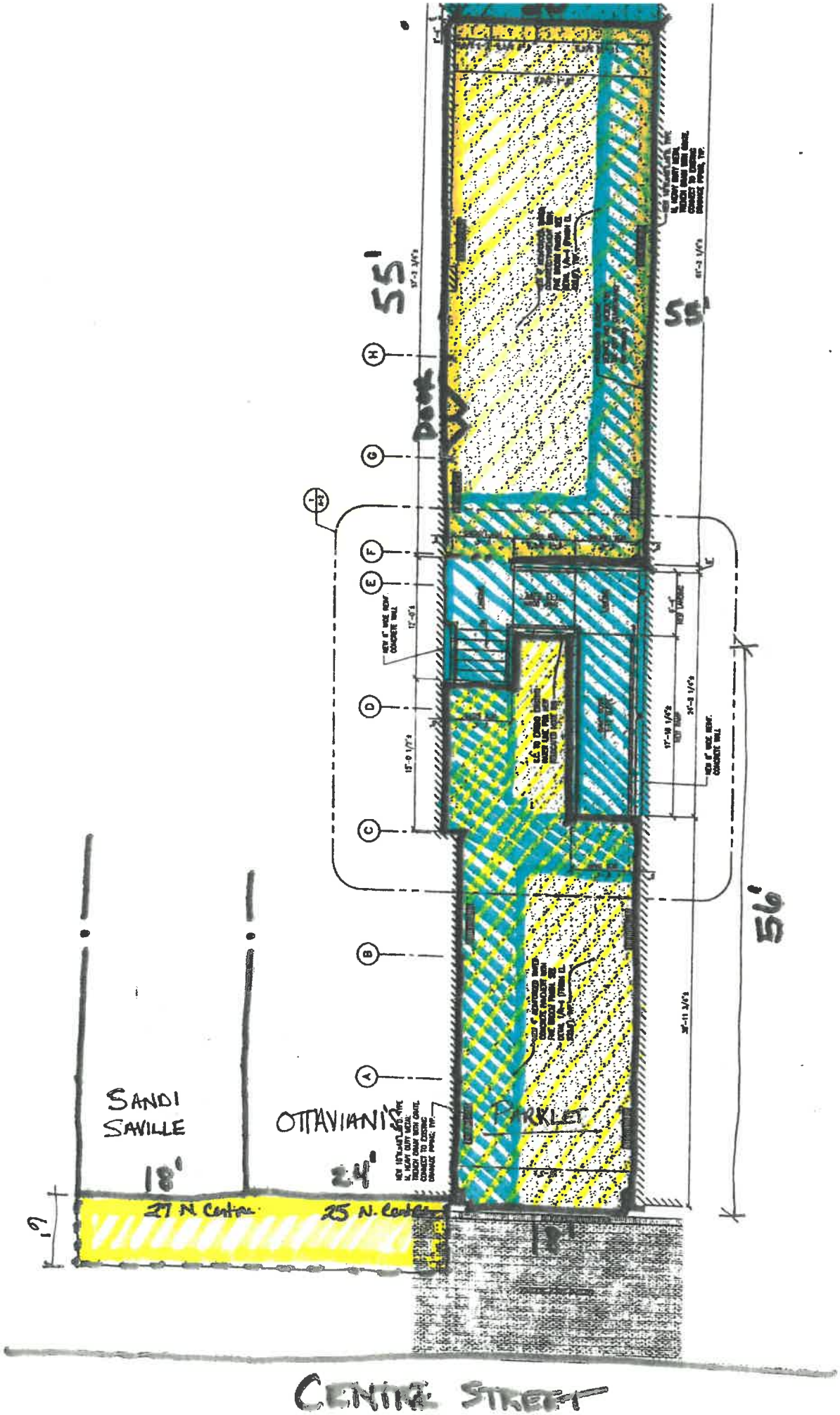
By: _____
Brian K. Grim, Mayor

**RISTORANTE OTTAVIANNI, L.L.C.**

_____

By: _____
Signature

_____
Printed name and title


55'
55'
Deck
56'
SANDI SAVILLE
OTTAVIANI'S
PARKLET
18'
24'
27 N. Center
25 N. Center
18'
CENTER STREET

Regular Council Agenda
May 1, 2018

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**Description**

Order authorizing execution of a Lease Agreement with Ristorante Ottaviani, LLC for the use of public right-of-way adjacent to 25 N. Centre Street for outdoor dining purposes

**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:** __May 1, 2018__

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

**THAT,** the Mayor be and is hereby authorized to execute a Deed Surrendering Possibility of Reverter/Right of Entry by and between the Mayor and City Council of Cumberland and Nazir Gul granting and surrendering all right, title and interest of the City in the real property and improvements located at 534-536 Maryland Avenue to Nazir Gul as Mr. Gul has satisfied the requirements of the Deed of transfer of said property, dated November 24, 2015 (Allegany County Land Records Book 2178, Page 376).

_____

**Mayor Brian K. Grim**

**DEED SURRENDERING POSSIBILITY OF**
**REVERTER/RIGHT OF ENTRY**

**THIS DEED SURRENDEREDING POSSIBILITY OF REVERTER/RIGHT OF ENTRY**, made this 1st day of May, 2018, by and between **MAYOR AND CITY COUNCIL OF CUMBERLAND**, a municipal corporation of the State of Maryland, party of the first part, and **NAZIR GUL**, party of the second part, witnesseth that:

**WHEREAS**, the party of the first part conveyed the real property and improvements thereon located at 534-536 Maryland Avenue, Cumberland, MD 21502 to the party of the second part by means of the deed dated November 24, 2015 and recorded among the Land Records of Allegany County, Maryland in Book 2178, Page 376;

**WHEREAS**, in order to ensure that the party of the second part would develop the property in accordance with the parties' agreement, the party of the first part included a possibility of reverter or right of entry in the aforementioned deed that would cause the title to the property to revert to the party of the first part if the party of the second part failed to take certain actions within a certain deadline;

**WHEREAS**, the party of the second part has satisfied the requirements of the party of the first part with respect to the development of the property; and

**WHEREAS**, the party of the first part has agreed to execute this deed to confirm that the party of the second part has complied with the conditions necessary to prevent the possibility of reverter/right of entry from causing title to the property to revert in the party of the first part.

**NOW, THEREFORE**, in consideration of the foregoing, the party of the first part does hereby grant and surrender unto the party of the second part all of the right, title and interest of the party of the first part in and to the real property and improvements thereon located at 534-536 Maryland Avenue, Cumberland, MD 21502, the said property being more particularly described in the aforementioned deed. The interests surrendered by this deed include, without limitation, the possibility of reverter/right of entry retained by the party of the first part in the aforementioned deed to the party of the second part.

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

**TO HAVE** and to hold the above-described property unto the party of the second part, his personal representatives, heirs and assigns, in fee simple forever.

**WITNESS** the hand and seal of the party of the first part the day and year set forth above.

| | |
|---|---|
| **ATTEST:** | **MAYOR AND CITY COUNCIL OF CUMBERLAND** |
| By: _____ | By: _____(SEAL) |
| Marjorie A. Woodring, City Clerk | Brian K. Grim, Mayor |

**STATE OF MARYLAND**,
**ALLEGANY COUNTY**, to-wit:

**I HEREBY CERTIFY** that on this ____ day of _____, 2018, before me, the undersigned, a notary public in and for the state and county aforesaid, personally appeared **Brian K. Grim**, known to me (or satisfactorily proved) to be the person whose name is subscribed to the foregoing deed, and he acknowledged that he is the Mayor of Mayor and City Council of Maryland and that, as such, he was authorized to, and did, execute the aforegoing deed as the act and deed of said municipal corporation; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is $0.00 and that the total payment made to the grantor was $0.00 and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

WITNESS my signature and notarial seal the day and year last above written.

_____
NOTARY PUBLIC

My Commission Expires:_____

**CERTIFICATE OF PREPARATION**

I HEREBY CERTIFY that the aforegoing deed was prepared by me or under my supervision and that I am admitted to practice law in the State of Maryland.

_____
Michael Scott Cohen

Regular Council Agenda
May 1, 2018

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**Description**

Order authorizing execution of a Deed Surrendering Possibility of Reverter / Right of Entry with Nazil Gul to surrender all right, title and interest of the City in the property at 534-536 Maryland Avenue to Mr. Gul as the requirements of the Deed of transfer of the property have been satisfied

**Approval, Acceptance / Recommendation**

The City conveyed 534-536 Maryland Avenue to Nazir Gul by deed dated November 24, 2015. The deed included a possibility of reverter or right of entry that would allow the title to come back to the City in the event Mr. Nazir did not meet certain timelines for improvement of the property. As those timelines have now been met, this document surrenders the City's interest in the property, including the right to reclaim the deed.

☐ 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:** _____May 1, 2018____

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

**THAT,** Councilman Eugene Frazier be and is hereby recommended for appointment by the Allegany County Commissioners as the City of Cumberland's representative on the Board of Directors of the Tri-County Council.

_____

**Brian K. Grim, Mayor**

Regular Council Agenda
May 1, 2018

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**Description**

Order recommending Councilman Eugene Frazier for appointment by the Allegany County Commissioners as the City of Cumberland's representative on the Board of Directors of the Tri-County Council

**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: _____May 1, 2018____**

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

**THAT,** the following requests for Community Development Block Grant (CDBG) funding be and is hereby approved for submission to the Department of Housing and Community Development for 2018 CDBG entitlement funding in an estimated amount of Seven Hundred Ten Thousand Dollars ($710,000); and

**BE IT FURTHER ORDERED**, that the final award amount is unknown at this time, therefore the estimated project amounts shall be increased or decreased proportionately to equal the final award amount; and

**BE IT FURTHER ORDERED**, that the Mayor be and is hereby authorized to execute all documents pertaining to the application for submission and award documents.

| | | | | |
|---|---|---|---|---|
| **HOUSING REHABILITATION** | | | | |
| Cumberland Neighborhood Housing Closing Cost Grant | $ | 10,000.00 | | |
| Subtotal | | | $ | 10,000.00 |
| | | | | |
| **PUBLIC FACILITIES / INFRASTRUCTURE IMPROVEMENTS** | | | | |
| Amtrak Project / Mechanic St. Sidewalks | $ | 133,520.00 | | |
| Salvation Army Facility Rehabilitation / HVAC | $ | 60,000.00 | | |
| YMCA Gilchrist Rehabilitation Ph 4; Transitional Housing | $ | 90,719.00 | | |
| Friend's Aware Inc. LEC Facility Rehab Ph 4 | $ | 76,510.00 | | |
| Jane Frazier Village Sidewalk - Ph 3 | $ | 50,751.00 | | |
| Central Business District Community Accessibility Design | $ | 10,000.00 | | |
| City Hall Accessibility | $ | 30,000.00 | | |
| Subtotal | | | $ | 451,500.00 |

| | | | | |
|---|---|---|---|---|
| **ADMINISTRATION / PLANNING** | | | | |
| Administration / Planning | $ | 132,000.00 | | |
| Fair Housing Programs | $ | 10,000.00 | | |
| Subtotal | | | $ | 142,000.00 |
| | | | | |
| **PUBLIC SERVICES** | | | | |
| Friends' Aware Inc. Transportation Service | $ | 12,000.00 | | |
| Associated Charities Short Term Prescription Program | $ | 10,500.00 | | |
| Associated Charities Long Term Prescription Program | $ | 15,500.00 | | |
| FCRC Domestic Violence / Sexual Assault Shelter / Services | $ | 10,000.00 | | |
| Family Junction Parenting / Dina Programs | $ | 15,500.00 | | |
| HRDC Emergency Housing Assistance Program | $ | 20,750.00 | | |
| AHEC West Denture Program | $ | 7,000.00 | | |
| AHEC West Emergency Dental Access Program | $ | 10,000.00 | | |
| Archway Station Inc. Home Health Program | $ | 5,250.00 | | |
| Subtotal | | | $ | 106,500.00 |
| | | | | |
| **COMMUNITY BETTERMENT** | | 0.00 | | 0.00 |
| **PROJECTED INCOME** | | 0.00 | | 0.00 |
| | | | | |
| **Total** | | | **$** | **710,000.00** |

**Brian K. Grim, Mayor**

Regular Council Agenda
May 1, 2018

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**Description**

Order approving the submission of a request for an estimated $710,000 in 2018 Community Development Block Grant (CDBG) funding for certain proposed projects, authorizing that the award amounts for each project may be adjusted proportionately to equal the final award amount, and authorizing the Mayor to execute documents pertaining to the submission and final awards

**Approval, Acceptance / Recommendation**

☐ Budgeted

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

**Value of Award (if applicable)**

**Source of Funding (if applicable)**