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

Mayor and City Council of Cumberland
City Hall Council Chambers
Room 212
6:15 P.M.

DATE 5/23/2017

***Pledge of Allegiance**

I. ROLL CALL

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

ALSO PRESENT: Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Donald Dunn, Fire Chief; Sgt. Charles Ternent, CPD; Marjorie Woodring, City Clerk

Mayor Grim recognized Mr. Mark Widmyer, Western Maryland Representative to the Office of the Governor, who was in attendance.

II. DIRECTOR'S REPORT

(A) Public Works

1. Utilities Division & Central Services Monthly Report for April, 2017

Item Action: Approved

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

III. PUBLIC HEARINGS

(A) Public Hearing to receive comment on the City's proposal to adopt a real property tax rate of $1.0595 per $100 of assessment

Mayor Grim convened the Public Hearing at 6:17 p.m.

Mr. Rhodes discussed the purpose of the Constant Yield Tax Rate and advised that the City was required by state law to hold this public hearing to take public input on the proposal to increase the current rate of $0.9654 by 9.75%, which was 9.67% higher than the constant yield rate of $0.9661. The increase would generate $807,500 in additional property tax revenues.

Mayor Grim opened the floor to public comment and the following individuals spoke.

Lawrence Becker, 801 Piedmont Avenue, Cumberland, stated he had reviewed a copy of the budget and disagreed with the proposal to raise taxes. He pointed out various line items of the budget that he felt could be easily reduced such as contractual services, telephones, training, and vehicle maintenance. He further suggested that consolidation of services should be investigated.

Don Fischer, 536 N. Centre Street, Cumberland, urged the Mayor and Council to postpone any property tax increase until next year and rely on the cash-on-hand to continue operations. He suggested postponing capital expenditures and increase transfers from the water and sewer funds to close the gap.

Tom Hawk, 778 MacDonald Terrace, Cumberland, spoke in support of the tax increase. He stated the property tax rates have not kept pace with inflation over the time period where the rate has remained stable. He encouraged Council to reflect inflation as a serious consideration annually as the property tax rate was reviewed.

Mary Beth Pirolozzi, 506 Regina Avenue, Cumberland, spoke against the tax rate and urged Council to address the structural deficit of the budget. She discussed that the City could ill-afford the additional negative factor that would be created by an increased tax rate and suggested that the departments cut another 5%, furlough days be considered, the filling of certain positions be fully considered, health insurance premiums be increased, and collaboration of services with the County be explored.

Ms. Steward, 426 Pine Avenue, Cumberland, spoke against the tax increase. She discussed that too many people were leaving Cumberland and raising taxes would not help the situation.

With no further comments being offered, Mayor Grim adjourned the meeting at 6:36 p.m.

IV. NEW BUSINESS

(A) Ordinances

1. Ordinance *(1st reading)* - providing for the issuance and sale of General Obligation Bonds to the Community Development Administration (CDA) of the State of Maryland in the amount not to exceed $1,200,000, to be known as **"Mayor and City Council of Cumberland Infrastructure Bonds, 2017 Series A,"** to finance or refinance the purchase of IT improvements, equipment and software, vehicles and equipment including heavy-duty vehicles and equipment, to fund a portion of the capital reserve fund, and to pay costs related to the bonds

Item Action: Approved

Mr. Rhodes discussed the proposed Ordinance that would allow the City to borrow money for capital improvement needs through the Local Government Infrastructure Financing Program supported by the Maryland Community Development Administration (CDA). He reviewed associated debt service and noted key items to be funded, which included new vehicles for the Police Department, a Vac Truck, software upgrades, and new dump trucks.

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)

Item Action:

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

1. Order authorizing the abatement of utility charges in the amount of $201.08 for City-owned property located at 32 Virginia Avenue

Item Action: Approved

ORDER NO. 26,135

2. Order authorizing a Contract of Sale with Andrew Miller and Lisa C. Miller for the City's purchase of 606 Maryland Avenue for $40,000; authorizing acceptance of the deed providing settlement contingencies are met; authorizing extension of the closing date for 60 days if necessary; and authorizing the City Administrator and City Solicitor to execute all documentation

Item Action: Approved

ORDER NO. 26,136

3. Order authorizing the execution of a Grant Agreement with Pirates Charities to provide $10,000 in matching grant funds to support the Al Abrams Field Improvements Project through the Fields for Kids Matching Grant Program. Matching funds have been pledged to be donated to this project by WCBC Radio.

Item Action: Approved

ORDER NO. 26,137

Mary Clites, representatives from WCBC Radio, advised that Marty White, Chief Engineer at WCBC, had recently attended a seminar at which the "Fields For Kids" grant was discussed and WCBC worked with the City of Cumberland and the Dapper Dan Club to complete the grant application for improvements at Al Abrams Field. Ms. Clites also acknowledged Kathy McKenney, Community Development Programs Manager, and Diane Johnson, Director of Parks and Recreation, for their work on the application. Ms. Clites further stated that WCBC has pledged to help raise matching funds for the grant and cash donations were already coming into the station.

Sean Fradiska, representative of the Dapper Dan Club, introduced players who were in attendance, including Caedon Wallace, Anthony Burns, Braden Puffenberger, Brent Puffenberger, Gerrit Puffenberger, Max Fradiska, Will Moran, and coaches Chuck Moral and Matt Puffenberger.

4. Order declaring a 2006 TYMCO 435 / Isuzu Sweeper (Vin No. JALE5816467902199) to be surplus equipment and authorizing it for sale or trade-in

Item Action: Approved

ORDER NO. 26,138

5. Order authorizing execution of a Concession License Agreement with Christopher Reuschel for the exclusive operation of the Concession Area at Constitution Park Pool for the 2017 Summer Season for the sum of $800.00

Item Action: Approved

ORDER NO. 26,139

(C) Letters, Petitions

1. Letter from MD Department of Natural Resources advising that the City's request for $120,000 in funding through the Community Parks and Playground Program to build the Cumberland and Allegany College Softball Field has been included in the FY18 Maryland Capital Budget, pending final approval by the MD Board of Public Works

The letter was acknowledged and entered into public record.

V. PUBLIC COMMENTS

All public comments are limited to 5 minutes per person

Mayor Grim commented in response to those who opposed the tax rate increase, stating that no raising taxes also meant not being able to fund needs and improvements for ballfields, streets, etc. He stated he felt the City was at a breaking point. He thanked WCBC for their assistance in obtaining the grant for the ballfield improvements at Al Abrams Field. He acknowledged the partnership with Allegany College for creation of the new softball field at the college and advised that the College would handle maintenance of the field. Additionally, he stated that the Maryland Avenue site had been targeted for redevelopment and there was interest from a developer in the property.

VI. ADJOURNMENT

With no further business at hand, the meeting adjourned at 7:17 p.m.

Minutes approved on August 1, 2017.

Mayor Brian K. Grim

ATTEST: Marjorie A. Woodring, City Clerk

Regular Council Agenda
May 23, 2017

Description
Utilities Division & Central Services Monthly Report for April, 2017

Approval, Acceptance / Recommendation

☐ Budgeted

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

Value of Award (if applicable)

Source of Funding (if applicable)

Regular Council Agenda
May 23, 2017

Description

Public Hearing to receive comment on the City's proposal to adopt a real property tax rate of $1.0595 per $100 of assessment

Approval, Acceptance / Recommendation

☐ Budgeted

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

Value of Award (if applicable)

Source of Funding (if applicable)

ORDINANCE NO. _____

MAYOR AND CITY COUNCIL OF CUMBERLAND
INFRASTRUCTURE BONDS, 2017 SERIES A

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED AN ORDINANCE OF MAYOR AND CITY COUNCIL OF CUMBERLAND, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND (THE "ISSUER"), PROVIDING FOR THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED THOUSAND DOLLARS ($1,200,000.00) OF GENERAL OBLIGATION BONDS OF MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, TO BE KNOWN AS THE "MAYOR AND CITY COUNCIL OF CUMBERLAND INFRASTRUCTURE BONDS, 2017 SERIES A" (OR BY SUCH OTHER OR ADDITIONAL DESIGNATIONS AS REQUIRED BY THE COMMUNITY DEVELOPMENT ADMINISTRATION IDENTIFIED HEREIN, THE "BONDS"), TO BE ISSUED AND SOLD PURSUANT TO THE AUTHORITY OF SECTIONS 4-101 THROUGH 4-255 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS AMENDED, FOR THE PURPOSE OF PROVIDING ALL OR A PORTION OF THE FUNDS NECESSARY FOR THE (I) FINANCING OR REFINANCING OF THE COSTS OF ACQUISITION/PURCHASE OF (A) INFORMATION TECHNOLOGY IMPROVEMENTS, EQUIPMENT AND SOFTWARE, AND (B) NEW AND/OR REPLACEMENT VEHICLES AND EQUIPMENT (INCLUDING HEAVY DUTY VEHICLES AND EQUIPMENT), (II) FUNDING A PORTION OF A CAPITAL RESERVE FUND, AND/OR (III) PAYING ISSUANCE AND OTHER COSTS RELATED TO THE BONDS; PROVIDING THAT THE BONDS SHALL BE ISSUED UPON THE FULL FAITH AND CREDIT OF THE ISSUER; PROVIDING FOR THE DISBURSEMENT OF THE PROCEEDS OF THE SALE OF THE BONDS AND FOR THE LEVY OF ANNUAL TAXES UPON ALL ASSESSABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE ISSUER FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS AS THEY SHALL RESPECTIVELY COME DUE; PROVIDING FOR THE FORMS, TENOR, DENOMINATIONS, MATURITY DATE OR DATES AND OTHER PROVISIONS OF THE BONDS; PROVIDING FOR THE SALE OF THE BONDS; AND PROVIDING FOR RELATED PURPOSES, INCLUDING, WITHOUT LIMITATION, THE METHOD OF FIXING THE INTEREST RATE OR RATES TO BE BORNE BY THE BONDS, THE APPROVAL, EXECUTION AND DELIVERY OF DOCUMENTS, AGREEMENTS, CERTIFICATES AND INSTRUMENTS, AND THE MAKING OF OR PROVIDING FOR THE MAKING OF REPRESENTATIONS AND COVENANTS CONCERNING THE TAX STATUS OF INTEREST ON THE BONDS.

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Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

RECITALS

WHEREAS, Mayor and City Council of Cumberland (the "Issuer") is a municipal corporation of the State of Maryland organized and operating under a charter (the "Charter") adopted in accordance with Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland (or predecessor provisions), as amended (now codified in pertinent part in the Local Government Article of the Annotated Code of Maryland, as amended); and

WHEREAS, Sections 4-101 through 4-255 of the Housing and Community Development Article of the Annotated Code of Maryland, as amended (the "Act"), authorizes the Community Development Administration (the "Administration"), a governmental unit in the Division of Development Finance of the Department of Housing and Community Development, a principal department of the government of the State of Maryland, to provide financial assistance to political subdivisions and municipal corporations to finance, among other things, infrastructure projects and to establish a capital reserve fund in connection therewith; and

WHEREAS, pursuant to the authority of the Act, the Issuer has determined to issue its general obligation bonds in the aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars ($1,200,000.00) (the "Bonds", as defined herein) for the purpose of providing all or a portion of the funds necessary for the (i) financing or refinancing of the costs of the Project (as defined herein), (ii) funding a portion of a capital reserve fund, and/or (iii) paying issuance and other costs related to the Bonds; and

WHEREAS, the Issuer proposes to issue and sell the Bonds to the Administration, in connection with the Local Government Infrastructure Financing Program of the Administration (the "Program"); and

WHEREAS, it is the intention of the Issuer by this Ordinance to provide for the issuance and sale of the aforementioned Bonds and to obtain a loan or loans from the Administration pursuant to the Program (collectively, the "Loan"); and

WHEREAS, the Issuer intends to authorize the execution and delivery of the Bonds and all other documents, agreements, certificates and other materials related to the issuance, sale and delivery of the Bonds and the Loan; and

WHEREAS, the Administration intends to issue one or more series of its Local Government Infrastructure Bonds to finance the Loan and other loans to be financed pursuant to the Program.

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

Section 1. Authorization, Terms, Form of Bonds.

(a) Mayor and City Council of Cumberland (the "Issuer") shall borrow upon its full faith and credit and shall issue and sell upon its full faith and credit an aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars ($1,200,000.00) of its general obligation bonds, to be issued pursuant to the authority of Sections 4-101 through 4-255 of the Housing and Community Development Article of the Annotated Code of Maryland, as amended (the "Act"), to be known as the "Mayor and City Council of Cumberland Infrastructure Bonds, 2017 Series A" or by such other or additional designation or designations as required by the Administration (as defined herein), including, without limitation, to identify separate series or subseries (collectively, the "Bonds"). The proceeds from the sale of the Bonds shall be used for the purpose of providing all or a portion of the funds necessary for the (i) financing or refinancing of the costs of the purchase/acquisition of (A) information technology improvements, equipment and software, and (B) new and/or replacement vehicles and equipment (including heavy duty vehicles and equipment) (collectively, the "Project"), (ii) funding a portion of a capital reserve fund, and/or (iii) paying issuance and other costs related to the Bonds. Notwithstanding the foregoing description of the Project, the Mayor of the Issuer (the "Mayor"), in consultation with the City Administrator of the Issuer (the "City Administrator"), any other appropriate officials of the Issuer, and the Community Development Administration (the "Administration"), is hereby authorized and empowered, on behalf of the Issuer, to determine prior to the sale of the Bonds not to apply Bond proceeds to finance or refinance costs of any one or more components of the Project due to tax, budgetary or other concerns.

(b) The Bonds shall be issued as one or more fully registered bond certificate(s) in the aggregate principal amount not to exceed One Million Two Hundred Thousand Dollars ($1,200,000.00) payable to the Administration as the registered owner thereof. The Bonds shall be issued in such aggregate principal amount or such lesser aggregate principal amount as determined by the Mayor pursuant to subsection (g) below, which shall be equal to the aggregate principal amount of the loan or loans to the Issuer from the Administration (collectively, the "Loan") under the Local Government Infrastructure Financing Program of the Administration (the "Program").

(c) The Bonds shall be dated as of the date of issue, or as of such other date as is specified by the Administration; shall be numbered from R-1 upward or as otherwise required by the Administration; shall be initially registered in the name of the Administration or its designee; shall bear interest from the date of issuance of the Local Government Infrastructure Bonds issued by the Administration (the "Administration's Bonds"), payable semiannually on April 1 and October 1 or on such other days as the Administration may require in connection with the Program, at such annual rate or rates and be payable in annual principal installments at the designated office of the Administration or of the trustee for the Administration's Bonds.

(d) The Bonds shall bear interest at an aggregate rate or rates of interest for a total interest cost (expressed as a yield) not to exceed 3.10 percent for a loan with a maturity of more than five years but not more than ten years, and 3.65 percent for a loan with a maturity in excess of ten years but not more than fifteen years, the actual rate or rates of interest to be borne by the Bonds to be determined and established by the Mayor acting pursuant to Section 1(g) of this Ordinance.

(e) The Bonds shall be in substantially the form set forth on Exhibit A attached hereto and made a part hereof, which form, together with all of the covenants and conditions therein contained, is hereby adopted by the Issuer as and for the form of obligation or obligations to be incurred by the Issuer and such covenants and conditions are hereby made binding upon the Issuer, including the promise to pay therein contained.

(f) The Bonds are to be issued in connection with the Program in order to provide all or a portion of the funds needed to (i) finance or refinance the costs of the Project, (ii) fund a portion of a capital reserve fund, and/or (iii) pay costs of issuance and other related costs of the Bonds. Under the Program, the Issuer will enter into a Repayment Agreement and a Pledge Agreement with the Administration (respectively, the "Repayment Agreement" and the "Pledge Agreement"). The Issuer also will execute and deliver in connection with the issuance of the Bonds and the Program any additional documents, agreements, instruments and certificates requested by the Administration (which, together with the Repayment Agreement and the Pledge Agreement, are herein referred to as the "Program Documents"). The Program Documents shall be in such forms and shall contain such terms and conditions as shall be approved by the Mayor and/or the City Administrator and acceptable to, and otherwise approved by, the Administration.

(g) Because this Ordinance is being passed before the details have been finalized for the financing pursuant to which the Administration will issue the Administration's Bonds (the "Administration Financing") that will fund the Loan to the Issuer under the Program, the Mayor is hereby authorized to make such changes to the amount and form of the Bonds, including insertions therein or additions or deletions thereto, as may be necessary or appropriate to conform the terms of the Bonds to the terms of the financing to be provided to the Issuer under the Program. Without limiting the foregoing, it is presently contemplated that the Loan will be in an amount not to exceed $1,200,000.00 in aggregate principal amount hereby authorized, subject to final approval by the Administration; accordingly, the Mayor is specifically authorized: (i) to make changes to the aggregate principal amount of the Bonds in order to reflect the final aggregate principal amount of the Loan not to exceed $1,200,000.00 as approved by the Administration and accepted by the Issuer, and (ii) to authorize and approve an interest rate or rates and payment schedule(s) reflecting the principal and interest payments with respect to the Bonds but not to exceed the maximum total interest cost to be borne by the Bonds as set forth in subsection (d) above.

(h) This borrowing is in conformance with and does not exceed any and all applicable debt limitations under the Charter of the Issuer (the "Charter").

Underlining = Indicates material added by amendment after introduction
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Section 2. Execution and Completion of Documents. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor, and the seal of the Issuer shall be affixed thereto or reproduced thereon and attested by the manual signature of the City Clerk of the Issuer (the "City Clerk"). The Program Documents shall be executed on behalf of the Issuer by the Mayor and/or the City Administrator. In the event any official whose signature appears on any of the Bonds or the Program Documents shall cease to be an official prior to the delivery of the Bonds or the Program Documents, or, in the event any official whose signature appears on any of the Bonds or the Program Documents becomes an official after the date of the issue, the Bonds or the Program Documents shall nevertheless be valid and binding obligations of the Issuer in accordance with their terms. The Mayor is hereby authorized, empowered and directed to complete the applicable forms of the Bonds and to make modifications, deletions, corrections or other changes thereto in any manner which the Mayor, in the Mayor's discretion, shall deem necessary or appropriate in order to complete the issuance and sale of the Bonds, as will not alter the substance thereof. The Mayor and/or the City Administrator are hereby authorized, empowered and directed to complete the applicable forms of the Program Documents and to make modifications, deletions, corrections or other changes thereto in any manner which such official, in the discretion of such official, shall deem necessary or appropriate in order to complete the execution and delivery of the Program Documents in accordance with the provisions of this Ordinance, as will not alter the substance thereof. The execution and delivery of the Bonds by the Mayor and the execution and delivery of the Program Documents by one or more of the duly authorized officials provided for in this Section 2 shall be conclusive evidence of such official's or officials' approval of the forms and substance thereof. To the extent appropriate, additional officials of the Issuer and the City Solicitor to the Issuer may be signatories to the Program Documents with respect to facts, representations, certifications, covenants and agreements within the scope of their respective responsibilities or authority.

Section 3. Registration of Bonds. The City Clerk shall act as registrar for the Bonds and shall maintain registration books for the registration and registration of transfer of the Bonds. No security or bond shall be required of the City Clerk in the performance of the duties of registrar for the Bonds.

The Issuer may deem and treat the person in whose name any Bond shall be registered upon the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, and interest on such Bond and for all other purposes.

Section 4. Prepayment. The Bonds are being issued in connection with the Program and will secure payment of the Administration's Bonds, which are being issued by the Administration to provide funds to purchase the Bonds from the Issuer, among other purposes. The Repayment Agreement limits the right of the Issuer to prepay the Bonds in accordance with restrictions upon the right of the Administration to redeem the Administration's Bonds. Accordingly, the Issuer may prepay the Bonds only in accordance with the provisions of the Repayment Agreement and the terms governing prepayments as set forth in the Bonds.

Section 5. Replacement of Mutilated, Lost, Stolen, or Destroyed Bonds. In case any Bond (a "Bond" being, for purposes of this Section, any one of the Bonds) shall become mutilated or be destroyed, lost or stolen, the Issuer may cause to be executed and delivered a new Bond of like series or subseries, date and tenor and bearing the same or a different number, in exchange and substitution for each Bond mutilated, destroyed, lost or stolen, upon the owner paying the reasonable expenses and charges of the Issuer in connection therewith and, in the case of any Bond being destroyed, lost or stolen, upon the owner filing with the Issuer evidence satisfactory to it that such Bond was destroyed, lost or stolen, and furnishing the Issuer with indemnity satisfactory to it. Any Bond so issued in substitution for a Bond so mutilated, destroyed, lost or stolen: (i) may be typewritten, printed or otherwise reproduced in a manner acceptable to the Administration, and (ii) shall constitute an original contractual obligation on the part of the Issuer under this Ordinance whether or not the Bond in exchange for which said new Bond is issued shall at any later date be presented for payment and such payment shall be enforceable by anyone, and any such new Bond shall be equally and proportionately entitled to the benefits of this Ordinance with all other like Bonds, in the manner and to the extent provided herein.

Section 6. Use of Proceeds. The proceeds of the Bonds shall be held and invested by the Administration in its sole discretion and shall be:

(a) Administered and disbursed by the Administration pursuant to the Repayment Agreement. The proceeds of the Bonds shall be used, when and as required, to pay Development Costs (as defined in the Repayment Agreement).

(b) After the Project has been completed and all Development Costs in connection therewith have been paid, any balance of the proceeds of the sale of the Bonds held by the Administration under the Repayment Agreement may be applied to the next maturing principal installment or installments, payment of interest on the Bonds or prepayment of the Bonds, as permitted by the Administration.

Section 7. Covenants. The Issuer covenants with the Administration and for the benefit of the Administration and the owners from time to time of the Bonds that so long as the Bonds or installments of principal thereunder shall remain outstanding and unpaid:

(a) The Issuer will duly and punctually pay, or cause to be paid, to the Administration the principal of the Bonds, premium (if any) and interest accruing thereon, at the dates and places and in the manner mentioned in the Bonds from unlimited ad valorem taxes in the event that available funds are inadequate to make such payment.

(b) The Issuer covenants that so long as any of the Bonds are outstanding and not paid, unless other funds are available for payment of principal of, premium, if any, and interest on the Bonds, it shall levy annually, in the manner prescribed by law, ad valorem taxes on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation in rate and amount sufficient to provide for the payment of the principal of and interest

on the Bonds as the same become due and payable; and in the event that the revenues available from the taxes so levied in any fiscal year shall prove inadequate for the above purposes, the Issuer shall levy additional taxes in the succeeding fiscal year to make up such deficiency; and the full faith and credit and the unlimited taxing power of the Issuer are hereby irrevocably pledged to the punctual payment of the principal of and interest on the Bonds as the same become due.

(c) The Issuer will promptly provide to the Administration (or to any person designated by the Administration) all financial information and operating data concerning the Issuer as may be required by the Administration in its discretion in order for the Administration to comply with the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission, as in effect from time to time, applicable to the Administration's Bonds.

Section 8. Ordinance a Contract. The provisions of this Ordinance shall constitute a contract with the purchasers and owners from time to time of the Bonds, and this Ordinance shall not be repealed, modified or altered in any manner materially adverse to the Administration and/or the interests of such purchasers or owners while the Bonds or any portion thereof remain outstanding and unpaid without the consent of the owners of the Bonds and the Administration.

Section 9. Pledge of Local Government Payments. As contemplated and authorized by Section 4-229(b) of the Act, the Issuer hereby pledges, assigns and grants a lien and a security interest to the Administration, its successors in trust and assigns, in all right, title and interest of the Issuer in and to the Local Government Payments (as defined in the Pledge Agreement), now or hereafter acquired, (i) to secure payment of the principal of, premium, if any, and interest on the Bonds and any other Local Obligations (as defined in the Pledge Agreement) issued and to be issued from time to time by the Issuer under the Program and (ii) to provide for deposits to the capital reserve fund securing the Bonds the amount of the Issuer's portion of any deficiency in such capital reserve fund as the Administration shall require, all as more fully set forth and provided in the Pledge Agreement.

Section 10. Purchase Price of Bonds. The Bonds shall be sold for cash in accordance with the terms and provisions of this Ordinance at par, or if premium or discount is permitted by law, at such premium or discount as is agreed to with the Administration in accordance with the terms and provisions of this Ordinance, and as authorized by Section 4-229(a) of the Act.

Section 11. Sale of Bonds. The Bonds shall be sold to the Administration under the Program at private sale, as authorized by Section 4-229(a) of the Act.

Section 12. Authority to Take Action; Publication and Public Hearing.

(a) The appropriate officials and employees of the Issuer are hereby authorized and directed to do all acts and things required of them by the provisions of this Ordinance, for the full, punctual and complete performance of all the terms, covenants and provisions of the Bonds, the Program Documents and this Ordinance and to do and perform all acts and to execute, seal

and deliver all documents or instruments of writing which may be necessary or desirable to carry out the full intent and purpose of this Ordinance and the Program Documents.

(b) As required by the Act, prior to the issuance of the Bonds, the Issuer shall publish in a newspaper of general circulation in the jurisdiction of the Issuer a notice of the proposed issuance of the Bonds, which notice shall include the proposed amount of the issue, the nature of the projects to be financed or refinanced, the time and place of the public hearing, the name of the person(s) and address of the place where written comments may be sent, and the Issuer shall hold a public hearing on the proposed issuance of the Bonds. Such actions may be (or have been) taken prior to or simultaneously with the passage of this Ordinance.

(c) The Issuer shall comply with any publication and/or posting requirements set forth in its Charter that are determined to be applicable to this Ordinance.

Section 13. Tax Matters

(a) Any one or more of the Mayor, the City Administrator, the Treasurer of the Issuer (the "Treasurer") and/or the Comptroller of the Issuer (the "Comptroller") shall be the officers of the Issuer responsible for the issuance of the Bonds within the meaning of the Arbitrage Regulations (defined herein). Any one or more of the Mayor, the City Administrator, the Treasurer and/or the Comptroller shall also be the officers of the Issuer responsible for the execution and delivery (on the date of issuance of the Bonds) of a certificate of the Issuer (the "Section 148 Certificate") which complies with the requirements of Section 148 ("Section 148") of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such official or officials are hereby directed to execute the Section 148 Certificate and to deliver the same to the Administration on the date of the issuance of the Bonds. The Section 148 Certificate may be contained within any of the Program Documents at the discretion of the Administration.

(b) The Issuer shall set forth in the Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bonds, or of any monies, securities or other obligations to the credit of any account of the Issuer which may be deemed to be proceeds of the Bonds pursuant to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The Issuer covenants that the facts, estimates and circumstances set forth in the Section 148 Certificate will be based on the Issuer's reasonable expectations on the date of issuance of the Bonds and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

(c) The Issuer covenants and agrees with each of the holders of any of the Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 and the regulations thereunder which are applicable to the Bonds on the date of issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds.

(d) The Issuer further covenants that it shall make such use of the proceeds of the Bonds, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bonds. All officials, officers, employees and agents of the Issuer are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the Issuer's compliance with, the covenants set forth in this Section.

(e) Any one or more of the Mayor, the City Administrator, the Treasurer and/or the Comptroller, on behalf of the Issuer, may make such covenants or agreements in connection with the issuance of Bonds issued hereunder as such official(s) shall deem advisable in order to assure the registered owners of such Bonds that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants or agreements shall be binding on the Issuer so long as the observance by the Issuer of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on such Bonds from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the Issuer regarding compliance with the provisions of the Code as such identified official(s) shall deem advisable in order to assure the registered owners of such Bonds that the interest thereon shall be and remain excludable from gross income for federal income tax purposes, including, without limitation, covenants or agreements relating to the investment of the proceeds of such Bonds, the payment of rebate (or payments in lieu of rebate) to the United States, limitations on the times within which, and the purpose for which, such proceeds may be expended, or the use of specified procedures for accounting for and segregating such proceeds. Such official(s) may also make on behalf of the Issuer any elections, designations or determinations authorized or permitted by the Code or the Arbitrage Regulations.

Section 14. Effective Date; Miscellaneous. (a) Pursuant to Section 4-232(c) of the Act, this Ordinance shall take effect from the date of its passage by the Mayor and City Council of the Issuer (the "Mayor and City Council"), and it is the intent hereof that the laws of the State of Maryland shall govern its construction and the construction of the Bonds. Any copy of this Ordinance duly certified by the City Clerk or the City Clerk's successor in office shall constitute evidence of the contents and provisions hereof.

(b) Any reference to an official of the Issuer in this Ordinance shall be deemed to include any such official serving in an "acting" capacity (e.g., the Acting City Administrator of the Issuer or the Acting City Clerk of the Issuer). Any reference to an official of the Issuer in this Ordinance shall be deemed to include references to such official if generally known by another title; titles of officials as used in this Ordinance correspond to the titles used in the Charter or the City Code of the Issuer (the "City Code").

(c) In the event the position of any official who is referred to by title in this Ordinance is vacant at the time any action authorized to be taken by such official in accordance

with the provisions of this Ordinance shall occur, and no person has been appointed to such position (including in an "acting" capacity) and is incumbent in such position, references in this Ordinance to such official shall be deemed to refer to any other appropriate official of the Issuer charged with such responsibilities under the Charter or the City Code or, to the extent not so provided for in the Charter or the City Code, as designated by the Mayor and City Council. Written evidence of any such designation shall be provided to the Administration. Notwithstanding the foregoing sentence, in the event two or more officials are charged with responsibility for taking any actions in accordance with the provisions of this Ordinance and only one such position is filled at the applicable time, any such action may be taken solely by the remaining official.

(d) References in this Ordinance to the phrase "to finance", "to pay" or "to fund" or similar phrases shall be deemed to refer to and include "to reimburse" or similar phrases.

(e) The title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for all purposes.

(f) Pursuant to Section 4-232(b) of the Act, this Ordinance shall be subject to petition to referendum by the qualified voters of the Issuer in accordance with Section 82A(c) of the Charter provided that the petition is filed not later than 20 days after this Ordinance is passed by the Mayor and City Council. The provisions of Section 82A(c) of the Charter allowing for a referendum petition to be filed within 30 days following passage of a bond ordinance shall be disregarded and the provisions of Section 4-232(b) of the Act shall control the period in which any referendum petition must be filed.

(g) The Mayor's signature on this Ordinance constitutes and signifies his approval of this Ordinance as required by Section 4-232(a)(1)(ii) of the Act.

(h) The provisions of this Ordinance shall be liberally construed in order to effectuate the transactions contemplated hereby.

[CONTINUED ON FOLLOWING PAGE]

MAYOR AND CITY COUNCIL OF
CUMBERLAND

(SEAL)

_____
Brian K. Grim
Mayor

ATTEST:

_____
Marjorie A. Woodring, City Clerk

Introduced: _____, 2017

Passed: _____, 2017

Effective: _____, 2017

Exhibit A. – Form of Bond

#195870;10002.067

_____
Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

[FORM OF BOND]

EXHIBIT A

United States of America
State of Maryland
Mayor and City Council of Cumberland
Infrastructure Bond, 2017 Series A

No. R-1 $_____

Mayor and City Council of Cumberland, a municipal corporation duly organized and existing under the Constitution and laws of the State of Maryland (the "Issuer"), hereby promises to pay to the

Maryland Community Development Administration

or its registered assigns, the principal amount of _____ Dollars ($_____), plus interest on each unpaid principal installment at rates per annum resulting in the total interest cost ("TIC") (expressed as a yield) set forth on Exhibit A attached hereto, in lawful money of the United States of America, as follows: (a) interest on the outstanding and unpaid principal of this bond shall be due and payable in semiannual payments commencing on _____, 20__, and continuing on the first day of [October] and [April] in each year thereafter until final maturity; (b) principal of this bond shall be paid commencing on _____ and on [April 1] in each year thereafter until final maturity in the aggregate amount of principal installments as set forth on Exhibit A. Payment of the principal hereof and the interest due hereon shall be made by check mailed to the address of the registered owner of this bond as shown on the registration books maintained by the Issuer, or in such other manner and to such other address as the registered owner of this bond may designate. If any payment of the principal of or interest on this bond shall be due on a day other than a Business Day (defined herein), such payment shall be made on the next Business Day with like effect as if made on the originally scheduled date. A "Business Day" is any day other than a Saturday, Sunday or legal holiday in the State of Maryland observed as such by the Issuer.

In the event any payment hereon (whether principal, interest or both) is not paid when due and payable, such payment shall continue as an obligation of the Issuer and shall bear interest until paid at the rate or rates of interest borne by this bond.

This bond, designated as "Mayor and City Council of Cumberland Infrastructure Bond, 2017 Series [A]" (this "Bond"), is a general obligation of the Issuer, and has been duly issued by the Issuer for the purpose of providing all or a portion of the funds necessary for the (i) financing or refinancing of the costs of the purchase/acquisition of (A) information technology

_____
Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

improvements, equipment and software, and (B) new and/or replacement vehicles and equipment (including heavy duty vehicles and equipment), (ii) funding a portion of a capital reserve fund, and (iii) paying issuance and other costs related to this Bond. Unless paid from other sources, the Issuer covenants that so long as any portion of this Bond is outstanding and not paid, it shall levy annually, in the manner prescribed by law, ad valorem taxes on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation in rate and amount sufficient to provide for the payment of the principal of and interest on this Bond as the same become due and payable.

This Bond is issued pursuant to the authority of Sections 4-101 through 4-255 of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, Sections 81 and 82A of the Charter of the Issuer, and Ordinance No. _____ of the Issuer passed on _____, 2017 and effective on _____, 2017 (the "Ordinance"). The full faith and credit of the Issuer are hereby irrevocably pledged to the payment of the principal of this Bond and the interest to accrue hereon.

This Bond is issued in connection with the Local Government Infrastructure Financing Program of the Community Development Administration, a governmental unit in the Division of Development Finance of the Department of Housing and Community Development, a principal department of the government of the State of Maryland (the "Administration"). This Bond is subject to the terms and conditions of the Repayment Agreement dated as of _____, 2017, between the Issuer and the Administration (the "Repayment Agreement").

This Bond is not subject to prepayment by the Issuer prior to [April] 1, 20____. On or after _____, this Bond is subject to prepayment by the Issuer at the prepayment prices, expressed as a percentage of the principal amount to be prepaid, plus accrued interest, if any, to the prepayment date, on the principal amount thereof, and during the periods (both dates inclusive) listed below:

Period	**Price**
_____ through _____	%
_____ through _____	
_____ through thereafter	

Notice of prepayment shall be given, the date of prepayment determined, and all prepayments of this Bond shall be applied in accordance with the provision of the Repayment Agreement.

The Issuer may treat the person in whose name this Bond is registered as the absolute owner hereof, whether or not this Bond shall be overdue, for the purpose of receiving payment thereof and for all other purposes whatsoever, and shall not be affected by any notice to the contrary, except as provided below.

_____
Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

This Bond is assignable and upon such assignment the assignor shall promptly notify the Issuer by certified mail, and the assignee shall surrender this Bond to the Issuer for transfer on the registration records and verification of the portion of the principal amount hereof and interest hereon paid or unpaid, and every such assignee shall take this Bond subject to such condition. In connection with any transfer of this Bond, the Issuer may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer and any reasonable fees or expenses of the Issuer incurred in connection with such transfer.

Principal of this Bond is paid in annual installments and this Bond is subject to partial redemption without any notation of such payment being made on this Bond or the surrender of this Bond for cancellation and the issuance of a new Bond or Bonds in the amount of the unpaid principal hereof. Accordingly, the outstanding principal of this Bond may be less than the stated face amount hereof and any purchaser or transferee of this Bond should contact the Issuer and the prior owner of this Bond to ascertain the outstanding face amount hereof.

As declared by Section 4-231(c) of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, this Bond shall have and possess all the attributes of negotiable instruments as provided in Section 19-224 of the Local Government Article of the Annotated Code of Maryland, as amended. This Bond is issued with the intent that the laws of the State of Maryland shall govern its construction.

No recourse shall be had for the payment of the principal of, the interest on, or for any claim based hereon or on the Ordinance against any elected or appointed official or employee, past, present or future of the Issuer or any agency thereof; and any such recourse, claim or liability is expressly waived by acceptance by the owner of the delivery of this Bond.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened and to be performed precedent to and in the issuance of this Bond does exist, has been done, has happened and has been performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Charter of the Issuer and the proceedings of the Issuer.

Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

IN WITNESS WHEREOF, Mayor and City Council of Cumberland has caused this Bond to be signed in its name by the manual or facsimile signature of its Mayor and its corporate seal to be affixed hereto and attested by the manual signature of the City Clerk, as of _____, 2017.

(SEAL)

ATTEST:

MAYOR AND CITY COUNCIL OF CUMBERLAND

_____
City Clerk

By: _____
Mayor

_____
Underlining = Indicates material added by amendment after introduction
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BOND PAYMENT SCHEDULE

[Use the following paragraph (with necessary modifications) to clarify the amount to be paid under the schedule prepared by the Financial Advisor.]

[Repayment Schedule to be Inserted.]

Each installment of Principal and Interest or Interest alone shall be the aggregate of amounts set forth in this Exhibit A for the date of such payment as shown under the heading designated "Debt Service."

_____
Underlining = Indicates material added by amendment after introduction
~~Strike-through~~ = Indicates material deleted by amendment after introduction

Regular Council Agenda
May 23, 2017

Description

Ordinance *(1st reading)* - providing for the issuance and sale of General Obligation Bonds to the Community Development Administration (CDA) of the State of Maryland in the amount not to exceed $1,200,000, to be known as **"Mayor and City Council of Cumberland Infrastructure Bonds, 2017 Series A,"** to finance or refinance the purchase of IT improvements, equipment and software, vehicles and equipment including heavy-duty vehicles and equipment, to fund a portion of the capital reserve fund, and to pay costs related to the bonds

Approval, Acceptance / Recommendation

A public hearing to consider this Ordinance will be held on June 6, 2017 at 6:15 p.m.

The Ordinance will also be presented that evening after the public hearing for its second reading and final adoption.

☐ 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 23, 2017

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

THAT, the following utility charges on the City-owned property of 32 Virginia Avenue be and are hereby abated:

ACCOUNT NO.	AMOUNT	ADDRESS
070017609	$ 201.08	32 Virginia Avenue

_____

Mayor Brian K. Grim

Regular Council Agenda
May 23, 2017

Description

Order authorizing the abatement of utility charges in the amount of $201.08 for City-owned property located at 32 Virginia Avenue

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 23, 2017__**

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

THAT the Mayor be and is hereby authorized to execute a Contract of Sale by and between the Mayor and City Council of Cumberland ("Buyer") and Andrew Miller and Lisa C. Miller ("Sellers") for the property and improvements thereon located at 606 Maryland Avenue, Cumberland, as recorded among the Land Records of Allegany County, Maryland in Book 1324, Page 408, Tax Account No. 04-024893, for the purchase price of Forty Thousand Dollars ($35,000.00); and

BE IT FURTHER ORDERED, that the City shall accept the deed effecting the transfer of said property, provided settlement contingencies are met and, upon completion of settlement and recordation of the deed, settlement contingencies shall be deemed to have been met; and

BE IT FURTHER ORDERED, that, should it be necessary to extend the date for closing under the terms of the Contract, the City Administrator and City Solicitor are jointly and severally granted the authority to enter into agreements for said purpose, provided the date of the closing is not extended more than sixty (60) days from the originally scheduled closing date; and

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

_____

Brian K. Grim, Mayor

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made by and between **Mayor and City Council of Cumberland** ("Buyer") and **Andrew Miller and Lisa C. Miller** ("Sellers") and is effective as of the date its execution is completed as shown in the signature provisions on the last page of this Contract before the Addenda.

l. **Property Description.** Sellers do agree to sell to Buyer, and Buyer does agree to purchase from Sellers, all of the following tracts or parcels of land, together with the improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereto or in anywise appertaining which are owned by Sellers and are hereinafter referred to collectively as the "Property":

606 Maryland Avenue, Cumberland, MD 21502, Allegany County Land Records Book 1324, Page 408, Tax Account No. 04-024893.

2. **Purchase Price.** The purchase price for the Property (the "Purchase Price") is Forty Thousand Dollars ($40,000.00).

3. **Payment Terms.** The Purchase Price shall be paid at settlement.

4. **Estate.** The Property is being conveyed in fee simple.

5. **Contingencies.** This Contract and the consummation of the transaction contemplated by its terms are contingent upon the following:

A. Sellers shall deliver the Property to Buyer free of tenants or inhabitants of any kind, with all of any such individuals' personal property and belongings having been removed. Sellers shall be responsible for legally evicting any tenants who may have been leasing the Property.

B. Sellers shall be responsible for the termination of all utility services to the Property.

C. Settlement shall be contingent upon Buyer's performance of a walk-through inspection of the Property within 48 hours prior to settlement in order to confirm that the Property will be delivered to Buyer in accordance with the terms of Sections 5 and 8 of this Contract. Buyer shall have the right to waive this contingency and proceed to settlement without conducting the said inspection.

Notwithstanding the foregoing, Buyer shall have the right to insist that Sellers perform as required in subparagraphs A and B above. In that regard, Buyer shall have the right to bring an action to specifically enforce those provisions in the event they are not met within the time frame set for settlement as provided for hereinafter.

6. Representations & Warranties. The Property is being sold in as-is condition, without any express or implied warranties or representations made as to its condition or otherwise, and subject to all defects, if any, known or unknown.

7. Risk of Loss. The Property is to be held at the risk of Sellers until legal title has passed or possession has been given to Buyer.

8. Possession. Sellers agree to give Buyer possession and occupancy of the Property at the time of settlement. Sellers will deliver the Property in substantially the same physical condition as of the date of his/her/their/its execution of this Contract but free of Sellers' personal property and all junk, trash and debris. Any personal property, junk, trash or debris shall be deemed to be abandoned and Buyer may dispose of it in any manner it sees fit, including, but not limited to, selling it or disposing of it as rubbish. Notwithstanding the foregoing, Sellers shall have the right to remove fixtures, furnishings and equipment from the Property prior to closing, provided access to the Property is kept secured from the public at large.

9. Adjustments. All general or special taxes, rents, ground rents, public, private or community water and/or sewer charges, including any deferred sewer and water tap fees, homeowners association charges and all other public, private or governmental charges or assessments, excluding liens which must be paid prior to deed recordation, which may exist, whether such have been levied or not, are to be adjusted and apportioned as of the date of settlement, and will be assumed and paid thereafter by Buyer. Notwithstanding the foregoing, any real estate taxes due to the City of Cumberland shall be waived and any due to Allegany County, Maryland shall either be paid by Buyer or Buyer shall procure a waiver thereof.

10. Deed and Title. Upon payment of the Purchase Price, a deed conveying the Property from Sellers to Buyer containing covenants of special warranty and further assurances shall be prepared by Buyer at its expense and executed by Sellers. Title to the Property shall be good and merchantable, free of liens and encumbrances, except as specified herein and except use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property is located and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the Property.

11. Agency/Real Estate Commission. Sellers and Buyer warrant and represent that no real estate broker participated in the procurement or negotiation of this Contract. Each party agrees to defend, indemnify, and hold the other harmless for any claim for real estate commissions arising by reason of the indemnifying party's breach of this warranty. The provisions of this paragraph shall survive settlement and the delivery, acceptance and recordation of the deed for the Property or the termination of this Contract.

12. Settlement. Settlement shall occur no sooner than July 1, 2017 and no later than August 31, 2017. It shall occur at the Law Office of Michael Scott Cohen, LLC, 213 Washington Street, Cumberland, MD 21502.

13. <u>Notice Of Disclosure Or Disclaimer Statements</u>. Buyer is advised that under Maryland law (Real Property Article, Section #10-702), a purchaser is entitled to receive from a seller a written Residential Property Condition Disclosure Statement on a form provided by the Maryland Real Estate Commission or a Written Residential Property Disclaimer Statement on a form provided by the Maryland Real Estate Commission. A seller must deliver the completed Disclosure or Disclaimer Statement to a purchaser on or before the buyer enters into a contract of sale (with the exception of a Land Installment Contract, an Option to Purchase Agreement and a Lease Agreement containing an option to purchase provision in which case the disclosure or disclaimer statement must be delivered to the purchaser before the execution of the contract).

If the Disclosure or Disclaimer Statement is delivered by the seller later than 3 days after the seller enters into a contract of sale with a purchaser, the contract is void. A purchaser who does not receive the Disclosure or Disclaimer Statement on or before the execution of a contract by a purchaser has the unconditional right, upon written notice to the seller or the seller's agent, to rescind the contract of sale at any time before the receipt of the Disclosure or Disclaimer Statement or within five (5) days following receipt of the Disclosure or Disclaimer Statement and to the immediate return of any deposit. However, purchaser's right to rescind the contract terminates if not exercised before making a written application to a lender for a mortgage loan, if the lender discloses in writing at or before the time application is made that the right to rescind terminates upon submission of the application.

The following has also been made a part of this Contract:

( ) Property Disclosure Statement

(X) Property Disclaimer Statement

14. <u>Documentary Stamps, Recordation, Transfer Taxes</u>. All transfer and recordation taxes and fees payable in connection with the sale of the Property shall be paid by Buyer.

15. <u>Lead Based Paint Hazards</u>. Title X, Section 1018, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the "Act"), requires the disclosure of certain information regarding lead-based paint and lead-based paint hazards in connection with the sale of residential real property. Unless otherwise exempt, the Act applies only to housing constructed prior to 1978. A seller of pre-1978 housing is required to disclose to the buyer, based upon the seller's actual knowledge, all known lead-based paint hazards in the property and provide the buyer with any available reports in the seller's possession relating to lead-based paint or lead-based paint hazards applicable to the property. The seller, however, is not required to conduct or pay for any lead-based paint risk assessment or inspection. At the time that the offer to purchase is entered into by the buyer, the seller is required to provide the buyer with the EPA pamphlet entitled "Protect Your Family From Lead In Your Home" and a "Disclosure of Information on Lead-Based Paint and Lead Based Paint Hazards" form.

The seller is required under the Act to provide the buyer with a ten (10) day time period (or other mutually agreeable time period) for the buyer, at the buyer's expense, to conduct a risk

assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards unless the buyer waives such assessment or inspection by indicating such waiver on the Lead-Based Paint Disclosure form. The seller and any agent involved in the transaction are required to retain a copy of the completed Lead-Based Paint Disclosure form for a period of three (3) years following the date of settlement.

A SELLER WHO FAILS TO GIVE THE REQUIRED LEAD-BASED PAINT DISCLOSURE FORM AND EPA PAMPHLET MAY BE LIABLE UNDER THE ACT FOR THREE TIMES THE AMOUNT OF DAMAGES AND MAY BE SUBJECT TO BOTH CIVIL AND CRIMINAL PENALTIES.

Sellers represent and warrant to Buyer intending that Buyer rely upon such warranty and representation, that the property: was constructed prior to 1978. Sellers and Buyer agree, represent and warrant, each unto the other, that no binding and enforceable contract shall be deemed to exist or to have been formed unless the requirements of the Act have been complied with prior to the execution of this Contract by Sellers and Buyer. Seller sand Buyer represent and warrant that each intended, as a material term of the offer and acceptance, that the requirements of the Act be complied with as an express condition of the formation of a binding and enforceable contract by and between the parties. Buyer and Sellers acknowledge by their respective initials below that they have read and understand the provisions of this section.

_____ Buyer's Initials _____ _____Sellers' Initials

16. **Assignability.** This Contract may not be assigned without the written consent of Sellers, said consent not to be unreasonably withheld.

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

18. **Entire Agreement.** This Contract and any addenda thereto contain 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.

19. **Maryland Law Applies.** This Contract shall be governed and construed according to the laws of the State of Maryland without regard to principles of conflict of laws. It shall be enforceable by means of an action commenced in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and both parties waive the right to claim that such a proceeding is commence in an inconvenient forum or one that lacks proper venue.

20. **Breach of Contract and Default.** Buyer and Sellers are required and agree to make full settlement in accordance with the terms of this Contract and acknowledge that failure to do so constitutes a breach hereof. In the event of a breach, each of the parties hereto is entitled to pursue such rights and remedies as may be available, in law or in equity, including, without limitation, an action for specific performance of this Contract and/or monetary damages. If either party defaults, the party committing the default, whether Buyer or Sellers, shall reimburse the non-defaulting party for the reasonable attorneys' fees that party incurred as a result of the default.

21. **Binding Effect.** This Contract shall be binding upon the parties hereto and each of their respective heirs, personal representatives, administrators, executors, successors, assigns, and guardians

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. **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 CONTRACT. 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 CONTRACT.**

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

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

26. **Addenda**. The Contract is subject to the following attached Addenda which are made a part hereof: (1) Maryland Residential Disclaimer Statement; and (2) Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazard.

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

WITNESS:

MAYOR AND CITY COUNCIL OF CUMBERLAND

_____ By:_____
Brian K. Grim

_____
Date

_____ _____
Andrew Miller

_____
Date

_____ _____
Lisa C. Miller

_____
Date

MARYLAND RESIDENTIAL PROPERTY DISCLOSURE AND DISCLAIMER STATEMENT

Property Address: 606 Maryland Ave., Cumberland, MD 21502

Legal Description: Allegany County Land Records Book 1324, Page 408

NOTICE TO SELLER AND PURCHASER

Section 10-702 of the Real Property Article, *Annotated Code of Maryland*, requires the owner of certain residential real property to furnish to the purchaser either (a) a RESIDENTIAL PROPERTY DISCLAIMER STATEMENT stating that the owner is selling the property "as is" and makes no representations or warranties as to the condition of the property or any improvements on the real property, except as otherwise provided in the contract of sale, or in a listing of latent defects; or (b) a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT disclosing defects or other information about the condition of the real property actually known by the owner. Certain transfers of residential property are excluded from this requirement (see the exemptions listed below).

10-702. EXEMPTIONS. The following are specifically excluded from the provisions of §10-702:

1. The initial sale of single family residential real property:
   A. that has never been occupied; or
   B. for which a certificate of occupancy has been issued within 1 year before the seller and buyer enter into a contract of sale;
2. A transfer that is exempt from the transfer tax under §13-207 of the Tax-Property Article, except land installment contracts of sales under §13-207(a) (11) of the Tax-Property Article and options to purchase real property under §13-207(a)(12) of the Tax-Property Article;
3. A sale by a lender or an affiliate or subsidiary of a lender that acquired the real property by foreclosure or deed in lieu of foreclosure;
4. A sheriff's sale, tax sale, or sale by foreclosure, partition, or by court appointed trustee;
5. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
6. A transfer of single family residential real property to be converted by the buyer into use other than residential use or to be demolished; or
7. A sale of unimproved real property.

Section 10-702 also requires the owner to disclose information about latent defects in the property that the owner has actual knowledge of. The owner must provide this information even if selling the property "as is." "Latent defects" are defined as: Material defects in real property or an improvement to real property that:

(1) A purchaser would not reasonably be expected to ascertain or observe by a careful visual inspection of the real property; and
(2) Would pose a direct threat to the health or safety of:
   (i) the purchaser; or
   (ii) an occupant of the real property, including a tenant or invitee of the purchaser.

MARYLAND RESIDENTIAL PROPERTY DISCLAIMER STATEMENT

NOTICE TO OWNER(S): Sign this statement only if you elect to sell the property without representations and warranties as to its condition, except as otherwise provided in the contract of sale and in the listing of latent defects set forth below; otherwise, complete and sign the RESIDENTIAL PROPERTY DISCLOSURE STATEMENT.

Except for the latent defects listed below, the undersigned owner(s) of the real property make no representations or warranties as to the condition of the real property or any improvements thereon, and the purchaser will be receiving

the real property "as is" with all defects, including latent defects, which may exist, except as otherwise provided in the real estate contract of sale. The owner(s) acknowledge having carefully examined this statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

The owner(s) has actual knowledge of the following latent defects: _____
_____
_____

Owner _____ Date_____
Andrew Miller
Owner_____ Date_____
Lisa C. Miller

The purchaser(s) acknowledge receipt of a copy of this disclaimer statement and further acknowledge that they have been informed of their rights and obligations under §10-702 of the Maryland Real Property Article.

Purchaser _____ Date_____
Mayor and City Council of Cumberland, by Brian K. Grim,
Mayor

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure (initial)

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i)___ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

_____

(ii)___ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and report available to the seller (check (i) or (ii) below):

(i)___ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

_____

(ii)____Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Buyer's Acknowledgment (initial)

(c)___ Buyer has received copies of all information listed above.

(d)___ Buyer has received the pamphlet *Protect Your Family from Lead in Your Home.*
(e)___ Buyer has (check (i) or (ii) below):

(i)___ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii)___ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

(f)____. Agent has informed the seller of the seller's obligations under 42 U.S.C. 485 2d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Buyer:_____ Date: _____
Mayor and City Council of Cumberland,
by Brian K. Grim, Mayor

Seller:_____ Date: _____
Andrew Miller

Seller:_____ Date: _____
Lisa C. Miller

IMPORTANT!

Lead From Paint, Dust, and Soil in and Around Your Home Can Be Dangerous if Not Managed Properly

- Children under 6 years old are most at risk for lead poisoning in your home.
- Lead exposure can harm young children and babies even before they are born.
- Homes, schools, and child care facilities built before 1978 are likely to contain lead-based paint.
- Even children who seem healthy may have dangerous levels of lead in their bodies.
- Disturbing surfaces with lead-based paint or removing lead-based paint improperly can increase the danger to your family.
- People can get lead into their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.
- People have many options for reducing lead hazards. Generally, lead-based paint that is in good condition is not a hazard (see page 10).

Protect Your Family From Lead in Your Home

EPA United States Environmental Protection Agency

United States Consumer Product Safety Commission

United States Department of Housing and Urban Development

September 2013

Are You Planning to Buy or Rent a Home Built Before 1978?

Did you know that many homes built before 1978 have **lead-based paint**? Lead from paint, chips, and dust can pose serious health hazards.

Read this entire brochure to learn:

- How lead gets into the body
- About health effects of lead
- What you can do to protect your family
- Where to go for more information

Before renting or buying a pre-1978 home or apartment, federal law requires:

- Sellers must disclose known information on lead-based paint or lead-based paint hazards before selling a house.
- Real estate sales contracts must include a specific warning statement about lead-based paint. Buyers have up to 10 days to check for lead.
- Landlords must disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a specific warning statement about lead-based paint.

If undertaking renovations, repairs, or painting (RRP) projects in your pre-1978 home or apartment:

- Read EPA's pamphlet, *The Lead-Safe Certified Guide to Renovate Right,* to learn about the lead-safe work practices that contractors are required to follow when working in your home (see page 12).

Consumer Product Safety Commission (CPSC)

The CPSC protects the public against unreasonable risk of injury from consumer products through education, safety standards activities, and enforcement. Contact CPSC for further information regarding consumer product safety and regulations.

CPSC
4330 East West Highway
Bethesda, MD 20814-4421
1-800-638-2772
cpsc.gov or saferproducts.gov

U. S. Department of Housing and Urban Development (HUD)

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. Contact HUD's Office of Healthy Homes and Lead Hazard Control for further information regarding the Lead Safe Housing Rule, which protects families in pre-1978 assisted housing, and for the lead hazard control and research grant programs.

HUD
451 Seventh Street, SW, Room 8236
Washington, DC 20410-3000
(202) 402-7698
hud.gov/offices/lead/

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U. S. EPA Washington DC 20460
U. S. CPSC Bethesda MD 20814
U. S. HUD Washington DC 20410

EPA-747-K-12-001
September 2013

Simple Steps to Protect Your Family from Lead Hazards

If you think your home has lead-based paint:

- Don't try to remove lead-based paint yourself.
- Always keep painted surfaces in good condition to minimize deterioration.
- Get your home checked for lead hazards. Find a certified inspector or risk assessor at epa.gov/lead.
- Talk to your landlord about fixing surfaces with peeling or chipping paint.
- Regularly clean floors, window sills, and other surfaces.
- Take precautions to avoid exposure to lead dust when remodeling.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe certified renovation firms.
- Before buying, renting, or renovating your home, have it checked for lead-based paint.
- Consult your health care provider about testing your children for lead. Your pediatrician can check for lead with a simple blood test.
- Wash children's hands, bottles, pacifiers, and toys often.
- Make sure children avoid fatty (or high fat) foods and eat nutritious meals high in iron and calcium.
- Remove shoes or wipe soil off shoes before entering your house.

Lead Gets into the Body in Many Ways

Adults and children can get lead into their bodies if they:

- Breathe in lead dust (especially during activities such as renovations, repairs, or painting that disturb painted surfaces).
- Swallow lead dust that has settled on food, food preparation surfaces, and other places.
- Eat paint chips or soil that contains lead.

Lead is especially dangerous to children under the age of 6.

- At this age, children's brains and nervous systems are more sensitive to the damaging effects of lead.
- Children's growing bodies absorb more lead.
- Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.

Women of childbearing age should know that lead is dangerous to a developing fetus.

- Women with a high lead level in their system before or during pregnancy risk exposing the fetus to lead through the placenta during fetal development.

U. S. Environmental Protection Agency (EPA) Regional Offices

The mission of EPA is to protect human health and the environment. Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact
U.S. EPA Region 1
5 Post Office Square, Suite 100, OES 05-4
Boston, MA 02109-3912
(888) 372-7341

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact
U.S. EPA Region 2
2890 Woodbridge Avenue
Building 205, Mail Stop 225
Edison, NJ 08837-3679
(732) 321-6671

Region 3 (Delaware, Maryland, Pennsylvania, Virginia, DC, West Virginia)

Regional Lead Contact
U.S. EPA Region 3
1650 Arch Street
Philadelphia, PA 19103
(215) 814-2088

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact
U.S. EPA Region 4
AFC Tower, 12th Floor, Air, Pesticides & Toxics
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8998

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact
U.S. EPA Region 5 (DT-8J)
77 West Jackson Boulevard
Chicago, IL 60604-3666
(312) 886-7836

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas, and 66 Tribes)

Regional Lead Contact
U.S. EPA Region 6
1445 Ross Avenue, 12th Floor
Dallas, TX 75202-2733
(214) 665-2704

Region 7 (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact
U.S. EPA Region 7
11201 Renner Blvd.
WWPD/TOPE
Lenexa, KS 66219
(800) 223-0425

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6966

Region 9 (Arizona, California, Hawaii, Nevada)

Regional Lead Contact
U.S. EPA Region 9 (CMD-4-2)
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4280

Region 10 (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact
U.S. EPA Region 10
Solid Waste & Toxics Unit (WCM-128)
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-1200

For More Information

The National Lead Information Center
Learn how to protect children from lead poisoning and get other information about lead hazards on the Web at epa.gov/lead and hud.gov/lead, or call **1-800-424-LEAD (5323).**

EPA's Safe Drinking Water Hotline
For information about lead in drinking water, call **1-800-426-4791**, or visit epa.gov/lead for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline
For information on lead in toys and other consumer products, or to report an unsafe consumer product or a product-related injury, call **1-800-638-2772,** or visit CPSC's website at cpsc.gov or saferproducts.gov.

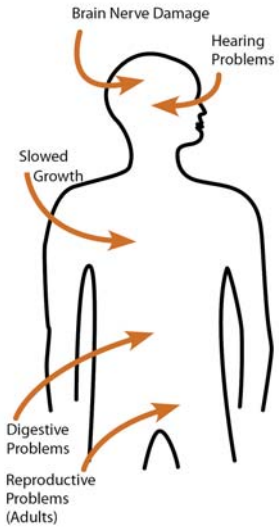
State and Local Health and Environmental Agencies
Some states, tribes, and cities have their own rules related to lead-based paint. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your state or local contacts on the Web at epa.gov/lead, or contact the National Lead Information Center at **1-800-424-LEAD.**

Hearing- or speech-challenged individuals may access any of the phone numbers in this brochure through TTY by calling the toll-free Federal Relay Service at **1-800-877-8339**.

Health Effects of Lead

Lead affects the body in many ways. It is important to know that even exposure to low levels of lead can severely harm children.

In children, exposure to lead can cause:



- Nervous system and kidney damage
- Learning disabilities, attention deficit disorder, and decreased intelligence
- Speech, language, and behavior problems
- Poor muscle coordination
- Decreased muscle and bone growth
- Hearing damage

While low-lead exposure is most common, exposure to high amounts of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults, too.

In adults, exposure to lead can cause:

- Harm to a developing fetus
- Increased chance of high blood pressure during pregnancy
- Fertility problems (in men and women)
- High blood pressure
- Digestive problems
- Nerve disorders
- Memory and concentration problems
- Muscle and joint pain

Check Your Family for Lead

Get your children and home tested if you think your home has lead.

Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect lead. Blood lead tests are usually recommended for:

- Children at ages 1 and 2
- Children or other family members who have been exposed to high levels of lead
- Children who should be tested under your state or local health screening plan

Your doctor can explain what the test results mean and if more testing will be needed.

Other Sources of Lead

While paint, dust, and soil are the most common sources of lead, other lead sources also exist:

- **Drinking water.** Your home might have plumbing with lead or lead solder. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might contain lead:
  - Use only cold water for drinking and cooking.
  - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.

  Call your local health department or water supplier to find out about testing your water, or visit epa.gov/lead for EPA's lead in drinking water information.
- **Lead smelters** or other industries that release lead into the air.
- **Your job.** If you work with lead, you could bring it home on your body or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture. Call your local health department for information about hobbies that may use lead.
- Old **toys** and **furniture** may have been painted with lead-containing paint. Older toys and other children's products may have parts that contain lead.[4]
- Food and liquids cooked or stored in **lead crystal** or **lead-glazed pottery or porcelain** may contain lead.
- Folk remedies, such as **"greta"** and **"azarcon,"** used to treat an upset stomach.

[4] In 1978, the federal government banned toys, other children's products, and furniture with lead-containing paint (16 CFR 1303). In 2008, the federal government banned lead in most children's products. The federal government currently bans lead in excess of 100 ppm by weight in most children's products (76 FR 44463).

Renovating, Remodeling, or Repairing (RRP) a Home with Lead-Based Paint

If you hire a contractor to conduct renovation, repair, or painting (RRP) projects in your pre-1978 home or childcare facility (such as pre-school and kindergarten), your contractor must:

- Be a Lead-Safe Certified firm approved by EPA or an EPA-authorized state program
- Use qualified trained individuals (Lead-Safe Certified renovators) who follow specific lead-safe work practices to prevent lead contamination
- Provide a copy of EPA's lead hazard information document, *The Lead-Safe Certified Guide to Renovate Right*

RRP contractors working in pre-1978 homes and childcare facilities must follow lead-safe work practices that:

- **Contain the work area.** The area must be contained so that dust and debris do not escape from the work area. Warning signs must be put up, and plastic or other impermeable material and tape must be used.
- **Avoid renovation methods that generate large amounts of lead-contaminated dust.** Some methods generate so much lead-contaminated dust that their use is prohibited. They are:
  - Open-flame burning or torching
  - Sanding, grinding, planing, needle gunning, or blasting with power tools and equipment not equipped with a shroud and HEPA vacuum attachment and
  - Using a heat gun at temperatures greater than 1100°F
- **Clean up thoroughly.** The work area should be cleaned up daily. When all the work is done, the area must be cleaned up using special cleaning methods.
- **Dispose of waste properly.** Collect and seal waste in a heavy duty bag or sheeting. When transported, ensure that waste is contained to prevent release of dust and debris.

To learn more about EPA's requirements for RRP projects visit epa.gov/getleadsafe, or read *The Lead-Safe Certified Guide to Renovate Right*.

Where Lead-Based Paint Is Found

In general, the older your home or childcare facility, the more likely it has lead-based paint.[1]

Many homes, including private, federally-assisted, federally-owned housing, and childcare facilities built before 1978 have lead-based paint. In 1978, the federal government banned consumer uses of lead-containing paint.[2]

Learn how to determine if paint is lead-based paint on page 7.

Lead can be found:

- In homes and childcare facilities in the city, country, or suburbs,
- In private and public single-family homes and apartments,
- On surfaces inside and outside of the house, and
- In soil around a home. (Soil can pick up lead from exterior paint or other sources, such as past use of leaded gas in cars.)

Learn more about where lead is found at epa.gov/lead.

[1] "Lead-based paint" is currently defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter (mg/cm), or more than 0.5% by weight.

[2] "Lead-containing paint" is currently defined by the federal government as lead in new dried paint in excess of 90 parts per million (ppm) by weight.

Identifying Lead-Based Paint and Lead-Based Paint Hazards

Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged paint) is a hazard and needs immediate attention. **Lead-based paint** may also be a hazard when found on surfaces that children can chew or that get a lot of wear and tear, such as:

- On windows and window sills
- Doors and door frames
- Stairs, railings, banisters, and porches

Lead-based paint is usually not a hazard if it is in good condition and if it is not on an impact or friction surface like a window.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Lead dust also forms when painted surfaces containing lead bump or rub together. Lead paint chips and dust can get on surfaces and objects that people touch. Settled lead dust can reenter the air when the home is vacuumed or swept, or when people walk through it. EPA currently defines the following levels of lead in dust as hazardous:

- 40 micrograms per square foot (µg/ft^2) and higher for floors, including carpeted floors
- 250 µg/ft^2 and higher for interior window sills

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. EPA currently defines the following levels of lead in soil as hazardous:

- 400 parts per million (ppm) and higher in play areas of bare soil
- 1,200 ppm (average) and higher in bare soil in the remainder of the yard

Remember, lead from paint chips—which you can see—and lead dust—which you may not be able to see—both can be hazards.

The only way to find out if paint, dust, or soil lead hazards exist is to test for them. The next page describes how to do this.

Reducing Lead Hazards, continued

If your home has had lead abatement work done or if the housing is receiving federal assistance, once the work is completed, dust cleanup activities must be conducted until clearance testing indicates that lead dust levels are below the following levels:

- 40 micrograms per square foot (µg/ft^2) for floors, including carpeted floors
- 250 µg/ft^2 for interior windows sills
- 400 µg/ft^2 for window troughs

For help in locating certified lead abatement professionals in your area, call your state or local agency (see pages 14 and 15), or visit epa.gov/lead, or call 1-800-424-LEAD.

Reducing Lead Hazards

Disturbing lead-based paint or removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

- In addition to day-to-day cleaning and good nutrition, you can **temporarily** reduce lead-based paint hazards by taking actions, such as repairing damaged painted surfaces and planting grass to cover lead-contaminated soil. These actions are not permanent solutions and will need ongoing attention.
- You can minimize exposure to lead when renovating, repairing, or painting by hiring an EPA- or state-certified renovator who is trained in the use of lead-safe work practices. If you are a do-it-yourselfer, learn how to use lead–safe work practices in your home.
- To remove lead hazards permanently, you should hire a certified lead abatement contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent control.

Always use a certified contractor who is trained to address lead hazards safely.

- Hire a Lead-Safe Certified firm (see page 12) to perform renovation, repair, or painting (RRP) projects that disturb painted surfaces.
- To correct lead hazards permanently, hire a certified lead abatement professional. This will ensure your contractor knows how to work safely and has the proper equipment to clean up thoroughly.

Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Checking Your Home for Lead

You can get your home tested for lead in several different ways:

- A lead-based paint **inspection** tells you if your home has lead-based paint and where it is located. It won't tell you whether your home currently has lead hazards. A trained and certified testing professional, called a lead-based paint inspector, will conduct a paint inspection using methods, such as:
  - Portable x-ray fluorescence (XRF) machine
  - Lab tests of paint samples

- A **risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards. A trained and certified testing professional, called a risk assessor, will:
  - Sample paint that is deteriorated on doors, windows, floors, stairs, and walls
  - Sample dust near painted surfaces and sample bare soil in the yard
  - Get lab tests of paint, dust, and soil samples
- A combination inspection and risk assessment tells you if your home has any lead-based paint and if your home has any lead hazards, and where both are located.

Be sure to read the report provided to you after your inspection or risk assessment is completed, and ask questions about anything you do not understand.

Checking Your Home for Lead, continued

In preparing for renovation, repair, or painting work in a pre-1978 home, Lead-Safe Certified renovators (see page 12) may:

- Take paint chip samples to determine if lead-based paint is present in the area planned for renovation and send them to an EPA-recognized lead lab for analysis. In housing receiving federal assistance, the person collecting these samples must be a certified lead-based paint inspector or risk assessor
- Use EPA-recognized tests kits to determine if lead-based paint is absent (but not in housing receiving federal assistance)
- Presume that lead-based paint is present and use lead-safe work practices

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency for more information, visit epa.gov/lead, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.[3]

[3] Hearing- or speech-challenged individuals may access this number through TTY by calling the Federal Relay Service at 1-800-877-8399.

What You Can Do Now to Protect Your Family

If you suspect that your house has lead-based paint hazards, you can take some immediate steps to reduce your family's risk:

- If you rent, notify your landlord of peeling or chipping paint.
- Keep painted surfaces clean and free of dust. Clean floors, window frames, window sills, and other surfaces weekly. Use a mop or sponge with warm water and a general all-purpose cleaner. (Remember: never mix ammonia and bleach products together because they can form a dangerous gas.)
- Carefully clean up paint chips immediately without creating dust.
- Thoroughly rinse sponges and mop heads often during cleaning of dirty or dusty areas, and again afterward.
- Wash your hands and your children's hands often, especially before they eat and before nap time and bed time.
- Keep play areas clean. Wash bottles, pacifiers, toys, and stuffed animals regularly.
- Keep children from chewing window sills or other painted surfaces, or eating soil.
- When renovating, repairing, or painting, hire only EPA- or state-approved Lead-Safe Certified renovation firms (see page 12).
- Clean or remove shoes before entering your home to avoid tracking in lead from soil.
- Make sure children avoid fatty (or high fat) foods and eat nutritious meals high in iron and calcium. Children with good diets absorb less lead.

Regular Council Agenda
May 23, 2017

Description

Order authorizing a Contract of Sale with Andrew Miller and Lisa C. Miller for the City's purchase of 606 Maryland Avenue for $40,000; authorizing acceptance of the deed providing settlement contingencies are met; authorizing extension of the closing date for 60 days if necessary; and authorizing the City Administrator and City Solicitor to execute all documentation

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 23, 2017_____**

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

THAT, the Mayor be and is hereby authorized to execute a Grant Agreement by and between the Mayor and City Council of Cumberland and Pirates Charities for the provision of Ten Thousand Dollars ($10,000) in matching grant funds through the Fields for Kids Matching Grant Program to support the Al Abrams Field Improvements Project; and

BE IT FURTHER ORDERED, that matching grant funds have been pledged to be donated to this project by WCBC Radio.

_____

Mayor Brian K. Grim

Funding:
Pirates Charities ……..$10,000
Matching funds (WCBC Donations) ……$10,000

PIRATES CHARITIES

April 20, 2017

Ms. Kathy McKenney
Community Development Programs Manager
Mayor and City Council of Cumberland, Maryland
57 North Liberty Street
Cumberland, MD 21502

Dear Kathy:

We are pleased to inform you that your application to the Pirates Charities *Fields for Kids* Matching Grant program requesting a matching grant has been approved in the amount of $10,000. Although we are not able to fulfill your full request of $15,000, we hope that this contribution will assist with the completion of your project.

Pirates Charities requests written acknowledgement of this grant by signing the enclosed, duplicate copy of the Grant Agreement, indicating your agreement to the provisions outlined, and returning it to our office at your earliest convenience. Please retain the original Grant Agreement for your files. A check will be released to your organization once this Agreement has been signed and received by Pirates Charities.

Per the terms of the Grant Agreement, you are required to submit a final report, receipts, and photos to Pirates Charities before the conclusion of the grant period. A report form will be mailed to you with the check. In addition, please complete the enclosed Publicity Information Form, and return it along with the signed Grant Agreement.

Should you have any questions at any point during the grant period, please contact Jackie Hunter at 412.325.4776. On behalf of Pirates Charities, thank you for your interest in the *Fields for Kids* program and best of luck with your project.

Sincerely,

Patty Pantas
Executive Director

Enclosure: Pirates Charities *Fields for Kids* Matching Grant Program Grant Agreement, *Fields for Kids* Publicity Information Form

PNC Park at North Shore
115 Federal Street
Pittsburgh, PA 15212

412.325.4720

pirates.com/piratescharities

PIRATES CHARITIES

PIRATES CHARITIES *Fields for Kids* Program
GRANT AGREEMENT

Pirates Charities, a Pennsylvania non-profit corporation hereby grants $10,000 ("the Grant") to Mayor and City Council of Cumberland, Maryland ("Grantee"). The Grant is subject to the following terms and conditions:

1. Grant Purpose and Use of Grant Funds: The Grant shall be used solely for the purpose stated in the Pirates Charities Fields for Kids Program Matching Grant application. Any Grant funds which are not used solely for the purpose stated shall be returned to Pirates Charities.
2. Grant Period: The grant period expires one year from the date of the execution of this Agreement.
3. Payment: Upon execution of this Agreement, the total funds committed by Pirates Charities will be released to the Grantee.
4. Books and Records: The Grantee shall maintain books and records that are adequate to substantiate that the Grant funds are being expended for the agreed upon purpose. The Grantee shall make such books and records available to Pirates Charities at reasonable times for review and audit if requested.
5. Reporting Requirements: The Grantee shall submit a final report, receipts, and photos to Pirates Charities before the conclusion of the grant period. A form will be provided to the Grantee for completion. Any funds not expended must be returned to Pirates Charities at the time the final report is submitted. The Grantee must repay any portion of the Grant amount that is not used for the purpose of the Grant.
6. Signage: The Grantee agrees to display a plaque/sign supplied by Pirates Charities at the renovated field recognizing the support of the Pirates Charities *Fields for Kids* program.
7. Publicity: The Grantee agrees that it will submit to Pirates Charities for approval, prior to release or publication, any public releases or publications that reference Pirates Charities. Pirates Charities' approval of same shall not be unreasonably withheld.
8. Indemnity: The Grantee agrees to indemnify and hold harmless Pirates Charities and Pittsburgh Associates, its affiliates, officers, directors and employees, from and against all claims, lawsuits, damages, costs and reasonable attorney's fees arising out of any personal injury or property damage occurring during the renovation/construction of the Grantee's project and/or following completion of the project.
9. This Agreement supersedes prior discussions or agreements that existed between the parties and any amendment to this Agreement must be in writing. Unless otherwise stipulated in writing, this Grant is made with the understanding that Pirates Charities has no obligation to provide other or additional support to the Grantee.

Agreed to and accepted this ____ day of _____, 20_____.

By (Signature): _____

Print/Type Name: _____

Organization: _____

PNC Park at North Shore
115 Federal Street
Pittsburgh, PA 15212

412.325.4720

pirates.com/piratescharities

50% post-consumer

Pirates Charities *Fields for Kids* Program
Matching Grant Application

General Information

Application Date February 27, 2017

Organization Name Mayor and City Council of Cumberland, Maryland

Field Address Al Abrams Field, 1001 Leiper Street, Cumberland, MD 21502

Mailing Address (for correspondence) 57 North Liberty Street, Cumberland, MD 21502

City Cumberland **State** MD **Zip Code** 21502 **Website** www.ci.cumberland.md.us

Contact Name/Title Kathy McKenney Community Development Programs Manager
Email Address kathy.mckenney@cumberlandmd.gov

Contact Phone 301-759-6431 **Contact FAX** 301-759-6432

Applicants must be an independent nonprofit tax-exempt organization, school or local government unit that operates youth baseball and/or softball programs.

Is your agency: ____ **Nonprofit Organization** ____ **School** X **Government Agency**

Eligibility

1. **Does your organization operate a baseball program or a softball program?** The City of Cumberland provides facilities for the Dapper Dan little league at no charge.

2. **How many years has the program been in existence?** The local Dapper Dan has been in existence for just under 70 years. The Al Abrams Field was named for Al Abrams founded the Pittsburgh Dapper Dan in 1936 and chartered several clubs around the region, including this one. Al would help the local chapters with their dinners, and would use his influence as the editor of the Pittsburgh Post-

Gazette, which meant he called in personal favors from his friends to get celebrities for this dinner and others in the region.

3. **How many teams participate in the program? 31 Boys _____ Girls _____ Total**

4. **How many children participate in the program? 372 Boys _____ Girls _____ Total**

5. **Does a Board of Directors govern your organization (if so, please attach a list of members)?**
   Although the City of Cumberland is led by the Mayor and City Council, the daily operations are directed by the Parks and Recreation Director, Diane Johnson, with the participation of the locally appointed Parks and Recreation Board. A list of the Mayor and City Council and the Parks and Recreation Board has been attached.

Field Information

1. **Who owns the field? Mayor and City Council of Cumberland, Maryland**

2. **Who is responsible for field maintenance? Mayor and City Council of Cumberland, Maryland**

3. **List all teams (youth and adult) that play on the field (attach another page if necessary):**

Sponsoring Organization	Team	No. of Participants	Ages	No. of Games Played
Dapper Dan Club	Angels	12	7-10	14
Dapper Dan Club	Cardinals	12	7-10	13
Dapper Dan Club	Diamondbacks	13	7-10	13
Dapper Dan Club	Giants	12	7-10	14
Dapper Dan Club	Indians	12	7-10	14
Dapper Dan Club	Nationals	13	7-10	14
Dapper Dan Club	Rangers	13	7-10	14
Dapper Dan Club	Red Sox	12	7-10	14
Dapper Dan Club	Astros	13	5-7	13
Dapper Dan Club	Blue Jays	13	5-7	13
Dapper Dan Club	Cardinals	14	5-7	12
Dapper Dan Club	Dodgers	13	5-7	13
Dapper Dan Club	Nationals	13	5-7	13
Dapper Dan Club	Orioles	13	5-7	13
Dapper Dan Club	Phillies	13	5-7	13

Dapper Dan Club	Pirates	14	5-7	13
Dapper Dan Club	Tigers	14	5-7	13

Request Information/Project Description

For each grant period, Pirates Charities will award a select number of grants in each of the following ranges (please select one)*

X_ $10,001 - $25,000 (1 per grant period)

___ $5,001 – $10,000 (5 per grant period)

___ $1,000 – $5,000 (15 per grant period)

Requested Matching Grant Amount $ 15,000.00

**please note: if your grant request is not approved at the requested level, your application may be considered for a lower grant level. Please indicate in question 6 whether you would be able to complete your project at a lower grant level*

Total Project Cost $ 29,356.00
Please enclose a detailed budget, and include bids for work to be done if possible.

Project Title:	Al Abrams Field Improvements			
City Project No.:	TBA			
Estimate Date:	3/1/2017			
			Estimate	
DESCRIPTION OF ITEM	UNITS	QTY.	UNIT PRICE	AMOUNT
Infield Altering	LS	1	$4,500.00	$4,500.00
Outfield Grading	LS	1	$6,500.00	$6,500.00
Placing Furnished Topsoil and Subsoil	SY	857	$6.00	$5,142.00
Seed and Mulching	SY	857	$2.00	$1,714.00
Electrial Service Upgrades	LS	1	$5,000.00	$5,000.00
Bull Pen Repairs	LS	1	$5,000.00	$5,000.00
Back Stop Mesh Replacement	LS	1	$1,500.00	$1,500.00
BID TOTAL				$29,356.00

Funding Request (Fields for Kids)	**$15,000.00**
Donations Raised By WCBC Radio	**$14,356.00**
Total Funding Requested	**$29,356.00**

1. **Project Description** – Briefly describe the baseball/softball field renovation/enhancement project. Will the Pirates Charities *Fields for Kids* grant be used for a specific purpose? (Up to one additional page may be attached.) What will the impact of a Fields for Kids grant be on your organization? Please note that you will be asked to address this impact in your follow up report.

Abrams Field, located on Leiper Street in the east side of Cumberland was named for Al Abrams. Al Abrams founded the Pittsburgh Dapper Dan in 1936 and chartered several clubs around the region, including Cumberland's Dapper Dan Club. Mr. Abrams provided assistance to the local chapters with their dinners, using his position as editor of the Pittsburgh Post-Gazette to attract sports figures and celebrities to the dinners.

Abrams Field is used by numerous area children who are participating in the Dapper Dan's teams, including the Minor (7-10 year olds), and Coach Pitch (5-7 year olds).

(1) Outfield Grading. Safety Concern Dirt would be required to be imported in to raise the grades to the desired elevations since we are basically sitting on bedrock. We do have prior knowledge of this when we installed the new field lights and had to hoe ram rock out of the electrical trenches.

(2) Infield Grading. Remove and repair rut from shortstop to midway down third base line. This is another safety concern.

(3) Overheating Electrical Box for Field Lighting. The last two years we have had sporadic times when the lights would all go out at the same time and take about 5 minutes to come back on. Not sure of the problem, but plan to investigate it this Spring. Keep in mind, the city did not perform any of the electrical work or provide any of the equipment, so their electrician would have no prior knowledge how the lights are set up. Limbach provided labor for the electrical work.

(4) Bullpen Repairs. This has always been a problem at Abrams. We have installed fencing but needs dressed up.

(5) Backstop Mesh Screen Replacement. We provided a mesh screen as a backdrop to help the fielders and pitcher see a batted ball. This also prevents coaches and other spectators from standing in the area behind the plate.

2. Has the project begun? _____ YES _X_ NO

If so, please report on the status of the project and when the project is scheduled to be completed.
If not, please provide a timeline.

3. If funding in addition to the matching grant is required, how will funds be raised? [On the enclosed budget, please indicate other sources of support as well as pending requests.]

In terms of the plan for obtaining the needed funds to complete the project, WCBC Radio, a Cumberland radio station and Pittsburgh Pirates affiliate, has pledged to lead a campaign to raise donations to complete the project. They are confident that their listeners will respond positively to the call for donations.

4. How long has your organization been raising funds for this project?

The City of Cumberland annually seeks funds to provide for improvements to municipal recreational areas in order to best serve the citizens, especially the area's youth. The needed improvements were identified this year by the Dapper Dan Club for Al Abrams field and funding sources for possible assistance were identified in early 2017.

5. When will all funds needed for this project be secured?

The funds should be secured for the project by May 1, 2017 although it is possible that they may be available prior to that date. If the funds are available after that date, the City of Cumberland is confident that the project can still be completed within one year.

6. What will the impact on the project be if a *Fields for Kids* grant is not provided? Please also indicate your plan for completing this project if a grant is approved at a lower level than your initial request.

At this time, the decrease in the City of Cumberland's tax base over the years has made it difficult to maintain the municipal recreational spaces to keep the playing surfaces to optimal conditions. Each year, the Parks and Recreation Department staff help to identify current needs and budget to assist those needs to the fullest extent possible. Since the municipal budget is not sufficient to carry out the improvements that have been identified for Abrams Field, City staff will work with partners such as WCBC radio and the Dapper Dan Club to bring awareness to the project and to identify individuals and entities who are able to donate funds, time, or equipment to complete the project.

Other Requirements

If a matching grant is approved, the applying organization must be willing to display a plaque/sign supplied by Pirates Charities at the renovated field recognizing the support of the Pirates Charities *Fields for Kids* program. Does your organization agree to do this? _X_ YES _____ NO

If a matching grant is approved, the applying organization must submit a final report, receipts and photos of the completed project once the project has been completed. Does your organization agree to do this?
_X_ YES _____ NO

The applying organization agrees that it will submit to Pirates Charities for its approval, prior to release or publication, any public releases or publications that reference Pirates Charities. Does your organization agree to do this? _X_ YES _____ NO

City of Cumberland
Organization

Signature

Jeffrey D. Rhodes, City Administrator
Printed Name

March 2, 2017
Date

Required Attachments

1. A detailed project budget showing projected income and expenses for this project;
2. The applicant organization's current operating budget;
3. Pictures of the field/area to be renovated—photos should be submitted electronically to FieldsForKids@pirates.com;
4. A list of Board of Directors or council members;
5. A list of other sources of support, including both monetary and in-kind and the associated dollar amount;
6. A copy of the 501(c)(3) IRS Determination letter, or, if organization is not a 501(c)(3) tax exempt organization, a copy of organization's form W-9 displaying EIN number.*

Please do not leave any questions unaddressed. If a question does not apply, please state the reason(s) why. Applications that are incomplete will be returned for completion, and may be re-submitted as a complete application.

**Grant funds cannot be released until organization furnishes documentation displaying organization's EIN number*

Completed applications should be submitted to:

Pirates Charities
c/o Pittsburgh Pirates
PNC Park at North Shore
115 Federal Street
Pittsburgh, PA 15212
(412) 325-4776

Regular Council Agenda
May 23, 2017

Description

Order authorizing the execution of a Grant Agreement with Pirates Charities to provide $10,000 in matching grant funds to support the Al Abrams Field Improvements Project through the Fields for Kids Matching Grant Program. Matching funds have been pledged to be donated to this project by WCBC Radio.

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 23, 2017__

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

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

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

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

1) 2006 TYMCO 435 / Isuzu Sweeper

   VIN No. JALE5816467902199

_____

Mayor Brian K. Grim

Regular Council Agenda
May 23, 2017

Description

Order declaring a 2006 TYMCO 435 / Isuzu Sweeper (Vin No. JALE5816467902199) to be surplus equipment and authorizing it for sale or trade-in

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 23, 2017_____**

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

THAT, the Mayor be and is hereby authorized to execute a Concession License Agreement by and between the Mayor and City Council of Cumberland and Christopher Reuschel for the exclusive operation of the Concession Area at the Constitution Park Pool for the Summer Season of 2017 in exchange for the sum of Eight Hundred Dollars ($ 800.00).

_____

Mayor Brian K. Grim

CONCESSION LICENSE AGREEMENT

THIS CONCESSION LICENSE AGREEMENT ("Agreement"), made this ___ day of _____, 2017 in duplicate by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND (the "City"),** a municipal corporation of the State of Maryland, party of the first part, and **CHRISTOPHER REUSCHEL (the "Licensee"),** of Allegany County Maryland, party of the second part,

WITNESSETH:

1. Grant of License. That for and in consideration for the sum hereinafter specified to be paid, the Mayor and City Council of Cumberland does hereby grant unto Licensee, the right and privilege to exclusively operate the Concession Area (the "Concession") on the second floor of the Casino Building in Constitution Park (the "Park") in the City of Cumberland, Maryland, and he shall have the privilege of selling in said Concession all articles of merchandise commonly sold at concession stands in public parks as well as the privilege of the operation of pinball machines, arcade-style games and similar devices authorized by the laws of the state of Maryland and the Ordinances of the City of Cumberland. Notwithstanding anything to the contrary herein, the Licensee shall not be permitted to sell or offer beers, wines or intoxicating beverages of any kind in the Park.

The City hereby agrees to provide the Concession for the use and benefit of the Licensee as a trade and concession stand, but the Licensee hereby agrees, at his own expense, to provide all furnishings and trade fixtures for the same. At the end of the term of this Agreement, the Licensee shall have a right to remove such part of said furnishings and trade fixtures as he may install in said Concession, except those which are so fixed as to be permanent additions to said buildings.

2. **Cleanliness.** Licensee shall be responsible to see that there will be a minimum amount of debris left in the Park as a result of the operation of said portable concession stands. He shall also be responsible for keeping the Concession in clean and sanitary condition throughout the term of this Agreement. At the conclusion of the term of this Agreement, the Licensee shall return the Concession to a "broom-clean" condition.

3. **Consideration.** In exchange for the license herein granted the Licensee shall pay the City the sum of Eight Hundred Dollars ($800.00) due by July 15, 2017 in consideration of the fact that the Constitution Park Pool will not be open for business until after Memorial Day weekend.

4. **Exclusivity.** Although the operation of the Concession shall be exclusive in the Licensee, nothing herein contained shall prevent the free distribution of any articles of any kind in said Park by any persons, associations or organizations, which may from time to time be granted permission to use the same.

5. **Laws and Regulations.** The rights herein granted shall be subject to the Ordinances of the Mayor and City Council of Cumberland, the Code of the City of Cumberland, its Charter, the rules and regulations of the City of Cumberland Department of Parks and Recreation (the "Department") and other applicable laws and regulation, and the business to be conducted under their terms of this Agreement shall at all times be conducted to conformity with the foregone. Notwithstanding the foregoing, the Department shall have the right to regulate advertising matter used in or upon any of the buildings in said park or advertising matter distributed throughout said Park.

No items vended by the Licensee shall be sold in excess of standard market prices. The Licensee shall close the Concession and the portable concession stands and cease to operate the

same as the said park shall officially closed by the Department unless the Department grants the Licensee permission in writing to operate at such times when the Park is officially close.

6. **Terms of Agreement.** It is specifically understood that the rights granted herein are granted as to the Summer Season of 2017, and said Summer Season being from June 1, 2017 until October 1, 2017, unless the Department shall decide to the contrary. The Mayor and City Council of Cumberland reserves the right to renew without bid to successful operators, the operation of the concession stand in future years.

7. **No Alterations.** The Licensee shall make no alterations to the Concession, the Casino Building, and shall at all times keep said premises clean, well stocked and open for business during the Summer Season when said park shall be officially declared to be open.

8. **Limitations on License.** The Licensee shall not engage in any commercial activities at the said Park other than those expressly authorized by the terms of this Agreement unless the Licensee is granted permission in writing by the Department prior to the engagement in the said activities. This is intended to include a prohibition against the showing of movies at said Park unless consent to do so is expressly obtained.

9. **Books and Records.** The Licensee agrees to maintain his books and records to accurately reflect the amount of business done by him under this Agreement during the terms hereof, and to permit and books and records to be inspected by the Director the Department of his designee, at reasonable times and places, and at the conclusion of the term hereof to furnish the Department with a financial statement reflecting the operation of his business at the Park during the term of this Agreement.

10. **Relationship between the Parties.** The relationship between the Mayor and City Council of Cumberland and the Licensee is that of an independent contractor and a contracting entity. Nothing herein contained shall be construed to give the Licensee any interest as an employee, joint venture or partner of or with the Mayor and City Council of Cumberland. During the term of this Agreement, the Licensee shall operate his business operation at the Park as an independent contractor and shall have full control of and shall be responsible for the operation of the same.

11. **Indemnification.** The Licensee will defend, indemnify and hold the City harmless from and against any and all claims, actions, damages, liability and expenses (including, but not limited to, reasonable attorneys' fees) in connection with the loss of life, bodily injury, or damage to property or business arising from, related to, or in connection with the conduct of the business operations which are the subject of this Agreement occasioned wholly or in part by any act or omission of the Licensee or any sub-licensee or its or their contractors, subcontractors, or its or their agents or employees. The Licensee's indemnification obligations as set forth in this section include, but are not limited to, the obligation to indemnity the City for its attorneys' fees, court costs and any litigation expenses it may incur. The provisions of this section shall survive the termination or earlier expiration of this Agreement.

12. **Insurance.** Throughout the term of this Agreement, the Licensee shall, at its expense, maintain (i) comprehensive general public liability insurance covering personal injury and property damage in the amount of One Hundred Thousand Dollars ($100,000.00) per occurrence and Three Hundred Thousand ($300,000.00) in the aggregate, and (ii) workers' compensation insurance in no less than the statutorily required minimum amounts. The Licensee shall furnish the City with Certificates of Insurance prior to or contemporaneously with the execution of this Agreement. Thereafter, the Licensee shall deliver Certificates of Renewal for each insurance

policy not less than 30 days in advance of the expiration date of the policy, bearing verification from the agent of the company issuing the Certificate that the premiums therefore have been paid in full. Each policy shall provide that it shall not be subject to cancellation, material change, or non-renewal without 30 days prior written notice to the City. Each policy shall name **"MAYOR AND CITY COUNCIL OF CUMBERLAND"** as an **additional insured**.

13. Miscellaneous

13.1 Remedies for Breach of Agreement. Notwithstanding any provisions in this Agreement to the contrary, the parties hereto reserve the right to seek any remedies available in equity or law upon a breach of the terms of this Agreement. In the event of a breach of the terms of this Agreement, the breaching party shall pay the reasonable attorney's fees, court costs and other expenses incurred by the non-breaching party as a result of the breach.

13.2 Severability. If any provision of this Agreement or the application thereof to any party or circumstance, is held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other parties or circumstances will not be affected thereby, and to this end, the provisions of this Agreement are declared severable.

13.3 Captions. The captions and titles to the paragraphs, sections and subsections of this Agreement are solely for the convenience of this Agreement and are not in aid of the interpretation of this Agreement, and to this end shall not limit, restrict or expand the provisions hereof.

13.4 Time is of the Essence. Time is of the essence tin this Agreement in each and all of its provisions.

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

13.6 **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Maryland, It shall be enforceable with an action commenced in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and the parties hereto agree to be subject to the jurisdiction of such Courts and further waive any claim that any action or proceeding arising out of or relating to this Agreement and commenced in such Courts in commenced in an inconvenient forum or one that lacks proper venue. This provision shall be construed to proscribe any action or remedy being brought or asserted by either party in any other forum located in any other jurisdiction unless the Circuit Court of Allegany County, Maryland or the District Court of Maryland for Allegany County determine that the action should be transferred to another jurisdiction.

13.7 **Waiver.** The waiver of or acquiescence by either party hereto to any terms or provision hereunder, or the failure of either party to insist upon strict compliance with any warranty, representation, agreement, term or condition in this Agreement, shall not constitute a waiver of any subsequent default or failure, whether similar of dissimilar.

13.8 **Definitions.** Whenever used in this Agreement, the singular shall include the plural; any gender shall include the other gender, and vice-versa.

13.9 **Entire Agreement.** This Agreement contains the final and entire agreement between the parties hereto with reference to the provisions hereof, and neither they nor their agents shall be bound by any terms, conditions or representations not contained herein.

13.10 **<u>Jury Trial</u>.** The parties waive their right to a jury trial in a proceeding brought by any party based upon or arising out of or as an incident to this Agreement.

WITNESS the hands and seals of the parties hereto the day and year first above written.

WITNESS/ATTEST:

MAYOR AND CITY COUNCIL
OF CUMBERLAND

_____ By:_____(Seal)
Marjorie A. Woodring, City Clerk Brian K. Grim , Mayor

_____ _____(Seal)
Witness Christopher Reuschel

Regular Council Agenda
May 23, 2017

Description

Order authorizing execution of a Concession License Agreement with Christopher Reuschel for the exclusive operation of the Concession Area at Constitution Park Pool for the 2017 Summer Season for the sum of $800.00

Approval, Acceptance / Recommendation

☐ Budgeted

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

Value of Award (if applicable)

Source of Funding (if applicable)

MARYLAND
DEPARTMENT OF
NATURAL RESOURCES

Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Mark Belton, Secretary
Joanne Throwe, Deputy Secretary

May 2, 2017

Ms. Kathy McKenney
City of Cumberland
57 North Liberty Street
Cumberland, Maryland 21502

Dear Ms. McKenney:

Thank you for submitting an application for the Community Parks and Playgrounds Program. Funding for the project below has been included in the FY 2018 Maryland Capital Budget. This project is funded with GO Bonds; therefore it must be approved by the Board of Public Works.

Project Title	Funds Pending BPW*
Cumberland and Allegany College Softball Field	$120,000

*these funds must be approved by the Maryland Board of Public Works

This Letter of Acknowledgement establishes the project start date but does not bind the State to reimburse the applicant for expenditures incurred on the project.

The Department of Natural Resources will forward your project to the Maryland Department of Planning for review. Once reviewed, the project will be placed on the Board of Public Works Agenda at the earliest possible date. The Department of Natural Resources will notify you as to the Board of Public Works' decision. If approved, you may submit periodic requests for reimbursement up to the total amount of funds approved by the Board of Public Works for the respective project.

It is a pleasure for the Department of Natural Resources to assist you with your Community Parks and Playgrounds project(s). I hope that our combined efforts will result in safe and convenient recreation opportunities for all to share and enjoy. For additional information about the Community Parks and Playgrounds Program, please go to www.dnr.maryland.gov/land/Pages/Program Open Space/cpp.aspx or contact your Program Administrator listed on the back page.

Sincerely,

Hilary Bell, Deputy Director
Land Acquisition and Planning

HB:mls
Attachment

John Braskey
john.braskey@maryland.gov
301-777-2030
Allegany and Garrett Counties

Margaret Lashar
margaret.lashar@maryland.gov
410-260-8427
Anne Arundel, Calvert, Charles, Howard, Montgomery, Prince George's and St. Mary's Counties

Carrie Lhotsky
carrie.lhotsky@maryland.gov
410-260-8409
Baltimore City, Baltimore, Caroline, Carroll, Cecil, Dorchester, Frederick, Harford, Kent, Queen Anne's, Somerset, Talbot, Washington, Wicomico & Worcester Counties

Regular Council Agenda
May 23, 2017

Description

Letter from MD Department of Natural Resources advising that the City's request for $120,000 in funding through the Community Parks and Playground Program to build the Cumberland and Allegany College Softball Field has been included in the FY18 Maryland Capital Budget, pending final approval by the MD Board of Public Works

Approval, Acceptance / Recommendation

☐ Budgeted

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

Value of Award (if applicable)

Source of Funding (if applicable)