



**JUNE 17, 2014**  
**CITY OF COLLEGE PARK**  
**COUNCIL CHAMBERS**

**7:00 P.M.**  
**CLOSED SESSION**  
**To Consult With Counsel On A Legal Matter**

**7:30 P.M.**  
**MAYOR AND COUNCIL MEETING**  
**AGENDA**

**(There Will Be A Closed Session At The End Of The Regular Meeting)**

**MEDITATION**

**PLEDGE OF ALLEGIANCE: Councilmember Kabir**

**ROLL CALL**

**MINUTES: Special Session on May 6, 2014; Public Hearing on Constant Yield Tax Rate on May 13, 2014; Public Hearing on Ordinance 14-O-02 on May 13, 2014; Regular Meeting of May 13, 2014; Public Hearing on Ordinance 14-O-03 on May 27, 2014; Regular Meeting on May 27, 2014.**

**ANNOUNCEMENTS**

**ACKNOWLEDGMENT OF DIGNITARIES**

**ACKNOWLEDGMENT OF NEWLY APPOINTED BOARD AND COMMITTEE MEMBERS:**

**AWARDS**

**PROCLAMATIONS**

**AMENDMENTS TO THE AGENDA**

**CITY MANAGER'S REPORT: Joe Nagro**

**STUDENT LIAISON'S REPORT**

**COMMENTS FROM THE AUDIENCE ON NON-AGENDA ITEMS**

**PRESENTATIONS**

## CONSENT AGENDA

- 14-G-63 Award of a three year contract for Auditing Services to SB & Company, LLC of Hunt Valley, MD in the amount of \$54,343 and authorization for the City Manager to execute an engagement agreement.
- 14-G-64 Motion to voice no objection to the transfer of a Class D, Beer and Wine License to Jimmy Louis Constantinou, President/Treasurer, Bruno Anthony Fabi, Jr., Mark Alexis Proctor, Assistant Secretary, for the use of Mamma Lucia's of College Park, Inc., t/a Mamma Lucia's, 4734 Cherry Hill Road, College Park, 20740, subject to the applicant entering into a new PUA with the City, and authorization for the City Manager to sign the PUA and send a letter to the BOLC stating the City's position.
- 14-R-13 Resolution to approve amendment to the City's Parking Violation Review Policy to require that the Parking Violation Review Officer reduce the fine for an invalid tag violation issued under §184-11(A) of the City Code to \$0, and that City staff withdraw a violation notice, under certain circumstances.
- 14-G-66 Approval of allocation of FY '15 POS funding in the amount of \$129,169.03 to the Hollywood Gateway Park project and creation of a new acquisition project for the expansion of Hollywood Gateway Park utilizing previous POS allocations for acquisition

Motion by:  
To: Adopt  
Second:  
Aye: \_\_\_\_\_  
Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

## ACTION ITEMS

- 14-R-12 Resolution of the Mayor and Council of the City of College Park to allow Chapter 127 Rent Stabilization to sunset on September 1, 2014
- 14-O-06 Introduction of Ordinance 14-O-06, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending City Code, Chapter 127 "Rent Stabilization", §127-13 "Expiration Date" To Extend The Effective Date Of The Rent Stabilization Law Through September 1, 2015.  
*(If introduced, the public hearing would be on July 15, 2014 at 7:00 p.m.)*
- 14-R-15 Resolution Of The Mayor And Council Of The City Of College Park To Amend The Declaration Of Covenants And Property Use Agreement Between The City And Toll Bros., Inc. To Require That The Rossburg Drive Right Of Way To Be Vacated By Vacation Petition V- 13008 Be Deeded To The City In The Event That The Project Authorized By Detailed Site Plan DSP-13025 Is Not Constructed

Motion by: Day  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

Motion by: Wojahn  
To: Introduce  
Second:

Motion by: Day  
To: Adopt  
Second:  
Aye: \_\_\_\_\_ Nay: \_\_\_\_\_  
Other: \_\_\_\_\_

14-R-14 Resolution Of The Mayor And Council Of The City Of College Park To Authorize The Permanent Closure And Vacation Of Rossburg Drive Subject To Certain Conditions

Motion by: Day  
To: Adopt  
Second:  
Aye: \_\_\_\_ Nay: \_\_\_\_  
Other: \_\_\_\_\_

14-G-67 Establishment of a temporary residential permit parking zone on Autoville Drive, Blackfoot Place and Cherokee Street (around Monument during construction) and limited three-hour parking on Erie

Motion by: Hew  
To: Adopt  
Second:  
Aye: \_\_\_\_ Nay: \_\_\_\_  
Other: \_\_\_\_\_

14-G-68 Approval of a letter to SHA regarding improvements to MD 430

Motion by: Brennan  
To: Adopt  
Second:  
Aye: \_\_\_\_ Nay: \_\_\_\_  
Other: \_\_\_\_\_

14-CR-01 Introduction of Charter Amendment Resolution 14-CR-01, a Charter Resolution Of The Mayor And Council Of The City Of College Park, Amending Article V "Charter Amendments", §C5-1, "Procedure For Petition" To Require Certain Information To Be Included On Referendum Petitions *(The Public Hearing Will Be Held August 12, 2014 at 7:15 p.m.)*

Motion by: Wojahn  
To: Introduce  
Second:

14-G-69 Appointment to Boards and Committees

Motion by:  
To: Adopt  
Second:  
Aye: \_\_\_\_ Nay: \_\_\_\_  
Other: \_\_\_\_\_

14-G-70 Approval of a cooperation agreement with the Prince George's County Department of Housing and Community Development for participation in the CDBG program for federal fiscal years 2015 – 2017.

Motion by:  
To: Adopt  
Second:  
Aye: \_\_\_\_ Nay: \_\_\_\_  
Other: \_\_\_\_\_

COUNCIL COMMENTS

COMMENTS FROM THE AUDIENCE

ADJOURN

**CLOSED SESSION**

To consider the acquisition of real property for a public purpose  
To consider the investment of public funds

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In accordance with the Americans With Disabilities Act, if you need special assistance, you may contact the City Clerk's Office at 240-487-3501 and describe the assistance that is necessary. This agenda is subject to change. For current information, please contact the City Clerk.

# MINUTES

**MINUTES**  
**Special Session of the College Park City Council**  
**Council Chambers**  
**Tuesday, May 6, 2014**  
**11:18 p.m.**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich, Day, Hew and Mitchell.

**ABSENT:** None.

**ALSO PRESENT:** Joseph Nagro, City Manager; Bill Gardiner, Assistant City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney.

During a regularly scheduled Worksession of the College Park City Council, a motion was made by Councilmember Brennan and seconded by Councilmember Day to approve a letter regarding the Comcast/Time Warner merger. The possibility of the Special Session was listed on the Worksession agenda. The motion passed 6 – 0 – 0 (Councilmembers Hew and Mitchell away) and the Council entered into a Special Session at 11:18 p.m.

**ACTION ITEMS**

**14-G-48 Approval of a letter to Comcast on the Comcast/Time Warner Transaction**

**A motion was made by Councilmember Dennis and seconded by Councilmember Wojahn to accept the College Park Cable Commission's recommendation that the City request further information from Comcast Cable, Inc., with respect to its Form 394 filing on the Comcast-Time Warner merger; that a letter to Comcast in substantially the form attached be sent to Comcast; and that the City Manager be authorized to sign the letter.**

Ms. Ferguson said the City is in the middle of renegotiating our franchise with Comcast and that the Cable Commission considered this item at their recent meeting. They recommend Council send this letter requesting more information on the Comcast Time Warner merger.

There were no comments from the audience or from Council.

**The motion passed 7 – 0 – 0 (Councilmember Mitchell away).**

**ADJOURN:**

A motion was made by Councilmember Dennis and seconded by Councilmember Day to adjourn the Special Session. With a vote of 7 – 0 – 0, Mayor Fellows adjourned the Special Session at 11:20 p.m.

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Janeen S. Miller, CMC  
City Clerk

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Date  
Approved

**MINUTES**  
**Public Hearing of the College Park City Council**  
**Tuesday, May 13, 2014**  
**7:00 p.m. – 7:07 p.m.**

**Constant Yield Tax Rate for FY 2015**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Hew and Mitchell.

**ABSENT:** Councilmembers Stullich and Day.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Steve Groh, Director of Finance; Leo Thomas, Deputy Finance Director; Robert Stumpff, Director of Public Works; Miriam Bader, Senior Planner.

Mayor Fellows opened the public hearing on the FY '15 Constant Yield Tax Rate at 7:00 p.m. Mr. Groh provided an overview. He explained that SDAT (State Department of Assessments and Taxation) does a calculation each year of what they determine our constant yield tax rate to be. If our current tax rate exceeds the rate calculated by SDAT we are required to hold this public hearing. Mr. Groh reviewed assumptions made by SDAT in preparing their calculation and pointed out several areas where he disagrees. Our rate is 4/10 of a percent higher than the constant yield rate which is why we are having this hearing. We are not proposing a property tax increase nor are we proposing a property tax decrease; we are proposing to keep our rate the same. Once this public hearing is held, the Council may set the City's tax rate.

Mayor Fellows invited public comment.

**Dave Dorsch, 4607 Calvert Road:** When would we ever lower our tax rate? If additional revenue comes in, would the City reduce our tax rate to the constant yield rate?

There being no further comment, Mayor Fellows closed the public hearing at 7:07 p.m.

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Janeen S. Miller, CMC  
City Clerk

Date Approved

**MINUTES**  
**Public Hearing of the College Park City Council**  
**Tuesday, May 13, 2014**  
**7:10 p.m. – 7:22 p.m.**

**Ordinance 14-O-02**  
**An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland**  
**To Adopt The Fiscal Year 2015 Operating And Capital Budget**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Hew and Mitchell.

**ABSENT:** Councilmembers Stullich and Day.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Steve Groh, Director of Finance; Leo Thomas, Deputy Finance Director; Robert Stumpff, Director of Public Works; Miriam Bader, Senior Planner.

Mayor Fellows opened the public hearing on the FY '15 Budget at 7:10 p.m. Mr. Groh provided an overview. The City Manager's requested budget was issued on March 30. This ordinance was introduced on April 22 and is the final result of budget Worksessions. The Summary of Changes between the City Manager's Requested Budget and this revised budget were outlined.

Mayor Fellows invited public comment.

**Dave Dorsch, 4607 Calvert Road:** The City's budget is up almost one-half million dollars from where it was last year. It wasn't too long ago that the budget was \$10M. Why do we have to increase our budget? We're not adding tens of thousands of people or square miles to the city. What are we doing that we have to keep adding to the budget. The city should come up with a budget that spends less.

**Elizabeth Turner, 4602 Hartwick Road:** She spoke in favor of the surveillance camera at the corner of Hartwick and Princeton. She has been the victim of vandalism and feels this is an important item in the budget.

**Oscar Gregory, 9253 Limestone Place:** The rapid development is bringing a lot of people into the City and his concern is how we can afford to handle the influx of people and traffic. He hears that people are going to ride their bikes but how will that work when we have snow or other inclement weather? We are giving away \$60,000 in tax credits next year for student housing. They are temporary folks - not residents like us - so why are we giving them a tax break? The residents will have to pay the bill. A lot of people are unhappy about what is going on.

There being no further comment, Mayor Fellows closed the public hearing at 7:22 p.m.

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Janeen S. Miller, CMC  
City Clerk

Date Approved

**MINUTES**  
**Regular Meeting of the College Park City Council**  
**Tuesday, May 13, 2014**  
**7:30 p.m. – 8:35 p.m.**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Stullich (arrived at 7:35 p.m.), Hew and Mitchell.

**ABSENT:** Councilmember Day

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Bob Stumpff, Director of Public Works; Terry Schum, Director of Planning; Miriam Bader, Senior Planner

Mayor Fellows opened the Regular Meeting at 7:30 p.m. Councilmember Kabir led the Pledge of Allegiance.

**Minutes:** A motion was made by Councilmember Dennis and seconded by Councilmember Mitchell to approve the minutes of the Special Session on April 15, 2014, Regular Meeting on April 22, 2014, and the confidential minutes of the Closed Sessions on February 25, March 11 and April 15, 2014. The motion passed 6-0-0.

**Announcements:**

Councilmember Kabir publicized the Hollywood Farmers Market which opens this Saturday.

Councilmember Wojahn discussed Bike To Work Day on Friday, and announced that the first planning meeting for College Park Day will be held on Tuesday.

Councilmember Brennan reviewed the Mother's Day 5K that was held in north College Park and thanked Mark Shroder for coordinating the event. He also stated that the Berwyn District Civic Association would meet on Thursday at 8 p.m. at Fealy Hall.

(Councilmember Stullich arrived.)

Councilmember Dennis revealed his plans to attend his Morgan State reunion.

Mayor Fellows plans to attend the Complete Streets Workshop in Greenbelt this week, and also commented on the Mother's Day 5K.

**Proclamations:** Mayor Fellows read the proclamation honoring Pastor Stephen Wright of the First Baptist Church for 15 years of service.

**Amendments to the Agenda:** None.

**City Manager's Report:** Mr. Nagro discussed last week's meeting with SHA, University of Maryland, City and County officials about pedestrian safety on US 1; a list of planned safety improvements is in the red folders. He also announced the upcoming graduation schedule and associated traffic impacts.

**Comments from the Audience on Non-Agenda Items:**

**Dave Dorsch, 4607 Calvert Road:** College Park Day would be a great time to present beautification awards. Has anything been done about the ground wires that are down around the City?

**John Krouse, 9709 53rd Avenue:** SHA has started the Greenbelt Metro highway ramp study and the City needs to be involved to represent and protect the interests of residents in north College Park.

**Christine Nagle:** Echoed Mr. Krouse's comments – it is very important for the City to be involved in this process because the project will have impacts on our community.

**Carl Patterson, CPHA Commissioner, resident of Attick Towers:** Brought greetings from the Housing Authority; thanked Councilmembers for attending the memorial service for Commissioner Helen Long; thanked Councilmember Brennan for his visit to Attick Towers.

**CONSENT AGENDA:**

A motion was made by Councilmember Wojahn and seconded by Councilmember Stullich to adopt the Consent Agenda, which consisted of the following:

- 14-R-08      **Resolution of the Mayor and Council of the City of College Park supporting Maryland Department of Housing and Community Development Neighborhood BusinessWorks Program financing to The Board and Brew.**
  
- 14-G-49      **Approval of the purchase of three replacement automobiles: One 2014 Ford Focus S Standard Sedan from Hertrich Fleet Services, Inc., Denton, MD at a cost of \$16,690.00 from the State of Maryland BPO 001B4400359, and two 2014 Honda Insight Hybrid Sedans from Criswell Honda, Germantown, MD at \$19,490.00 each from the State of Maryland BPO 001B440367, for a total cost for the three vehicles of \$55,670, which is funded in the FY '14 budget in CIP program number 925061.**

The motion passed 7 – 0 – 0.

**ACTION ITEMS**

- 14-G-50      **Motion to voice no objection to the application for a new Class B, Beer and Wine License for the use of Ben and Brian Games, LLC, t/a The Board and Brew, subject to the applicant entering into a Property Use Agreement with the City.**

**A motion was made by Councilmember Dennis and seconded by Councilmember Brennan to voice no objection to the application for a new Class B, Beer and Wine License for the use of Ben and Brian Games, LLC. t/a The Board and Brew, 8150 Baltimore Avenue, Suites F2 and G, College Park, Maryland 20740 subject to the applicant entering into a Property Use Agreement (PUA) with the City of College Park in substantially the form as attached, and to authorize the City Manager to sign the PUA, and staff to testify the City's position at the BOLC hearing.**

Councilmember Dennis said the application for a new Class B, Beer and Wine Alcoholic Beverage License has been submitted to the Board of License Commissioners and the hearing is scheduled for May 27, 2014. The business plan for The Board and Brew (providing space to play the board games they provide) is new to the City. The City Attorney and Director of Public Services met with the applicant to discuss a Property Use Agreement. An alcohol to food ratio of 25%/75% was determined to be acceptable to the licensee.

**Comments from the audience:**

**Brian McClimins, Applicant:** Thanked the Council for their support of both the loan application and the beer and wine license. He said this board game café is a new form of entertainment for the City and they want to make sure the environment they provide enriches College Park. He discussed their business plan and said they should open in about a month.

**The motion passed 7 – 0 – 0.**

**14-G-52 Approval of a letter to State Highway Administration on undergrounding utilities on US 1 between Paint Branch Parkway and Greenbelt Road**

**A motion was made by Councilmember Stullich and seconded by Councilmember Wojahn that the City Council approve a letter to the State Highway Administration (SHA) regarding the submission of an application for the reconstruction of US Route 1 under the Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program of the federal government and committing the City to pay for the design and bidding package for the undergrounding of utilities not to exceed \$300,000.**

Councilmember Stullich acknowledged Delegate Joseline Peña-Melnyk's efforts over the years to make the US Route 1 project a priority. It is currently in the design phase but is not yet funded for construction. The City supports the undergrounding of utilities on a portion of Route 1 as part of this project and can make a commitment to fund the design for undergrounding utilities in an amount not to exceed \$300,000 if a TIGER application is submitted. The City's interest in undergrounding utilities is not just for aesthetic reasons but can help spark revitalization. It is difficult to finance, and this TIGER application could help to make it happen. The City has support from the County. This motion does not commit the City to pay for the construction of underground utilities. The City will make a final determination after the design is completed and the TIGER application is prepared.

Amendments to the draft letter were reviewed.

**Comments from the audience:**

**Delegate Joseline Peña-Melnyk, 9011 Gettysburg Lane:** Speaking for the 21<sup>st</sup> Delegation. Every year they struggle to secure funding for this project and she doesn't want anything to happen that would hamper their efforts. It is important to proceed without any strings attached; this gives them leverage to obtain money for construction. They have secured \$28M to start Phase I. Any delay will allow other projects to jump ahead of US 1. This is an important issue for the District 21 delegation.

**Delegate Barbara Frush:** She agreed with Del. Peña-Melnyk. We need to move forward on this project or someone else will get our money – any delay will hurt our efforts.

There were no comments from the Council.

**The motion passed 7 – 0 – 0.**

**14-G-51 Support for Preliminary Plan of Subdivision 4-13020 for University Bible Fellowship Church subject to conditions.**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Wojahn that the City Council recommend approval of Preliminary Plan of Subdivision 4-13020 for University Bible Fellowship Church subject to the following conditions: Prior to the issuance of a Use and Occupancy permit: 1) Provide 10 inverted u-shaped bicycle racks (parking for 20 bicycles); 2) Eliminate the curb-cuts and driveways to the parsonage and chancery and provide sidewalk access from these structures to the parking lot; 3) Eliminate the existing southeastern parking space along the property frontage; 4) Extend the sidewalk (5-foot wide) along the entire frontage of the property. The applicant may use the fee-in-lieu paid for Metzertott Road improvements, if approved by the Prince George's County Department of Public Works and Transportation.**

Councilmember Mitchell said that the property is 2.34 acres and located at 3600-3604 Metzertott Road, outside the city limits. The proposal is to expand an existing 7,722-square-foot church with a 4,896-square-foot addition, and consolidate two existing lots into one lot. The addition will be located at the rear of the existing church. The purpose of the addition is to serve the existing members with a dining hall, offices and classrooms. The Planning Board hearing date is May 15, 2014.

There were no comments from the audience.

**The motion passed 7 – 0 – 0.**

**14-R-09 A Resolution Of The Mayor And Council Of The City Of College Park Setting Forth Our Commitment To Pursue Policy Goals Under The Healthy Eating Active Living (HEAL) Cities Campaign**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Dennis to adopt Resolution 14-R-09, A Resolution Of The Mayor And Council Of The City Of College Park, Maryland Setting Forth Our Commitment To Pursue Policy Goals Under The Healthy Eating Active Living Cities CAMPAIGN, which is an initiative of the Institute for Public Health Innovation in partnership with the Maryland Municipal League (MML).**

Councilmember Mitchell said that adopting this resolution will allow us to participate in the inaugural class of HEAL Cities and be recognized at the MML convention in June for our commitment to being a Healthy Eating and Active Living community. Specifically, it will help the City to develop a Complete Streets policy to ensure that our streets are safe for all users including pedestrians, bicycles and the handicapped, provide our residents access to more nutritious and sustainable food through community gardens and urban agriculture, promote the acceptance of Supplemental Nutrition Assistance Program/Electronic Benefits Transfer (SNAP/EBT) at our farmers markets, and establish a wellness policy to promote healthy living among our employees.

There were no comments from the audience or from the Council.

**The motion carried 7 – 0 – 0.**

**14-R-10 Resolution of the Mayor and Council of the City of College Park, Maryland Adopting Program Guidelines for the Commercial and Multi-Family Recycling Grant Program**

**A motion was made by Councilmember Stullich and seconded by Councilmember Brennan to adopt Resolution 14-R-10, A Resolution Of The Mayor And Council Of The City Of College Park Maryland Adopting Program Guidelines For The Commercial And Multi-Family Recycling Grant Program.**

Councilmember Stullich stated that the Council had previously authorized a program amount of \$25,000 for a business recycling grant because not all businesses in the community have recycling services. The grant program was developed to incentivize and support business recycling in a way that is flexible. It will be administered by City staff with the assistance of the Business Recycling Ad-Hoc Committee which includes some members of the Committee for a Better Environment and City Council. The City Council will make all grant awards.

There were no comments from the audience.

**The motion passed 7 – 0 – 0.**

**14-G-53 Appointments to Boards and Committees**

**A motion was made by Councilmember Stulich and seconded by Councilmember Mitchell to appoint Bob Catlin to the College Park Housing Authority and Douglas Shontz to the Neighborhood Stabilization Committee and to the Sustainable Maryland Certified Green Team. The motion passed 7 – 0 – 0.**

**COUNCIL COMMENTS:**

Councilmember Hew said the Committee for a Better Environment will have a consultant make a presentation on a permaculture garden for edible plants along the Trolley Trail at our June 3 Worksession.

Councilmember Wojahn asked for a future Worksession discussion with the University about the impact of the Big Ten. He saw an article that the University is planning to eliminate Lot 1 and is concerned about the impact that will have on parking in the City.

**ADJOURN: A motion was made by Councilmember Mitchell and seconded by Councilmember Hew to adjourn the meeting. With a vote of 7 – 0 – 0, Mayor Fellows adjourned the meeting at 8:35 p.m.**

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Janeen S. Miller, CMC  
City Clerk

Date  
Approved

**MINUTES**  
**Public Hearing of the College Park City Council**  
**Tuesday, May 27, 2014**

**7:15 P.M. - 14-O-03**

**An Ordinance of the Mayor and Council of the City Of College Park, Amending Chapter 87, "Building Construction" To Add §87-25, "Installation and Maintenance of Underground Utilities in City Rights Of Way" And Amending Chapter 110, "Fees and Penalties," §110-1 "Fees and Interests" To Include the Fees Imposed Under §87-25**

**PRESENT:** Mayor Fellows; Councilmembers Kabir (arrived at 7:21 p.m.), Wojahn, Brennan (arrived at 7:17 p.m.), Dennis, Day, Hew and Mitchell.

**ABSENT:** Councilmember Stulich.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney; Bob Stumpff, Director of Public Works; Steve Halpern, City Engineer.

Mayor Fellows opened the public hearing on Ordinance 14-O-03 at 7:15 p.m. Ms. Ferguson provided an overview: this was generated by an application for a permit to underground a utility in the City's right-of-way. It was the first time the City received a request for a permanent installation and we realized we did not have a permit system set up to address this type of request. We looked at the City of Rockville and Prince George's County undergrounding utility law as a basis for this ordinance.

Mayor Fellows invited public comment.

**LaTara Harris, Regional Director for External and Legislative Affairs for AT&T, 1120 20<sup>th</sup> Street, NW, #800, Washington, DC 20036** (she also provided written testimony): They are opposed to the ordinance as it is written. They want to increase investment in College Park so that everyone can have a robust alternative to technology based services. Under federal law, the City has a right to regulate rights-of-way and to require fair and reasonable compensation from telecommunications service providers on a competitively neutral and non-discriminatory basis. Exempting one class of competitors from an obligation that applies to others is inconsistent with this federal law. Why would College Park not want to welcome AT&T's investment to better serve our residents and others? They are open to reasonable fees but a discriminatory policy will discourage investment.

Councilmember Wojahn asked if we provide access to our rights-of-way to any utilities for free?

Ms. Ferguson said there are various utilities that have been under City rights-of-way for considerable periods of time. This is the first application we have had to do something new in the right-of-way and we want to take care of how it is handled. We don't adopt discriminatory laws. There are existing agreements and other requirements of law that apply to us regarding other utilities, such as the existing franchise agreements with Comcast and Verizon. This is designed to resolve the issue when new companies come in and request the permanent use of the right-of-way. This is a one-time fee to cover our administrative costs and obligations that their use of our right-of-way would require.

Ms. Harris clarified that the fee itself is not problematic; they are more concerned with the fiber optic piece.

Ms. Ferguson said the conduit portion is just an option that we offer because sometimes it is more valuable to the City to have the fiber optic provided.

There being no further comment, Mayor Fellows closed the public hearing at 7:25 p.m.

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Janeen S. Miller, CMC  
City Clerk

Date Approved

**MINUTES**  
**Regular Meeting of the College Park City Council**  
**Tuesday, May 27, 2014**  
**7:30 p.m. – 8:53 p.m.**

**PRESENT:** Mayor Fellows; Councilmembers Kabir, Wojahn, Brennan, Dennis, Day, Hew and Mitchell.

**ABSENT:** Councilmember Stullich.

**ALSO PRESENT:** Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney; Bob Ryan, Director of Public Services; Bob Stumpff, Director of Public Works; Terry Schum, Director of Planning; Steve Groh, Director of Finance; Steve Halpern, City Engineer; Peggy Higgins, Director of Youth, Family and Senior Services; Catherine McGrath, Student Liaison.

Mayor Fellows opened the Regular Meeting at 7:30 p.m. Councilmember Wojahn led the Pledge of Allegiance.

**Minutes:** None.

**Announcements:**

Councilmember Mitchell recognized the Veterans Memorial Improvement Committee for their good work on yesterday's Memorial Day Event.

Councilmember Day congratulated recent University of Maryland graduate, Simone Thomas, on her accomplishments.

Councilmember Wojahn said the College Park Community Foundation is holding a community meeting on Saturday, June 7 at 10:00 a.m. for non-profits in the City to discuss how the CPCF can serve them.

**Swearing in of Robert Catlin to the College Park Housing Authority:** Mayor Fellows administered the Oath of Office to Robert Catlin who was recently appointed to the CPHA and thanked him for once again serving the City of College Park.

**Amendments to the Agenda:** 14-G-62, free parking on Saturdays in the downtown parking garage, was added to the consent agenda (see City Manager's report).

**City Manager's Report:** Mr. Nagro reminded Council about the volunteer reception on Friday night, reminded everyone about the summer Council meeting schedule, and commented on the items in the red folders. Mr. Nagro asked Council if they wanted to authorize free Saturday parking in the downtown parking garage during the summer, the exact dates from Saturday May 31 through Saturday, August 23. Council agreed to add this item to tonight's consent agenda.

**Student Liaison's Report:** Ms. McGrath gave her final report as student liaison – students have left for the summer and the new SGA officers have been sworn in. She is serving as the SGA's VP of Student Affairs next year. Mayor Fellows presented Ms. McGrath with a plaque and a check and thanked her for her service.

**Comments from the Audience on Non-Agenda Items:**

**James Astrue, 4800 College Avenue:** He presented a petition to the Mayor and Council requesting removal of the "No Turn On Red" signs at the intersection of College and US 1. Staff accepted the petition and will forward it to the State Highway Administration who have control of that intersection.

**Presentations:** Mayor Fellows presented certificates to the outstanding essayists in the Maryland Municipal League's "If I Were Mayor, I Would..." essay contest:

Al Huda School:	Mohammed Abdul Mujeeb
Berwyn Christian School:	Reza Abediyeh
Friends Community School:	Mia Ivatury
Hollywood Elementary School:	Sheila McGee
Holy Redeemer School:	Allison Keen
Paint Branch Elementary School:	Juan Perez

The students read their winning essays and pictures were taken.

**CONSENT AGENDA:**

**A motion was made by Councilmember Day and seconded by Councilmember Mitchell to adopt the Consent Agenda, which consisted of the following:**

- 14-G-54 Approval of an exclusive contract with Legal Resources, Inc.**
- 14-R-11 Resolution Of The Mayor And Council Of The City Of College Park, Maryland Adopting The Recommendations Of The Advisory Planning Commission Regarding Variance Application Number CPV-2014-01, 8805 Patricia Court, College Park, Maryland, Recommending Approval Of A Variance From Section 27-120.01 (C) Of The Prince George's County Zoning Ordinance, "Front Yards Of Dwellings," To Expand A Driveway In The Front Yard By Adding An Additional 4 Feet In Width And 17 Feet In Length**
- 14-G-55 Approval of an I-Net- ICBN Agreement for use of Fiber Optic Cable**
- 14-G-56 Authorization for the City to create an inter-departmental task force to draft the framework for a City sustainability plan and to identify resources that will assist in this effort.**
- 14-G-62 Authorization for free Saturday parking in the downtown parking garage from May 31 through August 23.**

**The motion passed 7 – 0 – 0.**

## **ACTION ITEMS**

### **14-O-02 Adoption of 14-O-02, an Ordinance of the Mayor and Council of the City of College Park, Maryland to Adopt the Fiscal Year 2015 Operating and Capital Budget of the City of College Park, Maryland**

**A motion was made by Councilmember Mitchell and seconded by Councilmember Wojahn to adopt Ordinance 14-O-02, An Ordinance of the Mayor and Council of the City of College Park, Maryland to Adopt the Fiscal Year 2015 Operating and Capital Budget of the City of College Park, Maryland.**

Councilmember Mitchell commented that the budget Ordinance was introduced on April 22nd and a public hearing was held on May 13th. The Ordinance reflects the combination of the FY 2015 City Manager's requested budget and budget changes made by Mayor and Council during budget Worksessions. Total General Fund revenues of \$15,094,904 include operating revenues of \$14,707,087, an interfund transfer from the Parking Debt Service Fund of \$314,815, and use of unassigned reserve of \$73,002. Total General Fund expenditures are \$15,094,904. In the Parking Debt Service Fund, total revenues are \$250,000 and total expenditures are \$314,815. There will be no change in property tax rates, fines or fees. The tax rates for real and personal property tax will be set at 33.5 and 83.8 cents per \$100 of assessed valuation, respectively. The total 5-year Capital Improvement Program is \$35,118,764. By adoption of this Ordinance, the FY 2015 Pavement Management Plan and Pay Plan are hereby adopted. Also, by adoption of this Ordinance, the City includes its employees in the Employees' Pension System of the State of Maryland as of July 1, 2014 and authorizes payment of retirement benefits into the said pension system, and further authorizes payment for eligibility service and creditable service in the said pension system equal to 60% of an eligible employee's period of employment with the City prior to July 1, 2014, on the terms and conditions set forth in State law. The budget ordinance will be effective July 1, 2014.

Due to the earlier public hearing, there were no comments from the audience.

Councilmember Kabir said the good news is there is no increase in taxes, fines or fees in the FY '15 budget. However, the City's reserve fund is decreasing. In FY '12 it was 40%, in FY '13 it was 30%, and for FY '15 it is 22%. The recommended level is 25%. We need to be careful and keep this in mind as we make decisions in coming months.

**The motion passed 7 – 0 – 0.**

**14-O-03 Adoption of 14-O-03, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending Chapter 87, "Building Construction" To Add §87-25, "Installation And Maintenance Of Underground Utilities In City Rights Of Way" And Amending Chapter 110, "Fees And Penalties", §110-1 "Fees And Interests" To Include The Fees Imposed Under §87-25**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to adopt 14-O-03, An Ordinance Of The Mayor And Council Of The City Of College Park, Amending Chapter 87, "Building Construction" To Add §87-25, "Installation And Maintenance Of Underground Utilities In City Rights Of Way" And Amending Chapter 110, "Fees And Penalties", §110-1 "Fees And Interests" To Include The Fees Imposed Under §87-25**

Councilmember Wojahn said this is a sensible approach to dealing with the issue of companies using the City's rights-of-way and for a reasonable cost.

**The motion passed 7 – 0 – 0.**

**14-G-57 Approval of a letter to the Prince George's County Planning Board with the City's comments and recommendations on the Preliminary College Park-Riverdale Park Transit District Development Plan.**

**A motion was made by Councilmember Day and seconded by Councilmember Mitchell to approve a letter with the City's comments and recommendations on the Preliminary College Park-Riverdale Park Transit District Development Plan.**

Councilmember Day commented that the process for updating the 1997 College Park-Riverdale Park TDDP began last May and involved several community workshops and a series of stakeholder group meetings. The Planning Board hearing will be followed by a District Council public hearing in September with final approval of the plan in October 2014. The vision for the metro area is for a transformation from an auto and suburban-oriented office and industrial area into a vibrant, walkable, mixed-use center. It includes a new residential neighborhood and a revitalized M Square Research Park that capitalizes on public transit, existing recreational amenities, historic features and affiliation with the University. The City supports this vision, in general, but has several recommendations for improving the plan that are contained in the letter. He concluded that he wished we were on the same page with our partners.

**Comments from the audience:**

**Carlo Colella, UMD Vice President for Finance and Administration:** This has been a hasty process and they did not have time to work more closely with the City on the draft letter. There are many good aspects of the plan, but some items of concern. He outlined the University's concerns about the City's position in several areas and said a formal letter with the University's comments will follow. The University is opposed to a blanket requirement in the TDDP that would prohibit an extension of a DSP. They would like to see alternatives studied for floodplain

mitigation storage. They are opposed to lowering parking ratios prematurely before the Purple Line is operational. It is wonderful to have more parkland but they are trying to encourage development.

The differences between the City's comments and Mr. Colella's comments were noted and there was discussion about whether the City would change their recommendations based on hearing Mr. Colella's comments tonight. Ms. Schum said the City is familiar with the University's comments and that this letter is based on the staff recommendations that were discussed at last week's Worksession. Councilmember Brennan supports staff recommendations and understands that the University will also have an opportunity to comment and that it is ultimately for the Planning Board to decide these matters. He said it is not a bad thing if some of our comments conflict and that all the comments in the letter are constructive. The desire for collaboration in the future was discussed.

**The motion passed 7 – 0 – 0.**

**14-G-58 Approval of an Award of Contract to Charles P. Johnson and Associates, Inc. in an amount not to exceed \$45,000 for engineering services – Duvall Field Concession/Restroom Building.**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Kabir to authorize the award of a contract to Charles P. Johnson and Associates in the not to exceed amount of \$45,000.00, to provide civil engineering services for a prefabricated concession/restroom building and plaza area at Duvall Field, and to approve a contract with Charles P. Johnson and Associates in substantially the form provided. The City Manager is authorized to sign the contract.**

Councilmember Wojahn said this project has been in the works since before he joined the Council and we can finally move forward with a small piece of the Duvall Field renovations. The Boys and Girls Club was awarded a \$75,000 matching grant from the State of Maryland for the renovation of the entire Duvall Field complex, including the concession building. These state funds will expire on June 1, 2014 unless the grant funds have been encumbered. City staff has located a company, Romtec, Inc., which pre-engineers and builds restroom/concession buildings. Certain engineering work is required to prepare plans to obtain a building permit to install the building manufactured by Romtec, Inc. Charles P. Johnson is already under contract with the City, however, not for these engineering services. The contract must be approved by a six members of the Council as a sole source award. Approval of this contract is necessary to encumber the funds prior to the deadline.

There were no comments from the audience or from the Council.

**The motion passed 7 – 0 – 0.**

**14-G-59 Approval of an Award of Contract to Romtec, Inc. in an amount not to exceed \$115,000 for supply, design and shipping of the Duvall Field Concession/Restroom Building.**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Day to authorize the award of a contract to Romtec, Inc., in the not to exceed amount of \$115,000.00, for the supply, design and shipping of the Duvall Field Concession/Restroom Building, with related plans and documents, and to approve a contract with Romtec, Inc., in substantially the form provided. The City Manager is authorized to sign the contract.**

Councilmember Wojahn noted that the Boys and Girls Club was awarded a \$75,000 matching grant from the State of Maryland that we need to encumber by June 1, 2014 or the funds will expire. City staff has located a company, Romtec, Inc., a pre-approved General Services Administration contractor, and so the City can ride this contract without being required to go out to bid under the City Code. The scope of work for the contract is to design, supply and deliver the restroom/concession building, including required concrete footings, foundation and slab, and related plans and documents. The building will be installed by a separate contractor. As a result, this contract is conditioned upon sufficient funding, and work will not begin until a notice to proceed is issued by the City. Approval of this contract is necessary to encumber the funds prior to the deadline.

There were no comments from the audience.

Ms. Ferguson said the scope of work was clarified over the weekend. Romtec will not provide the footings or the concrete slab, but will provide the design for those elements. There are still small items unresolved in section 4.7 about who would pay for the return of the building; the Attorney requested leeway from the Council to continue negotiations on the issue in 4.7. The Council concurred and the motion was further clarified to give Legal Counsel leeway to continue negotiations on item 4.7.

Councilmember Wojahn asked about the use of wood. Ms. Ferguson said that was discussed with Romtec but is not in this agreement because that would be a change-order to the contract that would increase the cost. Staff will return with an information report to Council, then if Council desires to pursue that option in the future, they can do so by motion.

**The motion passed 7 – 0 – 0.**

**14-G-60 Adoption of FY 2015 Action Plan (of the 2010 – 2015 Strategic Plan)**  
**A motion was made by Councilmember Mitchell and seconded by Councilmember Wojahn to adopt the FY 2015 Action Plan in accordance with the goals of the 2010-2015 Strategic Plan.**

Councilmember Mitchell said that the annual action plan encourages us to identify what we can accomplish in a year to reach our long term goals. The Council has reviewed the updates to the FY 2014 Action Plan, and has reviewed a prior draft of the proposed FY 2015 Action Plan. The

plan before Council has been modified to reflect Council input. This is the final action plan of the 2010 – 2015 Strategic Plan. Council intends to initiate a new strategic planning process this Fall.

There were no comments from the audience or from the Council.

**The motion passed 7 – 0 – 0.**

**14-O-04 Introduction of 14-O-04, an Ordinance of the Mayor and Council of the City of College Park Adding Chapter 71 “Human Rights” to Prohibit Discrimination Based On Age, Race, Color, Creed, Pregnancy, Religion, National Origin, Ancestry, Disability, Marital Status, Sex, Sexual Orientation, Gender Identity Or Physical Characteristic and to Extend this Protection to Employment, Housing and Real Estate Transactions and Public Accommodations.**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Day to introduce Ordinance 14-O-04, an Ordinance of the Mayor and Council of the City of College Park Adding Chapter 71 “Human Rights” to Prohibit Discrimination Based On Age, Race, Color, Creed, Pregnancy, Religion, National Origin, Ancestry, Disability, Marital Status, Sex, Sexual Orientation, Gender Identity Or Physical Characteristic and to Extend this Protection to Employment, Housing and Real Estate Transactions and Public Accommodations.**

Mayor Fellows announced that the Public Hearing is scheduled for Tuesday, July 15 at 7:00 p.m.

**14-O-05 Introduction Of 14-O-05, an Ordinance of the Mayor and Council of the City of College Park, Amending Chapter 69, “Purchasing Procedures” By Adding Section 69-6, “Equal Benefits” And Section 69-7 “Non-Discrimination By City Contractors” To Require That Contractors Seeking City Contracts Provide Equal Benefits To Employees and Their Dependents and that City Contractors Not Discriminate In Employment.**

**A motion was made by Councilmember Wojahn and seconded by Councilmember Dennis to introduce Ordinance 14-O-05, an Ordinance of the Mayor and Council of the City of College Park, Amending Chapter 69, “Purchasing Procedures” By Adding Section 69-6, “Equal Benefits” And Section 69-7 “Non-Discrimination By City Contractors” To Require That Contractors Seeking City Contracts Provide Equal Benefits To Employees and Their Dependents and that City Contractors Not Discriminate In Employment.**

Mayor Fellows announced that the Public hearing is scheduled for Tuesday, July 15 at 7:15 p.m.

**14-G-61 Appointment to Boards and Committees**

**A motion was made by Councilmember Day and seconded by Councilmember Mitchell to reappoint John Moore to the College Park Housing Authority, Peggy Wilson to the Education Advisory Committee, Aaron Springer to the Neighborhood Watch Steering Committee, Barbara Pianowski to the Recreation Board, and Bobbie Solomon to the Noise Control Board. The motion passed 7 – 0 – 0.**

**COUNCIL COMMENTS:**

Councilmember Mitchell congratulated the UMD Women’s Lacrosse Team on their win.

Councilmember Hew announced the Tree ReLeaf grant program launch event. The CBE is having another meeting on bulk purchase of solar panels.

Councilmember Wojahn requested a future Worksession discussion on the future of the City’s CERT program. He also wants to take another look at the City’s Emergency Response Plan, and to invite representatives from the County’s and University’s emergency response departments for that discussion so we can be fully prepared.

Councilmember Kabir asked the status of getting read-only access to Comcate reports. He also announced a community meeting for residents of Hollywood Road on the west side of 51<sup>st</sup> place to explore the possibility of having sidewalks on Monday June 2 at the College Park Church of the Nazarene.

Mayor Fellows announced he would be away for next week’s meeting. Mayor Pro Tem Denise Mitchell will be attending the ITGA conference next week, so Mayor Fellows will appoint another Councilmember to preside.

**ADJOURN:** The meeting was adjourned at 8:53 p.m.

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Janeen S. Miller, CMC  
City Clerk

Date  
Approved

14-G-63

## MEMORANDUM

**TO:** Mayor & Council  
**THROUGH:** Joseph L. Nagro, City Manager   
**FROM:** Stephen Groh, Director of Finance   
**DATE:** May 23, 2014  
**SUBJECT:** Award of a 3-year Contract for Auditing Services to SB & Company, LLC of Hunt Valley, Maryland in the amount of \$54,343 and Authorization for the City Manager to Execute an Engagement Agreement (Proposed Consent Agenda)

### SUMMARY

The City's previous auditing services contract with Barbacane, Thornton & Company LLP expired with the completion of the audit work and issuance of financial statements for fiscal year 2013, the optional 4th year of their contract. The City Charter requires mandatory auditor rotation on four-year cycles. As a result, we need to contract with an auditing firm other than Barbacane, Thornton & Company LLP for a new 3-year contract (fiscal years 2014, 2015 and 2016), with an option for a fourth year (fiscal year 2017).

Staff issued Request for Proposals CP-14-05 on May 1, 2014, which was posted on eMaryland Marketplace (who sent notification to 264 firms registered on this State site for the category "auditing services") and the City's website. Bids were due on May 22, 2014. The RFP required that each submittal include 2 separate sealed envelopes, one containing the technical proposal and the second containing the cost bid.

The Government Finance Officers Association ("GFOA") has issued a "Model Audit RFP" which we used as the basis for the City's RFP. Modifications to the model reflect the funds, staffing and computer hardware and software unique to the City of College Park. In addition, the RFP provided that the RFP and submitted proposal be included, by reference, in the engagement agreement with the firm.

The responses were evaluated based on a model developed by the Maryland Department of Fiscal Services and used previously by the City. Technical proposals were scored based on their responsiveness to the RFP, including their record of audits of other Maryland municipalities of similar size to College Park, counties and other governmental units, their staffing commitment to the City's audit and other factors. Firms scoring 80 or higher were deemed to be "technically qualified". Following the technical evaluation, the sealed cost bids were opened for those firms passing the technical evaluation. The RFP specified that the cost bids would be evaluated based on the "Total All-Inclusive Maximum Price for 3 years". The total price for each year includes the certified audit, CAFR review, single audit (if required), travel and other incidental expenses. Although we may not need a single audit to be performed each year (as the threshold for expenditure of Federal grant funds during the fiscal year is \$500,000), this was included in the RFP for consistency purposes.

Five firms submitted responses by the deadline specified. Leo Thomas and I reviewed the responses based on the scoring guidelines and completed an evaluation form for each firm. Two firms (Toski & Co., CPAs, PC of Williamsville, New York and Murphy & Murphy, CPA, LLC of Clinton, Maryland) were eliminated during the technical evaluation as they did not achieve a score of 80. The remaining three firms submitting a proposal scored at least 80 on the technical evaluation. The firms are listed below, with their first year price, total three-year price and their price for the optional fourth year. Each of these prices includes the CAFR review (ranging in cost from “included in regular audit” to \$2,400) and single audit (ranging in cost from \$2,332 to \$3,740).

<i>Firm</i>	<i>Office Location</i>	<i>FY 2014 Price</i>	<i>Total Price for 3 years</i>	<i>Option for 4th year</i>
SB & Company, LLC	Hunt Valley, MD	\$ 17,582	\$ 54,343	\$ 18,652
Lindsey + Associates, LLC	Towson, MD	18,740	57,872	20,640
Weyrich, Cronin & Sorra, Chartered	Lutherville, MD	19,550	60,350	21,250

## RECOMMENDATION

SB & Company, LLC, a Hunt Valley, Maryland CPA firm with 5 partners, 3 principles, senior managers, managers, seniors and approximately 90 staff, submitted the lowest bid. The firm has multi-year auditing contracts with the State of Maryland, and the towns of Hagerstown, Ocean City and New Windsor. They audited the City of College Park for fiscal years 2006-2009. They have audited numerous school districts, community colleges, counties, municipalities and townships in Maryland and Pennsylvania as well as the WSSC. The firm is one of the largest certified Minority Business Enterprise firms in the U.S. Current clients have given them good recommendations, and we were satisfied with the quality and timeliness of their work for College Park. Partners and staff of the firm are active in programs sponsored by the American Institute of CPAs (“AICPA”), GFOA and state and local chapters.

Based on their lowest “Total All-Inclusive Maximum Price for 3 years”, I recommend that the Mayor & Council award a three-year contract to SB & Company, LLC of Hunt Valley, Maryland for their 3-year all-inclusive price of \$54,343 with an option, exercisable by the City, for a fourth year for \$18,652. The totals by year are \$17,582 for FY2014, \$18,109 for FY2015 and \$18,652 for FY2016. The single audit cost of \$2,332 (if required) is included in each year’s price.

The FY2014 total fee of \$17,582 is less than the \$20,000 budgeted in the adopted FY2015 budget for the regular audit and single audit (which had been increased from \$17,810 in FY2014 to cover an anticipated increase in auditing costs under the new contract).

It is also requested that the Mayor & Council authorize the City Manager to execute an engagement agreement with SB & Company, LLC in a form satisfactory to the City Attorney. The proposed agreement, previously reviewed by the City Attorney, is attached.

## ENGAGEMENT AGREEMENT FOR AUDITING SERVICES

THIS AGREEMENT is entered into this \_\_\_\_\_ day of June, 2014, by the CITY OF COLLEGE PARK, MARYLAND (“City”), a municipal corporation of the State of Maryland, and SB & COMPANY, LLC (“Auditors”), with offices located at 200 International Circle, Suite 5500, Hunt Valley, Maryland 21030.

In consideration of the mutual covenants and obligations contained herein, the sufficiency of which is hereby acknowledged, the City and the Auditors hereby agree as follows:

1. Services Provided: The Auditors shall provide the following services for the City (“the Services”):

A. Conduct the annual audit for the fiscal years ending June 30, 2014, June 30, 2015, and June 30, 2016 and, at the City’s option, ending June 30, 2017, in accordance with generally accepted auditing standards, as prescribed by the American Institute of Certified Public Accountants, the standards set forth for financial audits in the General Accounting Office’s (GAO) *Government Auditing Standards* (1994), the provisions of the federal Single Audit Act of 1984 (as amended in 1996), U. S. Office of Management and Budget (OMB) Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations* and *Audit Guidelines* of the State of Maryland, plus any amendments or revisions thereto. The audit will include such tests of the accounting records and any other procedures that are considered necessary in the circumstances and shall be provided to the Mayor and Council of the City.

B. Reports to be issued by the Auditors to the Mayor and Council of the City:

1. The Auditors shall express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification must be stated.

2. If grant funds received by the City are sufficient to require compliance with the single audit act, the Auditors shall prepare for the Mayor and Council of the City:

a. A report on the internal control structure based on the Auditors' understanding of the control structure and assessment of control risk.

b. A report on compliance with applicable laws and regulations.

c. An "in-relation-to" report on the schedule of federal financial assistance.

d. A report on the internal control structure used in administering federal financial assistance programs.

e. A report on compliance with laws and regulations related to major and nonmajor federal financial assistance programs. This report should include an opinion on compliance with specific requirements applicable to major federal financial assistance programs, a report on compliance with general requirements applicable to major federal financial assistance programs, and a report on compliance with laws and regulations applicable to non-major federal financial assistance program transactions tested.

f. In the required report(s) on internal controls, the Auditors shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

(1) Reportable conditions that are also material weaknesses shall be identified as such in the report.

(2) Nonreportable conditions discovered by the Auditors shall be reported in a separate letter to management, which shall be referred to in the report(s) on internal controls.

g. The reports on compliance shall include all instances of non-compliance.

3. In the event that the City is not subject to the compliance requirements of the single audit act for a particular fiscal year, the Auditors shall issue a management letter and/or report on internal control to the Mayor and Council of the City.

4. The Auditors shall be required to make an immediate, written report of all irregularities and illegal acts, or indications of illegal acts, of which they become aware to the following parties:

- a. Mayor and Council, City of College Park
- b. City Manager
- c. City Attorney
- d. Director of Finance

5. The Auditors shall assure themselves that the Director of Finance is informed of each of the following:

- a. The Auditors' responsibility under general accepted auditing standards
- b. Significant accounting policies
- c. Management judgments and accounting estimates
- d. Significant audit adjustments
- e. Other information in documents containing audited financial statements
- f. Disagreements with management
- g. Management consultation with other accountants
- h. Major issues discussed with management prior to retention
- i. Difficulties encountered in performing the audit

6. The Auditors will not be required to prepare the State of Maryland Uniform Financial Report ("UFR") for filing with the Department of Legislative Services, as it will be prepared by City staff.

C. Working paper retention and access to working papers:

1. All working papers and reports must be retained, at the Auditors' expense, for a minimum of three (3) years, unless the firm is notified in writing by the City of the need to extend the retention period. The Auditors will be required to make working papers available, upon request, to the following parties or their designees:

- a. City of College Park, Maryland

- b. U. S. General Accounting Office (“GAO”)
- c. Parties designated by the federal, state or county governments or by the City as part of an audit quality review process
- d. Auditors of entities of which the City is a sub-recipient of grant funds

2. In addition, the Auditors shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance, in accordance with professional standards.

D. The Auditors shall render a report (management letter) to the City Council which will include any recommendations for improving the accounting operations of the City. This report will include an opinion on the system of internal accounting control.

E. The Auditors shall review the City’s Comprehensive Annual Financial Report for compliance with the “Certificate of Achievement for Excellence in Financial Reporting” guidelines of the Government Finance Officers Association of the United States and Canada.

2. Contract Documents: The Services are additionally subject to the contract documents listed below which are attached hereto as Appendix “A” and incorporated herein by reference:

- (1) Request for Proposals CP-14-05, issued May 1, 2014 X
- (2) General Conditions X
- (3) Specifications X
- (4) Auditors’ Technical Proposal, dated May 22, 2014 X
- (5) Auditors’ Cost Proposal, dated May 22, 2014 X

It is understood by the parties hereto that time is of the essence in the completion of this contract. The annual audit for each fiscal year covered by this Agreement shall be completed with all required reports issued by October 31 following the end of the fiscal year in question, except for the audit for fiscal year ending 2015, which shall be completed with audited financial

statements issued by October 23, 2015 due to the upcoming municipal election. Auditors hereby agrees to furnish any and all equipment needed to perform the Services.

3. Additional Services: Auditors will be available for consultations throughout the fiscal years 2014 through 2016, and if so determined by the City, through 2017, at its “Quoted Hourly Rate” as per Auditors’ “Cost Proposal” on an as-needed basis to assist the City. The hourly rate schedule for such Services is included in the Auditor’s Cost Proposal, attached as part of Appendix A, and shall not be increased during the term of this Agreement or the extension thereof. Such consultations may only be initiated by the City Manager, Director of Finance or Deputy Director of Finance in writing and the requesting individual shall request an approximation of the expected cost of each such consultation in advance.

4. Term: The Agreement shall be in effect through the fiscal year ending June 30, 2016. Thereafter, the City shall have the option of extending the Agreement for one (1) additional year on the same terms and conditions as set out herein.

5. Fees: The City hereby agrees to pay the Auditors a total fee for all Services called for under this Agreement not to exceed SEVENTEEN THOUSAND FIVE HUNDRED EIGHTY-TWO AND 00/100 Dollars (\$ 17,582.00) for the fiscal year ended June 30, 2014; EIGHTEEN THOUSAND ONE HUNDRED NINE AND 00/100 Dollars (\$ 18,109.00) for the fiscal year ending June 30, 2015, and EIGHTEEN THOUSAND SIX HUNDRED FIFTY-TWO AND 00/100 Dollars (\$ 18,652.00) for the year ending June 30, 2016. At the City’s option, the total fee for all Services called for under this Agreement shall not exceed EIGHTEEN THOUSAND SIX HUNDRED FIFTY-TWO AND 00/100 Dollars (\$ 18,652.00) for the fiscal year ending June 30, 2017. In the event that a single audit review is not required in any given year, the total fee for that fiscal year shall be reduced by TWO THOUSAND THREE HUNDRED THIRTY-

TWO AND 00/100 Dollars (\$ 2,332.00). Invoices for fees will be rendered no more frequently than monthly as work progresses.

6. Binding Effect of Agreement: This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

7. Other Payments, Taxes, Expenses: Except as may be specifically agreed upon by the parties in writing, the Auditors shall be entitled to no fee, bonuses, contingent payments, or any other amount in connection with the Services to be rendered hereunder. The parties hereto further agree that the City shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of the Auditors in connection with the performance of its obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees. The Auditors covenant to maintain all applicable professional liability and workers compensation insurance in such amounts and form as are determined from time to time to be appropriate. The Auditors further agree to provide evidence of such insurance to the City, and have the City named as an additional insured on said policies.

It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Auditors are independent contractors of the City and are therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated tax payments, or any other fees, taxes or expenses whatsoever. In the event that the Auditors are deemed not to be an independent contractor by any local, state or federal agency, the Auditors agrees to indemnify and hold harmless the City for any and all fees, costs and expenses, including but not limited to, attorneys' fees, incurred hereby.

8. Insurance:

A. Workers' Compensation. Auditors shall comply with the requirements and benefits established by the State of Maryland for the provision of workers compensation insurance. By submission of a Proposal, Auditors hereby certify that they are in compliance with applicable requirements.

B. Liability. During the entire term of this Agreement, Auditors shall maintain the following insurance coverage: comprehensive general liability insurance and professional errors and omissions insurance with limits of not less than those set forth below. By submission of a Proposal, Auditors hereby certify that they are in compliance with applicable requirements.

1. Comprehensive General Liability Insurance

(a) Personal injury liability insurance with a limit of \$1,000,000 each occurrence/aggregate; and

(b) Property damage liability insurance with limits of \$500,000 each occurrence/aggregate

All insurance shall include completed operations and contractual liability coverage.

2. Professional Liability (Errors and Omissions) Insurance. Auditors shall maintain a policy with limits of not less than \$1,000,000 each occurrence/aggregate.

Provision of any insurance required herein does not relieve the Auditors of any of the responsibilities or obligations assumed by the Auditors in this Agreement, or for which Auditors may be liable by law or otherwise.

C. By submission of a Proposal, Auditors agree to provide the City with at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in the coverage.

9. Relief: In the event of a breach or a threatened breach by the Auditors of any provision of the Agreement, the Auditors recognizes the substantial and immediate harm that a breach or threatened breach will impose upon the City, and further recognizes that, in such event, monetary damages will be insufficient to protect the City. Accordingly, in the event of a breach or threatened breach of this Agreement, the Auditors consents to the City's entitlement to such ex parte, preliminary, interlocutory, temporary or permanent injunctive relief for such breach as may be necessary to prevent the Auditors from further breaching any of his obligations set forth herein. Nothing herein shall be construed as prohibiting the City from pursuing any other remedies available to the City at law or in equity for such breach or threatened breach, including the recovery of damages from the Auditors.

10. Compliance with Laws: The Auditors shall, without any additional expense to the City, be responsible for complying with any and all applicable laws, codes and regulations in connection with the Services provided by the Auditors including, but not limited to, obtaining any licenses required by the Auditors to perform the Services herein contracted for.

11. Indemnification: The Auditors hereby acknowledge and agree that the Auditors shall be responsible for and indemnify, defend and hold the City harmless against any claim for loss, personal injury and/or damage that may be suffered as a result of the Auditors' negligence or willful misconduct in the Auditors' performance of the Services herein contracted for or for any failure by the Auditors to perform the obligations of this Agreement, including, but not limited to, any cost incurred by the City in defending any such claim. The Auditors shall be responsible

for and shall indemnify and hold the City harmless against any claim for loss, howsoever arising or incurred, for damage that may occur to Auditors' property that is stored at the City and/or maintained/used by the Auditors in the delivery of the Services the Auditors are providing.

12. Ownership of Records: In the event of termination of this Agreement for any reason, Auditors agrees to immediately return to the City all records and information or other written materials and the like which the City may have furnished to it in connection with those activities hereunder or which the Auditors may have obtained or prepared in the performance of this Agreement so that none of the foregoing items or copies thereof shall remain in the Auditors' possession. In addition, any other property of the City shall similarly be returned to the City at the time of said termination, it being understood by the parties to this Agreement that all records and materials supplied to the Auditors by the City or obtained by the Auditors in the performance of this Agreement are to remain at all times the sole property of the City.

13. Confidentiality: The Auditors will not at any time during or after its relationship with the City directly or indirectly disclose to others any confidential information of the City. While engaged as the independent contractor of the City, the Auditors may only use any confidential information for a purpose which is necessary to the carrying out of the Auditors' duties as independent contractors of the City and the Auditors may not make use of any such information after they are no longer independent contractors of the City.

14. Not Assignable: The Auditors shall not assign or transfer any interest or claim under this Agreement except as may be agreed upon and authorized in writing by the City and no contract shall be made by the Auditors with any other party for furnishing any of the Services herein contracted for without the prior written approval of the City.

15. Auditors' Records: Daily records of Auditors' direct personnel, consultant and expenses pertaining to the project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representative upon request for six (6) years from the date of final payment to the Auditors.

16. City's Right to Terminate: The Services or the additional services herein contracted for may be terminated immediately in whole or in part, by the City upon written notice, when the City, in its sole and absolute discretion, determines such action to be in its best interest. Upon such termination, the City shall be liable to the Auditors only for payment for Services actually provided in conformance with the contract prior to the effective date of the termination.

17. Entire Understanding: This Agreement contains the entire understanding between the parties, and any additions or modifications hereto may only be made in writing, executed by both parties.

18. Applicable Law: This Agreement shall be interpreted in accordance with the laws of the State of Maryland.

19. Conflict of Interest: The person executing this Agreement on behalf of the Auditors certifies that he understands the provisions of the College Park City Charter and Code, dealing with conflicts of interest and the prohibition of the solicitation or acceptance of gifts.

20. Set-Off: In the event that the Auditors shall owe an obligation of any type whatsoever to the City at any time during the term hereof, or after the termination of the relationship created hereunder, the City shall have the right to offset any amount so owed the Auditors against any compensation due to Auditors for the provision of the Services.

21. Severability: If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and

each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

22. Notice: All notices shall be sufficient if delivered in person or sent by certified mail to the parties at the following addresses:

For the City:

Joseph L. Nagro, City Manager  
City of College Park  
4500 Knox Road  
College Park, Maryland 20740-3390  
Telephone: 240-487-3501  
FAX: 301-699-8029  
E-mail: [jnagro@collegetparkmd.gov](mailto:jnagro@collegetparkmd.gov)

For the Auditors:

Name: William Seymour  
Title: Partner  
Firm: SB & Company, LLC  
Address: 200 International Circle, Suite 5500  
City, State, Zip: Hunt Valley, Maryland 21030  
Telephone: 410-584-1404  
FAX: 410-584-0061  
E-mail Address: [wseymour@sbandcompany.com](mailto:wseymour@sbandcompany.com)

IN WITNESS WHEREOF, on the date hereinabove set forth, the parties hereto have executed this Agreement in two duplicate originals, any one of which shall be adequate proof of this Agreement without locating or accounting for the other.

Witness:

CITY OF COLLEGE PARK, MARYLAND

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Janeen S. Miller, CMC  
City Clerk

---

Joseph L. Nagro  
City Manager

Witness:

SB & COMPANY, LLC

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By:

Name: William Seymour

Title: Partner

Address: 200 International Circle, Suite 5500  
Hunt Valley, Maryland 21030

Federal ID No.: 20-2153727

Approved as to Form:

---

Suellen M. Ferguson  
City Attorney

14-G-64

PROPERTY USE AGREEMENT

THIS PROPERTY USE AGREEMENT (the "Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between Mama Lucia's of College Park, Inc., Jimmy Louis Constantinou, Bruno Anthony Fabi, Jr., and Mark Alexis Proctor ("Licensees") and the CITY OF COLLEGE PARK, a Maryland municipal corporation (the "City").

WITNESSETH

WHEREAS, the Licensees lease from MLK Beltway, LLC, the premises known as "Mama Lucia's" located at 4634 Cherry Hill Road, College Park, Maryland (the "Property"); and

WHEREAS, the Property is located within the corporate limits of the City of College Park, Maryland; and

WHEREAS, Jimmy Louis Constantinou, Bruno Anthony Fabi, Jr., and Mark Alexis Proctor have applied for the transfer of a Class D, Beer and Wine (on sale only) license already issued for the use of "t/a Mama Lucia's" due to a change in the licensees; and

WHEREAS, Licensees have requested the support of the City for its application for the transfer of the Class D License; and

WHEREAS, in consideration for the covenants contained in this Agreement, the City will give its support to the Licensee's application for the transfer of the Class D Beer and Wine (on sale only) license, subject to the terms, conditions and restrictions contained herein.

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

1. Repair and Maintenance of the Property. Licensees shall, from and after the date hereof, continue to keep the Property in good order and repair, and free of debris and graffiti.

2. Restrictions. Except with the express written consent of the City, which consent may be withheld in the City's sole and absolute discretion, during the period that Licensees are leasing, otherwise using or have any interest in the Property, and are using the Class D License, the use of the Property shall be restricted to the operation of Mama Lucia's or another substantially similar casual dining restaurant, which receives not more than twenty-five (25%) of its average daily receipts over any three consecutive monthly periods from the sale of alcoholic beverages, and which complies strictly with the restrictions and requirements of the State of Maryland/Prince George's County Class D License. Licensees will provide the City, by November 30 of each year, with summaries of each month's receipts for the sales of alcoholic beverages and food for the preceding calendar year, and, at any time, such information in such form as the City may reasonably require to permit the verification of sales required in this paragraph 2 of this Agreement. Such information need not be prepared by an accountant or auditor, but must be accompanied by a general affidavit signed by both Licensees affirming the accuracy of the information provided. Licensees may be required by the City to provide information to permit verification of the sales ratios required in this paragraph, including daily register receipts and the identity of and invoices from their alcohol and food suppliers. Licensees further agree that no sale of beer or wine shall be made to any individual who has not ordered food, and draft beer will not be sold.

3. Use of Property. Except as otherwise set forth herein, those uses of the Property permitted by the applicable zoning for the Property shall be permitted uses for the purposes of this Agreement. In addition, the Property shall be subject to all of the restrictions imposed by the applicable zoning of the Property.

4. Noises and Nuisances. Licensees shall not permit any nuisance to be maintained, allowed or permitted on any part of the Property, and no use of the Property shall be made or permitted

which may be noxious or detrimental to health or which may become an annoyance or nuisance to persons on surrounding property.

5. Operations . Licensees shall ensure that the exterior of the restaurant, inclusive of the service area, remains clean and graffiti free. Licensees shall not engage in window advertising of beer and wine specials, nor off-premises leafleting promoting the sale of beer or wine. All off-premises advertising of specials, happy hours or reduced prices for beer or wine shall be limited to promotions coupling the sale of food with the sale of alcoholic beverages.

Licensee shall maintain and operate the Restaurant in a manner that all seats are available for dining, no area is designated solely for the consumption of alcoholic beverages, and no sales of alcoholic beverages for off-sale consumption shall be allowed, except for partially consumed bottles of wine purchased at the Restaurant and allowed off premises pursuant to Maryland law. Alcoholic beverages shall not be sold or served prior to 10:00 a.m. or after 11:00 p.m. Food from a regular menu must be served at all times that the premises are open for business. At all times, at least 80% of the items listed on the regular menu shall be available for customers to order. The proposed menu provided by Licensee is attached as Exhibit A. Licensee shall ensure music levels that allow patron conversation in a normal tone of voice, and prohibit disruptive or rowdy behavior that disturbs the peaceful enjoyment of the facility by Licensee's patrons and other persons visiting the facility.

Cover and door charges will not be charged by Licensee. In the event that Licensee seeks to charge a cover or door charge or to provide entertainment, Licensee will obtain all required licenses and request a modification of this Agreement with the City. Alcoholic beverages shall be served only to diners sitting at tables or counters inside the restaurant facility, and patrons standing waiting for a table. The parties recognize that, during private parties, not all patrons

may be seated, but that food will be served. The minimum price for alcoholic beverages, including 16 oz. beers, shall be \$2.00. Licensee may not sell alcohol in pitchers. Licensee will maintain all dining areas, including tables and chairs, inside the facility. Licensee shall ensure that the interior of the restaurant, including service areas, remain clean and graffiti free. The interior and exterior of the Property shall be rodent free. Licensee shall not allow grease, dirt, trash or graffiti to accumulate on any portion of the exterior of the Property that Licensee controls. Licensee agrees to fully comply with all applicable laws, including without limitation Subtitle 12, "Health", of the Prince George's County Code, and the Code of the City of College Park. Licensee shall not engage in window advertising of the sale of beer or wine, nor off-premises leafleting of cars or on public right of way promoting the sale of beer or wine. All off-premises advertising of specials, happy hours or reduced prices for beer or wine shall be limited to promotions coupling the sale or service of food with the sale of alcoholic beverages. Licensee will not accept State of Maryland vertical type licenses as proof of age.

Licensee shall not rent the facilities to individuals or businesses involved in promoting or making a business or profit from producing musical, band or disc jockey events. Licensee shall not provide tables, such as a beer pong table, whose purpose is for use in drinking games. Licensee shall not sponsor or support drinking games within the Property.

6. Enforcement. The City shall have the right to enforce, by any proceeding at law or in equity, including injunction, all restrictions, terms, conditions, covenants and agreements imposed upon the Property and/or Licensees pursuant to the provisions of this Agreement. In the event of a violation of paragraph 2 of this Agreement, Licensees shall have sixty (60) days from the date of notification of the violation to adjust its operations and achieve compliance, as measured during the sixty (60) day period, with the requirements of paragraph 2 of this Agreement. In the event the City

is required to enforce this Agreement and Licensees are determined to have violated any provision of this Agreement, Licensees will reimburse the City for all costs of the proceeding including reasonable attorneys fees. Should Licensees prevail in any action brought by the City to enforce a provision of this Agreement, the City shall reimburse Licensees for all costs of the proceeding including reasonable attorneys fees.

7. Waiver. Neither any failure nor any delay on the part of the City in exercising any right, power or remedy hereunder or under applicable law shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

8. Assignment of License. In consideration of the support of the City for Licensees application for the Class D License, Licensees agree that they shall not sell, transfer, or otherwise assign their rights under the Class D License to any entity or individual for use or operation within the City without the express prior consent of the City, which consent will not be unreasonably withheld.

9. Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the respective affiliates, transferees, successors and assigns of the parties hereto.

10. Scope and Duration of Restrictions. The restrictions, conditions and covenants imposed by this Agreement shall be valid only so long as Licensees maintain the Class D License at Mama Lucia's, or some other substantially similar casual dining restaurant.

11. Notices. All notices given hereunder shall be in writing and shall be deemed to have been given when hand delivered against receipt of three (3) days after deposit with the United States Postal Service, as registered or certified mail, return receipt requested, postage prepaid, addressed:

- (I) If to Licensees:  
Linda Carter, Esq.

Meyers, Rodbell & Rosenbaum  
6801 Kenilworth Avenue  
Suite 400  
Riverdale Park, MD 20737

(II) If to the City:

City of College Park  
4500 Knox Road  
College Park, Maryland 20740

with copy to:

Suellen M. Ferguson, Esquire  
Council Baradel  
125 West Street, Fourth Floor  
Annapolis, Maryland 21401

12. Amendments. This Agreement may not be amended or modified except in writing executed by all parties hereto, and no waiver of any provision or consent hereunder shall be effective unless executed in writing by the waiving or consenting party.

13. Severability. The provisions of this Agreement shall be deemed severable, so that if any provision hereof is declared invalid, all other provisions of this Agreement shall continue in full force and effect.

14. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Maryland.

15. Counterparts. This Agreement may be executed in any number of counterparts each of which shall constitute an original and all of which together shall constitute one agreement.

16. Headlines. The headings or titles herein are for convenience of reference only and shall not affect the meaning or interpretation of the contents of this Declaration.

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

WITNESS/ATTEST

Mama Lucia's of College Park, Inc.

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Jimmy Louis Constantinou,  
President/Treasurer

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Bruno Anthony Fabi, Jr.

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
Mark Alexis Proctor  
Assistant Secretary

WITNESS/ATTEST

CITY OF COLLEGE PARK, MARYLAND

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title: City Manager

APPROVED AS TO LEGAL  
SUFFICIENCY:

By: \_\_\_\_\_  
Suellen M. Ferguson  
City Attorney

# 14-R-13

(This resolution will be provided on Tuesday in the red folders.)

**AMENDMENT TO**  
**PARKING VIOLATION REVIEW PROCESS REGULATIONS**

I. Parking Violation Review Officer

The Parking Violation Review Officer (“Review Officer”), who shall be an independent contractor, shall be appointed by, and serve at the pleasure of, the Mayor and Council, at a rate of compensation to be set by them. The Review Officer shall have the authority to conduct parking violation resolution reviews pursuant to the Code of the City of College Park (“the Code”) and the procedures set out in these regulations. The Review Officer shall have the authority to receive evidence and to issue recommendations based upon that evidence, together with the discretion to recommend a penalty that is less than that set out in §110 of the Code. Any reduction in the said penalties shall be in accordance generally with the criteria provided by these regulations.

II. Procedure

A. Request for Review. The City shall set a review date within thirty (30) days of receipt of a timely notice of request for parking violation review. The parking violation notice and request for review shall be transmitted by the City to the Review Officer, who shall conduct a review on the date specified by the City. The alleged offender shall receive at least ten (10) days notice of the review date.

B. Continuance of Review Date. The Review Officer shall have discretion to continue the review date upon request of the alleged offender or the City, but in no event longer than ninety (90) days from the date of the alleged violation.

C. Conduct of Review. At the time of the review, the Review Officer shall consider all relevant evidence presented. The alleged offender may appear in person at the review proceeding, and/or may submit evidence in writing, including but not limited to documents and photographs.

D. Failure to Appear. If the alleged offender fails to appear in person or by written submission at the review proceeding, it shall be terminated by the Review Officer, and the violation notice shall be returned to the City for further processing.

E. Recommendation. After review of the evidence submitted by the alleged offender, the Review Officer shall make written findings of fact and issue a recommendation. The alleged offender shall be provided with a copy of the findings of fact and recommendation. The Review Officer has the discretion to recommend full assessment of the fine set out in §110 of the Code for the violation, or a reduction to any lesser amount, based on the criteria set out in these regulations.

IN THE EVENT OF A REQUEST FOR REVIEW OF A VIOLATION NOTICE FOR INVALID LICENSE PLATES ISSUED UNDER §184-11(A) OF THE CITY CODE, THE

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CAPS : Indicate matter added.  
[Brackets] : Indicate matter deleted.  
Asterisks \*\*\* : Indicate matter remaining unchanged

REVIEW OFFICER SHALL REDUCE THE FINE TO \$0 IF THE ALLEGED OFFENDER DEMONSTRATES THAT:

(1) THE VEHICLE BEARING THE TAGS WAS PROPERLY REGISTERED AT THE TIME THE VIOLATION NOTICE WAS ISSUED; AND

(2) THE VIOLATION THAT CAUSED THE PLATES TO BE INVALID HAS BEEN RESOLVED BY THE DATE OF REVIEW OR BY A DATE SET BY THE REVIEW OFFICER.

CITY STAFF SHALL WITHDRAW A VIOLATION NOTICE ON THE SAME BASIS. IF THE VIOLATION NOTICE HAS ALREADY BEEN TRANSMITTED TO COURT AT THE TIME OF ANY REVIEW, AND THE TWO ABOVE-REFERENCED REQUIREMENTS HAVE BEEN MET, THE CITY SHALL REQUEST DISMISSAL.

F. Time for Payment or Election. When a recommendation is issued, the Review Officer shall set a date by which: (1) the recommended amount must be paid and satisfied, or (2) an election to proceed to District Court on the parking violation must be made.

G. Failure to Make Payment or Election. If the alleged offender fails to appear at the review proceeding, or after a review proceeding, fails to pay and satisfy the recommended fine or to elect a District Court trial on or before the date set by the Review Officer, then the matter shall be returned to the City for further processing in accordance with §110 of the Code.

H. Notice. Any notice required by these regulations shall be sufficient if delivered in person or if sent by certified mail to the address provided by the alleged offender on the parking violation form.

I. Review Criteria.

(1) Standard of Review. In determining whether or not to recommend a reduced penalty for a parking violation, the standard to be applied is that of the reasonable licensed driver. As part of the review, the Review Officer shall consider the time of day, area involved, terrain, visibility and clarity of signs, signals and markings, prior history of violations, and what a reasonable licensed driver, under the circumstances, would know or do.

(2) Levels of Justification. There are four levels of justification in reviewing a parking violation, as follows:

(a) Sufficient Justification - a finding of sufficient justification supports a fine reduction recommendation to 0. This involves an explanation that clearly demonstrates the individual parked in violation unknowingly, or as a result of an emergency situation. Examples of sufficient justification include but are not limited to the following:

- The vehicle operator became ill and was required to obtain help immediately, or some other emergency situation occurred (documentation of medical emergency may be required).

- Operator has a valid handicapped or parking permit or vehicle license tag but fails to display it inadvertently (documentation required).
- Signs, signals or markings are unclear or misleading.
- Parking meter is broken and the malfunctioning meter report confirms that the meter was broken when the violation was issued.

(b) Acceptable Explanation. A finding of acceptable explanation supports a recommended reduction of one-half (1/2) to one-quarter (1/4) of the fine amount. This category involves those situations in which the alleged offender should have known that a violation was occurring, but because of existing circumstances, acted reasonably. Examples of an acceptable explanation include but are not limited to the following:

- A mechanical or other malfunction that prevents the vehicle from being removed from its location (proof of a sincere, immediate effort to remove the vehicle and documentation of malfunction required).
- An individual truly appears to be disabled, and has applied for, but does not yet have, a Maryland handicapped permit (medical documentation required).
- No valid spaces were available and heavy boxes/equipment/items had to be unloaded.
- An alleged offender explains that the vehicle was parked outside of parking space control lines because other vehicles were.

(c) General Explanation: A finding of general explanation supports a recommended fine of between one-half and the full amount of the fine. This category involves those situations in which the alleged offender should have known that a violation existed but has some explanation for what occurred. Examples of general explanations include, but are not limited to, the following:

- The alleged offender has a handicapped parking permit but no such spaces were available so the individual parked in a “no parking” area.
- The loading/unloading took longer than expected.
- A vehicle is left parked for more than the allowed number of hours because the owner is kept out of town or unavailable for longer than expected.

(d) Insufficient Explanation: A finding of insufficient explanation supports a recommended fine in the full amount. This category involves those situations in which the alleged offender should have known a violation existed but under the circumstances has no reasonable justification for what occurred. The Review Officer shall find an insufficient explanation when the explanation does not fall within the other categories and/or is without any reasonable justification.

## MEMORANDUM

**TO:** Mayor and City Council

**CC:** Joseph Nagro, City Manager

**FROM:** Suellen M. Ferguson, City Attorney

**DATE:** May 2, 2014

**SUBJECT:** Procedure for Invalid Tag Citations Issued When Vehicle Is Properly Registered  
ISSUE

Recently, Council members received a complaint from a resident that she received a City citation for invalid tags when in fact her car was validly registered with the State but the proper stickers were not on the tag. Staff was asked to review City procedures to determine how to handle this type of situation.

### SUMMARY

City Code §184-11 prohibits parking of a vehicle not bearing valid license plates on any public street. Under State law with respect to license tags and registration, there are two separate violations that can occur, one is a failure to properly register a vehicle and the other is to have tags that do not contain the required stickers (an invalid license plate). The State law places the responsibility on the owner of the vehicle to comply with both laws. The City's current ticketing system does not allow the parking enforcement officers to check registration on the hand held. As a result, City law is tailored to what can be seen, which is whether the license plates are valid, and this is consistent with State law. Requiring that Parking Enforcement verify whether a registration is valid before issuing a ticket for invalid tags is impractical unless it can be done on-site on the hand held. Adding this function to the hand held would have a cost if it is possible to do so.

It is clear from the MVA website that replacement monthly stickers are available to a resident at no cost. That this is the case is borne out by the experience of Parking Enforcement staff, as this is not the first time that the problem has occurred.

The City's process to allow ticketed persons to appeal a City parking ticket was developed in 2000. The parking violation resolution review system was patterned on one used at the University of Maryland. The system was developed in response to a need expressed by the residents that they be allowed to provide the facts of their case to an independent person, not parking code enforcement, without a court action and at more convenient times. The Parking

Department also welcomed this process, as it removed them from making decisions as to when to invalidate a ticket and to avoid claims that they were biased.

Currently, if a person to whom the citation has been issued contacts staff, indicates the registration is valid, and staff is able to confirm this, they are informed that the City will withdraw the citation once the underlying issues (improper month or year sticker or missing stickers) has been resolved. As noted, we are aware that resolution of sticker issues is pretty straightforward. This is referred to as a “two step” process. One is that the registration is valid, and two that proof is provided the underlying issue has been resolved (to avoid repetition of the problem).

The parking violation review officer currently also reduces the fine to \$0 when sufficient information is provided that the registration is valid. Depending upon the circumstances, it is my information that she follows the one step process (reduces to \$0) on proof of registration, or holds over to insure the second step is taken.

There is nothing in writing in the policy adopted by Council directing the parking enforcement officer with respect to what to find in this situation. The Council can direct the parking officer and staff as to what to do when registration is proved up. The Council can direct a policy that requires:

1. The one step – if the individual proves that the vehicle was properly registered at the time the citation was issued, and staff is notified prior to sending the ticket to court, the ticket is withdrawn. If the ticket has gone to the hearing officer, the fine is reduced to \$0, or
2. Two step – proof of registration is made and the ticket is held until the underlying problem is resolved. Citation is then withdrawn or reduced to \$0. If the problem is not resolved, the ticket proceeds through the usual process.

In either instance, if the ticket request has gone to court, the City would not produce evidence and it would be dismissed if the steps are followed.

#### RECOMMENDATION

The Council should consider whether it wishes to adopt a policy, and whether it wishes to apply the one or two step process to vehicles that were not properly registered at the time of the citation, but are now properly registered. Including this direction to the parking violation review officer would require a revision of the regulations adopted for this process.

14-G-66

## MEMORANDUM

**TO:** Mayor and Council

**FROM:** Terry Schum, Planning Director *TSS*  
Joseph L. Nagro, City Manager *JLN*

**DATE:** May 30, 2014

**SUBJECT:** Fiscal Year 2015 Program Open Space (POS) Application

### ISSUE

The City of College Park has been notified that the FY 2015 POS allocation for Prince George's County is \$3,669,582.43 and the city will be receiving 3.52% of this allocation or \$129,169.30 based on the 2010 census population. Applications for acquisition and/or development projects must be submitted to the Maryland-National Capital Park and Planning Commission (M-NCPPC) by June 20, 2014. Eligible recreation and open space projects are then forwarded by M-NCPPC to the Maryland Department of Natural Resources for approval.

### SUMMARY

Typically, POS funding must be divided equally between acquisition and development projects. This year, all of our allocation may be used for development projects, which require a 25% match of local funds. The city has two development projects, Duvall Field and Hollywood Gateway Park, and an acquisition project called US Route 1 Open Space Acquisition (this is a holding account until specific projects are identified) that currently have POS allocations assigned to them as follows:

Duvall Field	\$979,228.08
Hollywood Gateway Park	\$147,723.00
US Route 1 Open Space Acquisition	\$575,571.00

Duvall Field is moving forward with the replacement of the concessions/restroom building as the first phase of the project, and requires additional matching funds before the remaining POS allocation may be utilized. Staff is hopeful that these matching funds, from the Greenbelt Station South Core development, will be available in the fall. At this time, no new POS allocation is recommended.

The Hollywood Gateway Park project will be ready for construction bidding in the fall. The city was recently notified that the Chesapeake Bay Trust (CBT) grant application for this project in the amount of \$250,000 was approved for only \$150,886. Staff

recommends that the city's entire FY 2015 allocation of \$129,169.30 be assigned to this project to accommodate the shortfall. Matching funds are available through the unrestricted C.I.P. Reserve (project # 103002) and CBT grant funds could be utilized for this purpose, if needed.

The City Council previously authorized the acquisition of two additional lots in order to expand the Hollywood Gateway Park. Approximately \$80,000 from the US Route 1 Open Space Acquisition account is needed to cover the purchase and related costs (appraisals, survey, settlement fees). When approved by the Board of Public Works, this will leave a balance of \$495,571 which could be allocated to other acquisition projects.

### **RECOMMENDATION**

Staff recommends allocating \$129,169.03 to the Hollywood Gateway Park for the city's FY2015 POS program and creating a new acquisition project for the expansion of Hollywood Gateway Park utilizing previous POS allocations for acquisition.

**14-R-12**

**RESOLUTION OF THE MAYOR AND COUNCIL  
OF THE CITY OF COLLEGE PARK TO ALLOW CHAPTER 127, "RENT  
STABILIZATION", TO EXPIRE AND BECOME NULL AND VOID  
AFTER THE FIRST DAY OF SEPTEMBER, 2014**

WHEREAS, in 2005, the Mayor and Council adopted Ordinance 05-O-02, which established in Chapter 127 of the City code a rent stabilization program for the purposes stated in the ordinance; and

WHEREAS, Chapter 127 contained a provision in §127-13 that required the law to expire and become null and void after the first day of September, 2009; and

WHEREAS, the Mayor and Council adopted various ordinances which extended the rent stabilization program through September 1, 2014; and

WHEREAS, the Mayor and Council have determined that Chapter 127, "Rent Stabilization", is no longer necessary for the public good and so should be allowed to expire and become null and void after the first day of September, 2014.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the City of College Park that Chapter 127, "Rent Stabilization", be and it is hereby allowed to expire and become null and void after the first day of September, 2014.

**ADOPTED** by the Mayor and City Council of the City of College Park, Maryland at a regular meeting on the 17th day of June, 2014.

**EFFECTIVE** the 17<sup>th</sup> day of June, 2014.

**WITNESS:**

**CITY OF COLLEGE PARK**

\_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

\_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:**

---

Suellen M. Ferguson, City Attorney

**Janeen S Miller**

---

**From:** David Morrison [davidmichaelmorrison@yahoo.com]  
**Sent:** Thursday, June 12, 2014 7:16 PM  
**To:** cpmc  
**Subject:** Rent Control

To the Mayor and City Council of College Park:

In your upcoming vote on rent control, please vote to allow the law to sunset. We don't need it, and it would be destructive. Many sound economic reasons are outlined in the enclosed article, shown below.

My family has lived in College Park for four generations, since my grandfather bought 4601 Knox Road in 1944. I grew up there and my mom still lives there. My Uncle Tommy raised horses there before the streets were paved. My Aunt Mary Lew lives next door. My nephews now enjoy visiting their grandmother there. My brothers and I played sports in the College Park Boys' Club. We have fond memories and do not wish to see rent control turn College Park into a slum, as rent control has done wherever governments have tried it.

We've had a robust debate on this subject, and all of the original arguments in favor of rent control, which were weak to begin with, no longer apply. There is now plenty of student housing as a result of the construction of new high-rise apartments.

The free market, not some artificial formula, should determine the fair price of housing in College Park.

Let's put an end to this rent control nonsense.

***Rent Control: A Bad Policy for College Park Maryland***

**Summary and Conclusions:**

During the past several years, the City Government of College Park, Maryland has considered implementing rent control on a portion of its residential houses. Rent control would lower the value of the residential houses in College Park, both those under rent control and those that are owner occupied. A lower value of the houses, given the recent decline in their value during the financial crisis of 2008, would prevent those homeowners who need to re-locate from selling their homes without suffering a significant financial loss. In addition, the price decline would most likely precipitate another round of foreclosures. The lower value of homes erodes the real estate tax base, leads to declining property tax revenue, and undermines the funding of the public schools and other city services. As the schools deteriorate, residents of owner occupied housing will look to re-locate, driving housing prices still lower, leading to more foreclosures and a further deterioration of the City's neighborhoods. Thus, rent control is a bad policy for the residents of College Park – both renters and owner occupants. Of course the owners of the rental properties will suffer as well.

The remainder of the letter outlines the reasons why rent control on residential housing leads to such destructive outcomes. These devastating outcomes have been documented in numerous studies of rent control policies both in the United States and abroad.

### **The Problems with Rent Control:**

Nobel Prize winning economists of both the left (such as Sweden's Gunnar Myrdal) and the right (such as United States' Milton Friedman) have made the case that rent control of residential housing is bad public policy. Studies have concluded that rent control causes good neighborhoods to turn into slums.

The imposition of rent control on residential houses lowers the rate of return on the house both today and into the future. Current investors in residential structures will seek to re-deploy their capital to restore their previous, higher rate of return. In order to attract new investors, the price of the houses must decline in order for the rate of return on the house under rent control (say in College Park) to be competitive with rates of return on houses in areas not under rent control (say in Hyattsville). Rent control not only leads to capital flight from the area where rent control is implemented, but over time it leads to the flight of residents as well.

Lower housing prices causes an increase in foreclosures because the price of the houses – especially the prices of owner-occupied houses – will often fall below the value of the mortgage on the properties. The lower rate of return on the house will not generate sufficient funds for the owner to pay the monthly mortgage payment on the property, so the lender will initiate foreclosure on the properties. The increase in foreclosures leads to a rise in vacancies, and this rise in vacancies leads at first to a physical deterioration in the foreclosed homes, and eventually to the city's neighborhoods. The deterioration in the neighborhoods leads to additional foreclosures, further deterioration in neighborhoods, and over time turns the city into a slum. (That is, rent control starts a cycle of falling prices, foreclosures, vacancies, and physical deterioration of the residential housing stock that looks much like our experience during the 2008 financial crisis.)

The fall in housing prices causes a decline in the property tax base. The lower property tax base leads to lower tax revenues unless the city raises the property tax rate. An increase in the tax rate further lowers the rate of return on the residential property inducing another cycle of foreclosures, vacancies, and physical deterioration of the housing stock. Lower property tax revenues cause financial stress for the city government in general and, in particular, funding for public schools.

A city under financial stress, especially with regards to funding its public schools, is a less desirable place to live, so residents living in owner-occupied housing will look for alternative places to live. This situation will start another cycle of lower prices, foreclosures, vacancies, and physical deterioration of the housing stock. Lower tax receipts also affects the funding for basic public safety services such as fire and police protection, again making the city a less safe, hence a less desirable place to live for both renters and home-owners.

Numerous studies of rent control of residential housing have traced this cycle of deterioration in neighborhoods and cities. There is no good reason to repeat this experiment in College Park, Maryland. Rent control is a bad policy for the City of College Park.

William Helkie retired from the staff of the Board of Governors of the Federal Reserve System as a Senior Adviser in February, 2006. During his career he served as Senior Economist, Chief of the Quantitative Studies and U.S. International Transactions sections, and as Assistant and Deputy Associate Director of the Division of

International Finance. He currently teaches in the School of Public Policy at The University of Maryland, College Park.

David M. Morrison, P.E.  
7003 Dartmouth Avenue  
College Park, MD 20740  
301.927.6503 (tel)  
301.576.4510 (fax)

14-0-06

**ORDINANCE**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, AMENDING**  
**CITY CODE, CHAPTER 127 “RENT STABILIZATION”, §127-13 “EXPIRATION**  
**DATE” TO EXTEND THE EFFECTIVE DATE OF THE RENT STABILIZATION LAW**  
**THROUGH SEPTEMBER 1, 2015.**

**WHEREAS**, pursuant to Md. Code Ann., Art. 23A, §2, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality; and

**WHEREAS**, in 2005, the Mayor and Council adopted Ordinance 05-O-02, which established in Chapter 127 of the City code a rent stabilization program for the purposes stated in the ordinance; and

**WHEREAS**, Chapter 127 contained a provision in §127-13 that required the law to expire and become null and void after the first day of September, 2009; and

**WHEREAS**, in 2009, the Mayor and Council adopted Ordinance 09-0-06, which extended the rent stabilization program through September 1, 2012 for the reasons set forth in the Ordinance; and

**WHEREAS**, the Mayor and Council adopted Ordinance 12-O-06, for the reasons stated in the Ordinance, which are incorporated herein by reference, to extend the rent stabilization law through the first day of September, 2013; and

**WHEREAS**, the Mayor and Council adopted Ordinance 13-O-06, for the reasons stated in the Ordinance, which are incorporated herein by reference, to extend the rent stabilization law through the first day of September, 2014; and

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CAPS	: Indicate matter added to existing law.
Asterisks ***	: Indicate matter remaining unchanged in existing law but not set Forth in Ordinance
<u>UNDERLINED CAPS</u>	: Indicates matter added to Ordinance by amendment.
[Brackets]	: Indicate matter deleted from Ordinance by amendment.

WHEREAS, the Mayor and City Council have determined that the conditions that the rent stabilization program was designed to address have not yet been resolved, and that additional time is needed to receive the full benefit from the law; and

WHEREAS, the Mayor and City Council deem it to be in the best interest of the City to extend the rent stabilization program for an additional period in order to ensure the availability and maintenance of affordable housing in the City, to protect the standard of living of all City residents, and to strengthen and stabilize the City’s neighborhoods.

**Section 1.** NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park, Maryland that Chapter 127, “Rent Stabilization”, §127-13 “Expiration Date” be and it is hereby amended to read as follows:

\* \* \* \*

§ 127-13. Expiration date.

This ordinance shall expire and shall be null and void after the first day of September, [2014] 2015. This provision, commonly referred to as a “sunset provision,” is included in this ordinance. The effectiveness of and the necessity for this chapter will be reviewed by the Mayor and City Council within a reasonable time after its adoption.

**Section 2.** NOW, THEREFORE, BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof in a newspaper having a general circulation in the City of

College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for \_\_\_\_\_ P.M. on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on \_\_\_\_\_, 2014 provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

**INTRODUCED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**ADOPTED** by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK**

By: \_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By: \_\_\_\_\_  
Andrew M. Fellows, Mayor

# 14-R-15

(Resolution will be provided in  
Red Folders on Tuesday)

**FIRST AMENDMENT TO DECLARATION  
OF COVENANTS AND AGREEMENT REGARDING LAND USE**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS AND AGREEMENT REGARDING LAND USE ("First Amendment") is made this \_\_\_\_ day of July, 2014 by and between **TOLL BROS, INC.**, a Maryland corporation, **TOLL COLLEGE PARK, LLC**, a Maryland limited liability company (Toll Bros, Inc and Toll College Park, LLC are hereinafter collectively known as "Toll"), and the **CITY OF COLLEGE PARK** (the "City") a municipal corporation of the State of Maryland.

**WHEREAS**, Toll Bros, Inc. is the contract purchaser of certain real property located in Prince George's County, Maryland; and

**WHEREAS**, on November 13, 2013, Toll Bros, Inc. and the City entered into a Declaration of Covenants and Agreement Regarding Land Use (the "Declaration"), which Declaration is recorded among the Land Records of Prince George's County at Liber 35503 Folio 589. Terms used in this First Amendment shall have the same meaning as set forth in the Declaration, unless a different meaning is specifically set forth in this First Amendment; and

**WHEREAS**, Toll College Park, LLC is the entity nominated by Toll Bros, Inc. to take title to the Property at settlement and, as such owner, will pursue development of the Project as approved by Detailed Site Plan DSP-13025 as currently approved or as amended with consent of the City; and

**WHEREAS**, pursuant to the Declaration, the City agreed to close and consent to the vacation of a public roadway known as Rossburg Drive, which extends through a portion of the Property, under the terms and conditions set forth in the Declaration; and

**WHEREAS**, a Vacation Petition has been filed by the Property Owners and Toll with the Maryland-National Capital Park and Planning Commission and assigned the number V-13008. The Vacation Petition requests approval of the vacation of Rossburg Drive; and

**WHEREAS**, the City has agreed to consent to the Vacation of Rossburg Drive provided that the right of way for Rossburg Drive is conveyed back to the City in accordance with the terms of this Agreement should development of the Project not take place pursuant to the Detailed Site Plan DSP-13025 as currently approved, or as amended with consent of the City .

**NOW THEREFORE**, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Declaration be and it is hereby amended follows:

1. The Recitals set forth above, as well as the foregoing "NOW, THEREFORE," clause, are incorporated herein as operative provisions of this First Amendment.
2. Toll College Park, LLC joins in the execution of this First Amendment as the title nominee of the Property. By execution of this First Amendment, Toll College Park, LLC adopts and affirms each of the provisions of the Declaration, as amended hereby.
3. Paragraph 10 of the Declaration is hereby repealed in its entirety and shall be replaced with the following language:
  10. a) Toll, and Toll's heirs successors, and/or assignees shall vacate the dedicated right-of-way of Rossburg Drive (WWW 20-94) and

obtain approval of a minor final plat pursuant to Section 24-112 of the Subdivision Regulations at a time in accordance with the approved Detailed Site Plan DSP-13025. The minor final plat shall reflect the liber and folio of the Parking Access Easement and Public Pedestrian Access Easement.

b) Prior to the approval of the vacation by the Planning Board, Toll College Park, LLC shall execute and deposit in escrow with the City a deed conveying the right of way proposed for vacation in V-13008 back to the City. The deed shall be in substantial conformance with the form attached hereto and made a part hereof as Exhibit "E". The City agrees to hold such deed in escrow and only record such deed in accordance with the terms of this Paragraph 10.

c) In the event that the Detailed Site Plan expires without construction of the Project is not constructed to substantial completion having proceeded in accordance with DSP-13025 as currently approved, or as amended with consent of the City, within five years of the date of this Amendment, the City shall have the right to record the deed attached as Exhibit "E", conveying the vacated right of way for Rossburg Drive back to the City. The City shall have the right to record such deed upon failure of the Project to be substantially completed within the five year period the expiration of the Detailed Site Plan without the need to provide notice to Toll.

d) Toll agrees that none of the dwelling units currently fronting on Rossburg Drive will be leased or otherwise occupied during the period of time Rossburg Drive is closed to traffic.

4. All remaining terms, obligations and conditions of the Declaration, dated November 13, 2013 and recorded at Liber 35503 Folio 589 among the Land Records of Prince George's County, except as specified herein, shall remain in full force and effect, and the parties hereto reaffirm the provisions thereof.

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

ATTEST:

**TOLL BROS, INC,**  
a Maryland Corporation

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

WITNESS/ATTEST:

**TOLL COLLEGE PARK, LLC,**  
a Maryland limited liability company

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

WITNESS/ATTEST:

**CITY OF COLLEGE PARK**

\_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk  
By: \_\_\_\_\_  
Joseph L. Nagro, City Manager.

APPROVED AS TO LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Suellen M. Ferguson, City Attorney

THIS IS TO CERTIFY that the within instrument has been prepared under the supervision of the undersigned Maryland attorney-at-law duly admitted to practice before the Court of Appeals.

\_\_\_\_\_  
Thomas H. Haller, Esq.

This document shall be recorded in the Land Records of Prince George's County.  
After recording, please return to:

Suellen M. Ferguson, Esq.  
Council, Baradel, Kosmerl & Nolan, P.A.

**DEED**

**THIS DEED**, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **TOLL COLLEGE PARK, LLC**, a Maryland limited liability company, party of the first part and the **CITY OF COLLEGE PARK** (the "City"), a municipal corporation of the State of Maryland, party of the second part.

**NOW THEREFORE, WITNESSETH**, that in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the party of the first part does hereby grant and convey to the party of the second part, in fee simple, all the property situate and lying in Prince George's County, State of Maryland, 21<sup>st</sup> Election District, and more particularly described on Exhibit "A" attached hereto and made a part hereof and depicted on Exhibit "B" attached hereto and made a part hereof (the "Property").

Being the same Property which was previously dedicated to public use and known as Rossburg Drive, which public dedication was vacated by the Maryland-National Capital Park and Planning Commission in Vacation Petition V- 13008 . The Property is conveyed by the party of the first part to the party of the second part, a governmental agency, for a public use . This conveyance is made pursuant to Section 24-107(c)(5) of the Prince George's County Code and is therefore exempt from the requirement of filing a preliminary plan and final plat of subdivision prior to its conveyance; and

**TOGETHER** with the building and improvements thereupon erected, made or being; and all and every of the easements, rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the Property unto the party of the second part, and its legal representatives, successors and assigns, in fee simple, forever.

**AND** the part of the first part covenants that it has not dumped, stored or has knowledge of any hazardous materials or waste on the Property nor has it allowed any hazardous materials or waste to be dumped or stored on the Property.

**AND** the said party of the first part covenants that it will warrant specially the Property hereby conveyed; and it will execute such further assurances of said land as may be requisite.

**WITNESS** the said party of the first part has caused this Deed to be executed by its hand and seal the day and year first written above.

ATTEST:

**TOLL COLLEGE PARK, LLC**,  
a Maryland limited liability company

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

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

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



**14-R-14**

**RESOLUTION OF THE MAYOR AND COUNCIL  
OF THE CITY OF COLLEGE PARK TO AUTHORIZE THE PERMANENT  
CLOSURE AND VACATION OF ROSSBURG DRIVE SUBJECT TO CERTAIN  
CONDITIONS**

WHEREAS, Toll Bros, Inc. (“Toll”) is the contract purchaser of certain real property (“Property”) located in Prince George's County, Maryland. The Property is described in Exhibit A, which is attached hereto and incorporated herein; and

WHEREAS, the current owners of the said Property are KNOX VILLAGE PARTNERS, LLC; KNOX BOX REALTY, LLC; and AO ENTERPRISES, LLC, jointly referred to herein as Owners; and

WHEREAS, Toll and the Owners previously requested that the City recommend approval of Detailed Site Plan No. DSP 13025 (“DSP”) for the Project to the Prince George’s County Planning Board (“Planning Board”) and the District Council for Prince George’s County, Maryland; and

WHEREAS, Toll College Park, LLC (“Toll College Park”) is the entity nominated by Toll Bros, Inc. to take title to the Property at settlement and, as such owner, agrees to pursue development of the Project in accordance with Detailed Site Plan DSP-13025 as currently approved or as amended with consent of the City, and in accordance with the Declaration; and

WHEREAS, the DSP and construction of the Project are dependent upon the permanent closure and vacation of Rossburg Drive, currently in use as a public way under the jurisdiction of the City; and

WHEREAS, as part of the DSP approval process, Toll asked the City to agree to permanently close, and consent to the vacation of, Rossburg Drive, to enable the Project; and

**WHEREAS**, the City agreed to recommend approval of the DSP and to close, and consent to the vacation of, Roszburg Drive to enable the construction of the Project, and included this agreement in the Declaration of Covenants and Property Use Agreement (“Declaration”) between the City and Toll, and a separate Declaration of Covenants and Property Use Agreement between the City and Owners; and

**WHEREAS**, Roszburg Drive can be closed only when all individuals residing at properties that front on and are accessed by Roszburg Drive no longer reside or have a legal right to reside in those properties, due to need for individual and emergency personnel access and for the delivery of City services, and an alternative vehicle and pedestrian access to the area is provided by making Knox Road a two-way roadway; and

**WHEREAS**, Toll has applied for and been granted a permit to work in the right of way in order to make Knox Road two-way, and this work is currently underway; and

**WHEREAS**, an application for the vacation has been filed by Toll with the Prince George’s County Planning Board as Vacation Petition V- 13008, and Toll has requested that the City consent to the vacation; and

**WHEREAS**, once the vacation petition is granted, title to the area encompassed by Roszburg Drive will automatically revert to one or more of the current Owners, or to Toll and/or Toll College Park when it acquires title to the Property; and

**WHEREAS**, the City wishes to insure that, if the Project is not constructed as authorized by the DSP, or the DSP as amended with consent of the City, then the title to the area encompassed by Roszburg Drive shall be revert by fee simple deed to the City for a public use; and

**WHEREAS**, the DSP and the Declaration include a requirement that Toll agree to and record a public pedestrian and bicycle access easement and a private garage access easement, both to be enforceable by the City; and

**WHEREAS**, the Mayor and Council have determined that it is in the public interest to proceed with the permanent closure, and to consent to the vacation of, Rossburg Drive, and to support Vacation Petition V-13008, subject to certain requirements that are included in this resolution.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the City of College Park to authorize the permanent closure, and to consent to the vacation of, Rossburg Drive and to support Vacation Petition V13-0008, subject to and dependent upon the following:

1. Prior to closure, the following shall have occurred:

a. None of the dwelling units currently fronting on Rossburg Drive will be leased or otherwise occupied, and all legal rights to any such leasing or occupation shall have been permanently foreclosed.

b. The improvements to Knox Road allowing for two-way traffic shall have been installed pursuant to the permit and operating to the City's satisfaction.

2. The Resolution issued by the Planning Board with respect to Vacation Petition V13-0008 shall include a condition in substantially the form attached as Exhibit B. This condition will be jointly requested by Toll and Toll College Park and the City.

3. Prior to the Planning Board hearing on Vacation Petition V13-0008, Toll, Toll College Park and the City shall enter into an Amendment to the Declaration in substantially the form attached as Exhibit C to ensure that the area encompassed by Rossburg Drive will revert to the City by fee simple deed for a public purpose if the Project is not constructed as approved in the

DSP, or as amended with consent of the City, and prior to the approval of the vacation by the Planning Board, Toll and/or Toll College Park, LLC shall execute and deposit in escrow with the City a deed conveying the right of way proposed for vacation in V-13008 back to the City. The deed shall be in substantial conformance with the form attached hereto and made a part hereof as Exhibit "D". The City agrees to hold such deed in escrow. In the event that title to the Property has not transferred from Owners to Toll and/or Toll College Park on or before the date of the Planning Board hearing on Vacation Petition V13-0008, Owners shall enter into an Amendment to the existing Declaration of Covenants and Agreement Regarding Land Use with the City to the same effect and shall transfer to the City by deed as stated herein.

4. Prior to the Planning Board hearing, Toll and/or Toll College Park, or Owners, in the event that title has not transferred from Owners to Toll and/or Toll College Park on or before the date of the Planning Board hearing on Vacation Petition V13-0008, shall enter into a Parking Easement Agreement in substantially the form attached as Exhibit E.

5. Prior to the Planning Board hearing, Toll and/or Toll College Park, or Owners, in the event that title has not transferred from Owners to Toll and/or Toll College Park on or before the date of the Planning Board hearing on Vacation Petition V13-0008, shall enter into in Declaration of Public Use Easement in substantially the form attached as Exhibit F.

**ADOPTED** by the Mayor and City Council of the City of College Park, Maryland at a regular meeting on the 17th day of June, 2014.

**EFFECTIVE** the 17<sup>th</sup> day of June, 2014.

**WITNESS:**

**CITY OF COLLEGE PARK**

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Janeen S. Miller, CMC, City Clerk

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Andrew M. Fellows, Mayor

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:**

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Suellen M. Ferguson, City Attorney

14-G-67

I move that the City Council establish a temporary residential permit parking zone and limited 3 hour parking to include the following:

- That Autoville Drive, Cherokee Street, and Blackfoot Place be temporarily restricted to residential permit parking only, to be enforced seven (7) days a week, twenty four (24) hours a day; and,
- That Erie Street be temporarily signed for '3 Hour Limit' parking, to be enforced seven (7) days a week, from 7:00 a.m. to 10:00 p.m.; and,
- That, unless extended by Council action, these restrictions take effect at least 2 weeks prior to the initiation of construction for the Monument project; and cease no later than 2 weeks after the issuance of U&O permits for this project; and
- That up to five (5) parking permits - one per vehicle registered to that address with City of College Park Parking Enforcement - and two (2) visitor parking passes be provided to each residential property address within the affected area; and
- That all permit costs associated with the temporary permit parking restrictions, during construction, be waived for residents of the proposed affected streets during the construction period; and,
- That upon completion of construction it shall be determined by petition of the residents to the City Council to keep the permit restrictions in place, or to change the days and hours of enforcement from these original restrictions, and ,
- That if residents petition, and Council approves to keep the permit restrictions in place following completion of construction, then each year thereafter an annual fee of \$10.00 per permit and \$1.00 per visitor pass, or current fees, shall be charged to the residents in this residential permit parking zone.

#### DISCUSSION

A Declaration of Covenants and Agreement Regarding Land Use was signed between the City of College Park and MR HILLCREST 1 CAPITAL LLC for development of the parcel properties located at 9122 and 9128 Baltimore Avenue, commonly known as the Monument project.

As a result of the approval for development, resident concern was voiced over the potential effects construction may have on those streets closest to the development site, to include possible overcrowding of parking, and use of residential streets by construction vehicles.

In addition, there is concern for accommodating the overflow of parking by members of the American Legion Post, and patrons to other adjacent businesses in the immediate area.

Within the Declaration these concerns are addressed. Furthermore, at issuance of the building permit MR HILLCREST shall make a one-time contribution to the City in the amount of \$1,000.00, to be used to subsidize resident fees associated with a temporary permit parking zone, to be placed in the affected area during construction. Such efforts would be put in place to alleviate the potential concerns held by residents over development of this site.

The City's Senior Planner, Miriam Bader, Parking Enforcement Manager Jim Miller, and I met to discuss the recommended restrictions for permit parking, as well as possible 'time-limited' parking for the Autoville community. Within the target area, the streets most likely to be affected by construction of the development site would be Cherokee Street, Autoville Drive, Blackfoot Place, and Erie Street, all of which are situated on the west side of Baltimore Avenue.

We further noted that Erie Street has no residential properties, but is used for events at the American Legion and by customers of local businesses. To accommodate this, and prevent these on street parking spaces from being used all day by construction workers, Erie Street will be posted for 3 hour limited parking from 7 a.m. to 10 p.m.

14-G-68

**Motion by Councilmember Brennan**

**14-G-68**

**I move that the City Council approve a letter to the State Highway Administration thanking them for their detailed response to previous City correspondence regarding MD 430, and offering on-going collaboration to evaluate the effectiveness of these changes and other opportunities to improve safety on State roads in the City.**

June 17, 2014

Mr. Brian W. Young  
District Engineer, District 3  
Maryland State Highway Administration  
9300 Kenilworth Avenue  
Greenbelt, MD 20770-1403

Dear Mr. Young:

I would like to thank you for your detailed response to recent correspondence from the City of College Park regarding pedestrian and bicyclist safety at the intersection of Rhode Island Avenue and MD 430 (Greenbelt Road) and along other sections of MD 430. We appreciate the research conducted by your staff and the improvements SHA has proposed.

As you know, we have hopes for additional improvements, such as pedestrian actuated crossing lights, but we are pleased that SHA will reevaluate the improvements and traffic speeds one year after the project is completed. We understand some changes will require longer time horizons and additional funding.

Please know that we are eager to work with SHA to improve the safety for all users on the State roads within College Park, and particularly to improve the facilities and safety of pedestrians and cyclists. We look forward to working with you on this and other projects in College Park.

Sincerely,

Andrew M. Fellows  
Mayor

**14-CR-01**

**CHARTER RESOLUTION**  
**OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, AMENDING**  
**ARTICLE V “CHARTER AMENDMENTS”, §C5-1, “PROCEDURE FOR PETITION”**  
**TO REQUIRE CERTAIN INFORMATION TO BE INCLUDED ON REFERENDUM**  
**PETITIONS**

A Charter Resolution of the Mayor and Council of the City of College Park, Maryland, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland (1957 edition, as amended).

**WHEREAS**, §C5-1 of the City Charter currently sets certain procedures for charter referendum petitions, including requirements for the contents of the petitions; and

**WHEREAS**, the Mayor and Council have determined that it is appropriate to require that petition forms also include the date of signature and a circulator’s information and affidavit, in order to aid the Supervisors of Election in determining a proper count of qualified voters and to help ensure the reliability of the information included on the petition and to verify when the signature was obtained.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of College Park that:

**Section 1.** Article V, “Charter Amendments,” §C5-1 “Procedure for petition” be repealed, re-enacted and amended to read as follows:

A. In all instances where a petition is filed with the Mayor and Council to initiate an amendment to the City Charter or for a referendum in cases where an amendment to the City Charter has been initiated by the Mayor and Council, the following procedures shall be followed:

(1) The petitions shall be referred to the Supervisors of Elections, who shall report to the Mayor and Council the total number of persons qualified to vote in [~~a municipal~~] THE CITY general election at the time the petition is received and the total number of such voters determined by

CAPS : Indicate matter added to existing law.

[Brackets] : Indicate matter deleted from law.

Asterisks \* \* \* : Indicate matter remaining unchanged in existing law but not set forth in Ordinance.

them to have signed the petition; provided, however, that in any case where a person signing the petition shall have failed to put his/her printed name, printed residence address, DATE OF SIGNATURE and city election district number thereon, the Supervisors of Elections shall not determine if such person is qualified to vote AND SUCH PERSON SHALL NOT BE COUNTED AS A PERSON QUALIFIED TO VOTE. UNLESS EACH PETITION PAGE INCLUDES THE CIRCULATOR'S PRINTED OR TYPED NAME, RESIDENCE ADDRESS AND TELEPHONE NUMBER, AND A SIGNED CIRCULATOR'S AFFIDAVIT STATING THAT THE CIRCULATOR WAS AT LEAST 18 YEARS OLD WHEN EACH SIGNATURE WAS OBTAINED; THAT THE INFORMATION PROVIDED BY THE CIRCULATOR IS TRUE AND CORRECT; THAT THE CIRCULATOR PERSONALLY OBSERVED EACH SIGNER AS HE/SHE SIGNED THE PAGE; AND THAT TO THE BEST OF THE CIRCULATOR'S KNOWLEDGE AND BELIEF, ALL SIGNATURES ON THE PAGE ARE GENUINE AND ALL SIGNERS ARE QUALIFIED VOTERS FOR THE COLLEGE PARK MUNICIPAL GENERAL ELECTION, THE SUPERVISORS OF ELECTIONS SHALL NOT DETERMINE IF ANY PERSONS LISTED ON THE PAGE ARE QUALIFIED TO VOTE AND ANY PERSON SO LISTED SHALL NOT BE COUNTED AS A PERSON QUALIFIED TO VOTE.

(2) Upon receiving the report of the Supervisors of Elections, the Mayor and Council shall then comply with the applicable provisions of §4-301 *ET SEQ.* OF THE LOCAL GOVERNMENT ARTICLE[~~Article 23A~~] of the Annotated Code of Maryland ~~{(1957 Edition,}~~ (as amended)[, ~~titled "Corporations — Municipal," subtitle "Charter Amendments."}]~~

B. A petition may consist of several pages. Each petition PAGE shall contain the full title of the Charter amendment or that part of the title of the Charter amendment petitioned upon. THE BACK OF EACH PETITION PAGE SHALL CONTAIN EITHER:

1. THE FULL TEXT OF THE AMENDMENT, OR
2. A FAIR AND ACCURATE SUMMARY OF THE SUBSTANTIVE PROVISIONS OF THE AMENDMENT. IN THIS CASE, THE FULL TEXT OF THE AMENDMENT MUST BE IMMEDIATELY AVAILABLE FROM THE PETITION CIRCULATOR.

**Section 2.** BE IT FURTHER RESOLVED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Charter Resolution, the City Clerk shall publish this proposed Charter Resolution or a fair summary thereof in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing is hereby set for \_\_\_\_\_ p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2014. All persons interested shall have an opportunity to be heard.

**Section 3.** BE IT FURTHER RESOLVED that this Charter Resolution is adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014, and that the amendment to the Charter of the City of College Park, hereby proposed by this enactment, shall be and become effective upon the fiftieth (50<sup>th</sup>) day after its passage by the City unless petitioned to referendum in accordance with §4-304 of the Local Government Article, Annotated Code of Maryland within forty (40) days following its passage. A complete and exact copy of this Charter Resolution shall be posted in the City offices located at 4500 Knox Road, College Park, Maryland for forty (40) days following its passage by the Mayor and Council and a fair summary of the Charter Resolution shall be published in a newspaper having general circulation in the City not less than four (4) times, at weekly intervals, also within the forty (40) day period following its adoption by the City.

**Section 4. BE IT FURTHER RESOLVED** that, within ten (10) days after the Charter Resolution hereby enacted becomes effective, either as herein provided or following referendum, the City Manager for the City of College Park shall send separately, by mail, bearing a postmark from the United States Postal Service, to the Department of Legislative Services, one copy of the following information concerning the Charter Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the City of College Park or in the referendum; and (iv) the effective date of the Charter Resolution.

**Section 5. BE IT FURTHER RESOLVED** that the City Manager of the City of College Park be, and hereby is specifically enjoined and instructed to carry out the provisions of Sections 2 and 3 as evidence of compliance herewith; and said City Manager shall cause to be affixed to the minutes of this meeting (i) an appropriate Certificate of Publication of the newspaper in which the fair summary of the Charter Resolution shall have been published; and (ii) return receipts of the mailing referred to in Section 3 and shall further cause to be completed and executed the Municipal Charter or Annexation Resolution Registration Form.

**INTRODUCED** by the Mayor and Council of the City of College Park at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**ADOPTED** by the Mayor and Council of the City of College Park at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**EFFECTIVE** the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF COLLEGE PARK,**

\_\_\_\_\_  
Janeen S. Miller, CMC, City Clerk

By \_\_\_\_\_  
Andrew M. Fellows, Mayor

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

14-G-69

## Appointment to Boards and Committees

14-G-69

### Councilmember Wojahn:

- Betty Gales to the Animal Welfare Committee (pending receipt of application)

### Councilmember Day:

- Bradley Farrar to the District 3 vacancy on the Recreation Board

14-G-70

I move that the City Council approve a Cooperation Agreement with the Prince George's County Department of Housing and Community Development for participation in the Community Development Block Grant (CDBG) program and HOME Investment Partnerships (HOME) program for federal fiscal years 2015 – 2017.

**Comments:**

- A municipality may elect to participate as a unit of general local government and include the municipality's population with that of the county's unincorporated areas in determining the amount of the county's annual entitlement funding from the U. S. Department of Housing and Urban Development (HUD). If the city elects to participate, a signed Cooperation Agreement must be submitted to the county by June 30, 2014.
- A municipality may elect not to participate in determining the county's entitlement status, in which case the municipality must notify HUD and Prince George's County no later than June 20, 2014.
- Participating municipalities may be eligible to receive project funding assistance through the CDBG and, where applicable, HOME programs for the period July 1, 2015 through June 30, 2017. Municipalities that don't participate may be eligible to apply for funding assistance through the State of Maryland Small Cities CDBG program during this period.
- The City of College Park previously entered into a Cooperation Agreement with the county for federal fiscal years 2012 – 2014. The city was awarded \$217,000 in CDBG funding in 2012 and no funding in 2013 and 2014.

**Attachments:**

1. Certification of Cooperation Agreement
2. Cooperation Agreement

## CERTIFICATION OF COOPERATION AGREEMENT

The attached Cooperation Agreement between **Prince George's County, Maryland** and the \_\_\_\_\_ of \_\_\_\_\_ was duly considered  
*(Town/City)* *(Municipality Name)*  
and approved by majority vote of the \_\_\_\_\_ at an official  
*(Name of Municipal Governing Body)*  
meeting held on this \_\_\_\_ day of \_\_\_\_\_, 2014 and the \_\_\_\_\_  
*Mayor/Authorized Officer)*  
was duly authorized to execute said agreement on behalf of the municipality.

For: \_\_\_\_\_ of \_\_\_\_\_  
*(Town/City)* *(Municipality Name)*

ATTEST: \_\_\_\_\_  
*(Clerk/Authorized Official)(Seal)*

Date: \_\_\_\_\_, 2014

## COOPERATION AGREEMENT

**THIS COOPERATION AGREEMENT (“Agreement”)** is entered into by and between the **Town/City of \_\_\_\_\_** (hereinafter referred to as the **“Municipality”**) and **Prince George’s County, Maryland** (hereinafter referred to as the **“County”**) on behalf of the **Prince George’s County Department of Housing and Community Development** (hereinafter referred to as the **“DHCD”**).

**WHEREAS**, the Housing and Community Development Act of 1974, as amended, provides entitlement funds for qualified urban counties; and

**WHEREAS**, the County is required to requalify its entitlement status as an urban county to be eligible to receive funding from the U.S. Department of Housing and Urban Development (“HUD”) to administer its Community Development Block Grant (“CDBG”), HOME Investment Partnerships (“HOME”) and Emergency Solutions Grant (“ESG”) programs during the Federal Fiscal Years (“FYs”) 2015 through 2017 qualification period (“Qualification Period”); and

**WHEREAS**, the County certifies that it shall continue to follow an approved Housing and Community Development Consolidated Plan as promulgated by HUD pursuant to 24 CFR 570.302 and 24 CFR Part 91 during the Qualification Period; and

**WHEREAS**, the County is required to enter into Cooperation Agreements with its designated units of general local government (“UGLG”) that desire HUD to include its’ respective population figures under the County’s urban county status for the purpose of increasing the County’s allocation of entitlement funds during the Qualification Period; and

**WHEREAS**, the County has identified the Municipality as a UGLG and the Municipality has agreed to allow the County to include its population with that of the County’s unincorporated areas to be considered part of the urban county total population used as a basis for entitlement determinations; and

**WHEREAS**, the cooperation of the County and the Municipality is essential for the successful planning and implementation of housing assistance and community development activities that shall be included within County’s Housing and Community Development Annual Action Plan (“Annual Action Plan”); and

**WHEREAS**, the Municipality understands that the County shall have final responsibility for selecting CDBG, HOME and ESG activities to be assisted with entitlement funds and for filing Annual Action Plans during the Qualification Period with HUD.

**NOW, THEREFORE**, in consideration of the mutual obligations set forth herein, the parties agree as follows:

1. The County and the Municipality agree to cooperate to undertake or assist in undertaking, community renewal and low-income housing assistance activities. The Municipality further agrees to cooperate in the use of its powers in assisting the County's efforts to carry out essential activities in accordance with County's CDBG and, where applicable HOME and ESG Programs.

2. The County shall have the final responsibility for selecting CDBG and, where applicable, HOME and ESG activities that will be funded from annual CDBG during the Federal FYs 2015 through 2017 ("Qualification Period") and any program income generated from the expenditure of such funds.

3. The County shall be responsible for submitting the County's Consolidated and Annual Action Plans to HUD for approval.

4. To the extent applicable, the County and the Municipality shall take actions necessary to assure compliance with Prince George's County's urban county certification requirements set forth in Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, and other applicable laws.

5. The Municipality shall affirmatively further, to the extent applicable, fair housing actions within its jurisdiction, and not impede the County's actions to comply with its fair housing certification.

6. The Municipality has adopted and shall continue to enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within the Municipality's jurisdiction.

7. The Municipality must inform the County of any program income generated by and submitted to the Municipality's in accordance with its expenditure and/or sub-award of CDBG funds. Any such program income must be paid to the County unless specifically authorized by the County for use in association with the financial requirements of other projects previously approved by the County. Any program income the Municipality is authorized to retain may only be used for eligible activities in accordance with the terms and conditions of the applicable Sub-recipient Agreement and the applicable CDBG laws and regulations.

8. The Municipality shall not sell, trade or otherwise transfer all or any portion of any grant funds to another unit of general local government (UGLG), metropolitan city, urban county, Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations. The Municipality further agrees to use grant funds, if any, for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

9. The County has the responsibility for monitoring and reporting to HUD on the use of any program income thereby requiring appropriate recordkeeping and reporting as may be needed for this purpose.

10. It is understood that the Municipality pursuant to 24 CFR 570.501(b), is subject to the same requirements applicable to subrecipients. This includes the responsibility for a written agreement ("Sub-recipient Agreement") as set forth in 24 CFR 570.503, for ensuring that CDBG funds are used in accordance with all program requirements, for determining the adequacy of performance under subrecipient agreements and procurement contracts, and for taking appropriate action when performance problems arise. The use of any designated public agencies, subrecipients, or contractors does not relieve the municipality of this responsibility.

11. The Municipality shall be required to enter into a signed Sub-recipient Agreement with the County before any CDBG funds may be disbursed to the Municipality to undertake approved activities. This Sub-recipient Agreement shall remain in effect during and any time after the Qualification Period during which the Municipality has control over CDBG funds, including program income.

12. In the event of the close out of this Agreement or a change in the status of the Municipality, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County.

13. For real property acquired or improved in whole or in part using CDBG Funds and within the Municipality's control, the Municipality shall (A) provide the County with timely notification for any modification or change in the use of the real property from that planned at the time of acquisition or improvement including disposition; (B) reimburse the County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for use which does not qualify under the CDBG regulations; and (C) treat as program income the revenue generated from the disposition or transfer of property prior to or subsequent to the close out, change of status or termination of this Agreement between the County and the Municipality.

14. By executing this Agreement, the Municipality understands that it may not apply for grants from appropriations under the State Small Cities CDBG Program for any fiscal year during the Qualification Period in which it is participating in

the County's CDBG program.

15. By executing this Agreement, the Municipality understands that it may not participate in a HOME consortium except through the County, regardless of whether the County receives a HOME formula allocation. The Municipality further understands that it may receive a formula allocation under the HOME Program and/or ESG Program, if any, only through the County.

16. This Agreement between the County and the Municipality shall automatically be renewed for participation in successive three-year Qualification Periods, unless the County or the Municipality provides written notice before the end of the County's Qualification Period that it elects not to participate in a new three-year Qualification Period. By the date specified in HUD's next CPD Notice for Urban County Qualification, the County will notify the Municipality, in writing, of its right not to participate. A copy of the County's notification shall be sent to the HUD Field Office by the date specified in the CPD Notice for Urban County Qualification.

Failure by either party to adopt any amendment to this Agreement, which must incorporate any changes necessary to meet HUD's current requirements for Cooperation Agreement, for a subsequent three-year Qualification Period and to submit the amendment to HUD as provided in the applicable CPD Notice shall void the Municipality's automatic renewal as a participating UGLG under the County's urban status.

17. This Agreement shall remain in effect until the County's CDBG and, where applicable, HOME and ESG entitlement funds and program income received with respect to activities undertaken during the Qualification Period and any successive periods, as amended, are expended and the funded activities are completed. It further understood and agreed that neither the County and nor the Municipality may not terminate or withdraw from this Agreement while this Agreement remains in effect.

18. The recitals set forth above are herein incorporated as operative provisions of this Agreement.

**[SIGNATURES APPEAR ON THE NEXT PAGE.]**

**IN WITNESS WHEREOF**, the parties' authorized representatives signed and delivered this Cooperation Agreement on the dates set forth below.

**ATTEST:**

**FOR:** \_\_\_\_\_

\_\_\_\_\_  
*(Signature of Witness)*

**By:** \_\_\_\_\_  
*(Signature of Authorized Official)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Date)*

**FOR: Prince George's County, Maryland**

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

Thomas M. Himler  
Deputy Chief Administrative Officer

\_\_\_\_\_  
*(Date)*

**Reviewed and Approval Recommended**

\_\_\_\_\_  
Eric C. Brown, Director  
Department of Housing & Community Development

### Legal Certification

The undersigned attorney for Prince George's County, Maryland ("County") certifies that the terms and provisions set forth in this Cooperation Agreement ("Agreement") are fully authorized and/or not otherwise prohibited under existing State and local laws and that this Agreement provides full legal authority for the County to undertake or assist in the undertaking essential community development and housing assistance activities that may include, but are not limited to, urban renewal and public assisted housing in cooperation with designated units of local government ("UGLG").

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Office of Law