

RESOLUTION NO. 2030

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND  
APPROVING A MANAGEMENT AGREEMENT FOR THE GOVERNMENT OFFICE BUILDING  
AND A MEMORANDUM OF UNDERSTANDING PERTAINING TO PARKING FOR THE  
GOVERNMENT OFFICE BUILDING

WHEREAS, in 1982, the City and the County entered into a written agreement which provided that the City would pay its proportionate share of the annual debt service payments attributable to the Government Office Building; and

WHEREAS, this agreement also provided that the City would become half owner of the Government Office Building once the debt on the building was retired; and

WHEREAS, the debt on the Government Office Building was retired in 1996; and

WHEREAS, both the City Council and the County Council have approved the deed providing that the Government Office Building is jointly owned by the City and the County; and

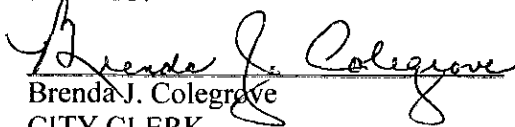
WHEREAS, both the City and the County believe that, to facilitate the management of the building, it is desirable to have a Management Agreement between the parties; and

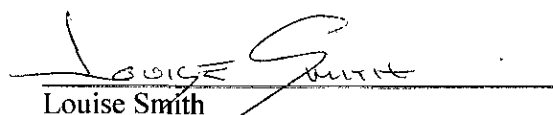
WHEREAS, both the City and the County believe that it is also desirable to have a Memorandum of Understanding between the parties pertaining to the ongoing administration and maintenance of the parking lot that serves the Government Office Building but is located on a separate piece of property;

NOW, THEREFORE, BE IT RESOLVED that the Salisbury City Council hereby approves the attached Management Agreement for the Government Office Building and the attached Memorandum of Understanding pertaining to the parking lot that serves the Government Office Building both of which have previously been adopted by the County Council.

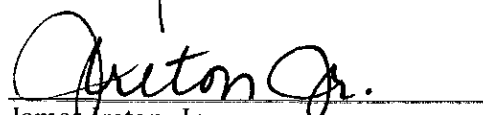
THE ABOVE RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on the 14<sup>th</sup> day of February, 2011 and is to become effective immediately upon adoption.

ATTEST:

  
Brenda J. Colegrove  
CITY CLERK

  
Louise Smith  
PRESIDENT, City Council

APPROVED by me this 15<sup>th</sup> day of  
February, 2011.

  
James Ireton, Jr.  
MAYOR, City of Salisbury

## MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT entered into as of the 22<sup>nd</sup> day of February 2011, by and between WICOMICO COUNTY, MARYLAND, a body politic and corporate of the State of Maryland, (hereinafter referred to as "County") and the CITY OF SALISBURY, a municipal corporation of the State of Maryland (hereinafter referred to as "City").

### WITNESSETH:

WHEREAS, the County and City are the owners of property located at 125 North Division Street, Salisbury, Maryland, which is known as the Government Office Building (hereinafter referred to as "GOB"); and

WHEREAS, County and City desire to enter into a management agreement which will define various aspects of management of the GOB and payment of corresponding costs.

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

### ARTICLE ONE Definitions

For the purposes of this Agreement, the following defined terms shall have the meanings ascribed thereto:

- 1.01 "Agreement": This Management Agreement.
- 1.02 "Budget": The budget for the operation and management of the GOB
- 1.03 "Improvements": Any improvements now and hereafter erected to the GOB

### ARTICLE TWO Employment of Facilities Manager

- 2.01 County and City hereby authorize the County to employ a facilities manager.

### ARTICLE THREE Budget

- 3.01 Facilities Manager shall develop a proposed budget for the operating expenses and capital expenditures related to the property on or before February 1, of each year, which shall be submitted to

the County for approval with a copy to the City Administrator for comment. The proposed operating budget shall be based upon the expenditures for prior years and the anticipated operating expenditures for the upcoming year. Expenditures for capital improvements shall be included in the budget.

3.02 The City and County shall each pay a portion of the actual operating and capital expenditures each year. The portion to be paid by each shall be equal to the proportion of the floor space of the non-joint use portion of the building occupied by each.

3.03 County agrees to maintain, in the Offices of the County, a comprehensive system of office records, books and accounts relating to the income, expenses and operations of the GOB. Both City and County shall have access to such office records, books and accounts, and to all vouchers, files and other material relating to the GOB. Records, books, accounts may be inspected during normal business hours.

#### ARTICLE FOUR

##### Legal Compliance

4.01 City and County shall take such actions as may be necessary to comply with any and all lawful orders or requirements affecting the property by any federal and state entity having jurisdiction.

#### ARTICLE FIVE

##### Maintenance and Repair

5.01 All unanticipated expenditures for maintenance and repair of the GOB shall be jointly approved by the City Administrator and the County Director of Administration except for emergency expenditures as enumerated in Section 5.03.

5.02 If the City and County are unable to agree on maintenance and repair, then the dispute shall be submitted to the Mayor and County Executive for resolution. If the Mayor and County Executive are unable to resolve the dispute, then it shall be submitted to one (1) qualified arbitrator agreed upon by the City Administrator and County Director of Administration and the arbitrator's decision shall be final on each issue.

5.03 In the event of an emergency, which will require an unanticipated expenditure, the Facilities Manager shall attempt to notify the Director of Administration and the City Administrator, or their designees, before initiating the repair. In the event that the Director of Administration or City Administrator, or designees are not immediately available, the repairs necessary to preserve, prevent, and operate the facilities and/or its occupants will not be delayed.

#### ARTICLE SIX

##### CAPITAL EXPENDITURES

6.01 The City and County, acting through their respective administrators, shall discuss and agree on capital expenditures for the GOB.

6.02 If the City and County are unable to agree on capital expenditures, then the dispute shall be submitted to the Mayor and County Executive for resolution. If the Mayor and County Executive are unable to resolve the dispute, then it shall be submitted to one (1) qualified arbitrator agreed upon by the City Administrator and County Director of Administration and the arbitrator's decision shall be final on each issue.

## ARTICLE SEVEN

### Insurance

7.01 County shall maintain the following types of insurance on the GOB with City named as insured:

(a) Public Liability Insurance in a comprehensive general liability form in an amount not less than two million dollars (\$2,000,000) annual aggregate and one million dollars (\$1,000,000) each occurrence;

(b) Fire and extended coverage in an amount not less than eighty percent (80%) of the replacement cost of the GOB, exclusive of land and excavation cost;

(c) Boiler Insurance;

(d) Such other insurance as may be required by law or deemed desirable by County and City should be obtained at the respective expense of the City and County to cover the interest of said parties, including, but not limited to personal property, worker's compensation insurance and burglary and theft insurance;

(e) County and City shall promptly investigate all accidents, damages and other casualty to the GOB or any claims of injury, to property or person, arising out of or related to the ownership, operation and maintenance of the GOB;

(f) Cost of insurance shall be included in the operating budget.

## ARTICLE EIGHT

### Term

8.01 The term of this Agreement shall commence on July first of each year and remain in effect for a period of one (1) year with automatic annual extension. The term of this Agreement shall be subject to review upon notice by January first prior to the end of the fiscal year. If either party desires to vacate the building or any part thereof, notice will be given to the other party ninety days prior to their action.

ARTICLE NINE  
NOTICE

9.01 Any notices required or authorized by this Agreement shall be delivered in writing by United States mail or personal service to:

City of Salisbury  
City Administrator  
125 North Division Street  
Salisbury, Maryland 21801

Wicomico County  
Director of Administration  
P.O. Box 370,  
125 North Division Street  
Salisbury, Maryland 21803-0370

ARTICLE TEN  
First Right of Refusal

10.01 If either party elects to sell or lease all or any portion of their interest in the Government Office Building, the other party shall have the right of first refusal to meet any bona fide offer of sale or lease on the same terms and conditions of such offer. If such other party fails to meet such bona fide offer within thirty (30) days after notice from the party that elected to sell or lease, said party may sell or lease their interest in the Government Office Building to such third party in accordance with the terms and conditions of their offer.

ARTICLE ELEVEN  
Miscellaneous

11.01 Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only upon an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Maryland law, but if any provision of this Agreement shall be prohibited by or be invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of the Agreement.

11.02 This Agreement, and other documents executed in connection with the GOB, constitutes and expresses the entire Agreement of the parties hereto and no agreements, warranties, representation or covenants not herein expressed shall be binding upon the parties.

11.03 This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute one and the same instrument.

11.04 The captions appearing before Sections and Articles in this Agreement have been inserted solely for the purposes of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the Sections or Articles to which they appertain.

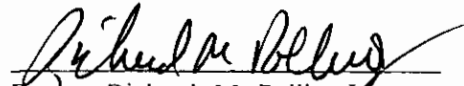
11.05 The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, and their respective successors and assigns.

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

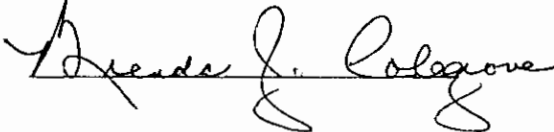
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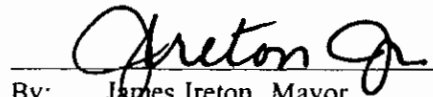
WICOMICO COUNTY, MARYLAND

  
By: Richard M. Pollitt, Jr.  
Wicomico County Executive

ATTEST:



CITY OF SALISBURY, MARYLAND

  
By: James Ireton, Mayor  
City of Salisbury

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING made this 22<sup>nd</sup> day of February, 2011, by and between WICOMICO COUNTY, MARYLAND, a body politic and corporate of the State of Maryland and the CITY OF SALISBURY, a municipal corporation of the State of Maryland, as follows:

WHEREAS, Wicomico County and the City of Salisbury desire to enter into a Memorandum of Understanding to define their respective rights and responsibilities; and

WHEREAS, Wicomico County has repaired and maintained the pedestrian access area and green space located on the Westerly and Northerly sides of the Circuit Court - Courts Building (Parcel 822 on the attached plat), the sidewalk area and green space adjacent to East Church Street, and the parking area adjacent to the Easterly side of the Circuit Court - Courts Building; and

WHEREAS, the City of Salisbury has collected and retained all parking fees for the parking lot area adjacent to the Northerly side of the Circuit Court - Courts Building and repaired and maintained that parking area.

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS, Wicomico County and City of Salisbury, their respective successors and assigns, do hereby agree to the terms and provisions of this Memorandum of Understanding, to wit:

1. Pedestrian Access: Wicomico County and City of Salisbury agree the pedestrian access area adjoining the Westerly and Northerly sides of the Circuit Court - Courts Building is primarily for access for persons doing business with Wicomico County and the City of Salisbury.
2. Parking:

(a) The City of Salisbury will provide parking spaces for Wicomico County Council members on the first and third Tuesday of each month and such other times as the County Executive or County Council may determine.

(b) The City of Salisbury will provide an "All Lots" permit to Wicomico County Council members and to the Wicomico County Executive, allowing parking access in all City of Salisbury Public Parking lots.

(c) The City of Salisbury will provide a "Lot 9" permit to the State's Attorney and Assistant State's Attorney, allowing parking access in Lot 9.

(d) Upon written request, the City will provide parking permits as requested by the County Executive or County Council.

3. Repair and Maintenance: Wicomico County and City of Salisbury agree that "repair and maintain" means to keep the area clean of rubbish and debris, including the removal of leaves and other vegetative matter; keeping any grass and plantings mowed and trimmed; keeping any flower beds appropriately planted, trimmed and cleaned; removing snow and ice and applying appropriate materials to keep the surfaces safe for vehicles and pedestrians in the event of snow and ice; and promptly correcting any surface deficiencies in the sidewalks, curbs, gutters or pavement. The City of Salisbury and Wicomico County agree that they are solely responsible for the repair and maintenance of the respective areas or responsibility as set forth below and will not bill the other party for repairs or maintenance.

(a) Wicomico County agrees to repair and maintain the pedestrian access area and green space adjacent to the Westerly and Northerly sides of the Circuit Court - Courts Building and the sidewalk and green space adjacent to East Church Street.



(b) Wicomico County agrees to repair and maintain the parking area adjacent to the Easterly side of the Circuit Court - Courts Building.

(c) City of Salisbury agrees to repair and maintain the parking areas adjacent to the Northerly side of the Circuit Court - Courts Building.

(d) City of Salisbury agrees to provide parking meters and to collect and retain all parking fees for the parking areas adjacent to the Northerly side of the Circuit Court - Courts Building.


(e) City of Salisbury agrees to remove snow and ice and apply appropriate materials as required in the event of snow and ice for the parking area on the Easterly side of the Circuit Court - Courts Building.


4. Cancellation: Both parties retain the right to unilaterally cancel this Memorandum of Understanding upon ninety (90) days written notice.

AS WITNESS, the corporate seals of the said Wicomico County, Maryland and the City of Salisbury, the signature of its proper officials the day and year first above written.

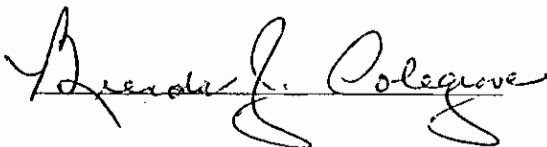
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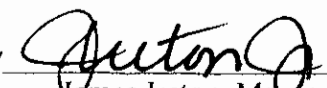
WICOMICO COUNTY, MARYLAND

  
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By  (SEAL)  
Richard M. Pollitt, Jr.  
County Executive

CITY OF SALISBURY

  
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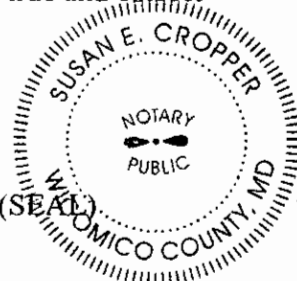
By  (SEAL)  
James Irton, Mayor

STATE OF MARYLAND, COUNTY OF WICOMICO, TO WIT:

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of February, 2011, before me, the subscriber, a Notary Public, in and for the state and county aforesaid, personal appeared, Richard M. Pollitt, Jr., who acknowledged himself to be the County Executive of the Wicomico County Council, and that he, as such County Executive, being authorized to do so, executed the foregoing Memorandum of Understanding for the purposes therein contained, by signing, in my presence, the name of the said Wicomico County, Maryland, by himself, as County Executive of the Wicomico County, Maryland, and certified that the facts contained herein are true and correct to the best of his knowledge, information and belief.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Susan E. Cropper  
Notary Public



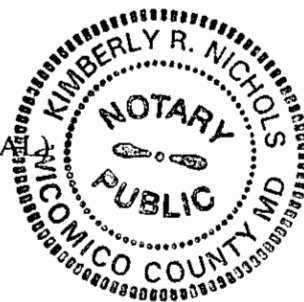
My Commission Expires: 3-17-14

STATE OF MARYLAND, COUNTY OF WICOMICO, TO-WIT:

I HEREBY CERTIFY that on this 17<sup>th</sup> day of February, 2011; before me, the subscriber, a Notary Public, in and for the state and county aforesaid, personal appeared, James Ireton, who acknowledged himself to be the Mayor of the City of Salisbury, and that he, as such Mayor, being authorized to do so, executed the foregoing Memorandum of Understanding for the purposes therein contained, by signing, in my presence, the name of the said City of Salisbury by himself, as Mayor of the City of Salisbury, and certified that the facts contained herein are true and correct to the best of his knowledge, information and belief.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Kimberly R. Nichols  
Notary Public



My Commission Expires: 10-18-13

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INTER

OFFICE

MEMO

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## Office of the Mayor

**To:** City Council  
**From:** John R. Pick   
**Subject:** Management Agreement and Memorandum of Understanding - Government Office Building  
**Date:** January 28, 2011

At its November 2, 2010 meeting, the County Council approved the revised deed for the Government Office Building, which reflects joint ownership between the City and the County. They also approved a Management Agreement for this building and a Memorandum of Understanding that pertains to the parking lot that serves this building. The deed had previously been approved by you and so no further action is necessary on your part on this document. The Memorandum of Understanding was previously reviewed by the City Council but was not formally approved.

When the City Council reviewed the Memorandum of Understanding, we mentioned that we had suggested several changes but, at that time, we had received no response from the County. Beside these suggested changes, both the Mayor and the City Council found this document acceptable. The changes we suggested to the Memorandum of Understanding were as follows:

- 1) 4<sup>th</sup> WHEREAS - this provision should remain in the document because it states an important point - that the primary purpose of the parking and sidewalk areas are to provide access to this building for the public. While this point is also stated in paragraph #1, we believe it is important enough to include it as a WHEREAS.
- 2) Paragraph 2. Parking. Subparagraph (a) this should be changed to provide that the City will provide parking spaces for the Wicomico County Council members on the first and third Tuesday of each month for County Council meetings and at other times as requested by the County Executive or County Council for County Council meetings or other special events as available. (While we don't anticipate that either the County Executive or County Council would abuse the ability to reserve parking spaces in this parking lot, we believe it is better for the agreement to place certain reasonable limits on this ability.)
- 3) Paragraph 2. Subparagraph (b) should be reinstated to read as follows: Requests for parking spaces to be provided under paragraph (a) above must be received by the City's Parking Administrator by noon of the work day immediately preceding the meeting or

event day. (We believe that this modification will help ensure that the County understands our desire to avoid paying overtime simply to place bags on the parking meters to reserve parking spaces.)

- 4) Paragraph 2. Original Subparagraphs (e) and (f) should both stay in the document. (In an effort to ensure that this parking lot is available to people who come to the Government Office Building to conduct business, the City has a long-standing practice of limiting the occasions on which City employees are able to park in the lot. Those restrictions are reflected in original subparagraphs (e) and (f) of this document. We believe that these restrictions are reasonable and we would like to see them reflected in this document so that it is clear that they would apply to the County as well.)
- 5) Paragraph 3. Repair and Maintenance. In the final sentence, the word "or" immediately preceding the word "responsibility" should be changed to "of".

Recently we learned that these suggestions were presented to the County Council when they reviewed these documents but they chose not to make the noted changes.

While we would like to see these suggested changes reflected in this document, at this time, we recommend that the Council adopt these documents as approved by the County Council. We feel that it would be more advantageous to have these agreements in place than to continue to try to convince the County Council to make these changes.

Attached is a resolution adopting both the proposed Management Agreement and the Memorandum of Understanding. Copies of both documents, as adopted by the County Council are attached. Also attached is a copy of the earlier draft of the Memorandum of Understanding to which the above comments relate.

cc: Mayor Ireton  
Lore' Chambers  
Pam Oland  
Paul Wilber  
Brenda Colegrove