

RESOLUTION NO. 2667

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND TO AUTHORIZE A MEMORANDUM OF UNDERSTANDING AND ACCEPT A DONATION FROM THE DELMARVA ZOOLOGICAL SOCIETY FOR IMPROVEMENTS TO THE SALISBURY ZOOLOGICAL PARK VISITOR CENTER BUILDING.

WHEREAS, the Council of the City of Salisbury supports the acceptance of donations at the Salisbury Zoo; and

WHEREAS, the Delmarva Zoological Society has raised funds for the design, improvement and construction of the existing Visitor Center; and

WHEREAS, the Delmarva Zoological Society would like to donate the improvements to the Visitor Center to the City of Salisbury upon Final Acceptance of construction; and


WHEREAS, the City will provide in-kind labor for specific tasks, but will not provide any direct funding; and

WHEREAS, the attached Memorandum of Understanding defines the responsibilities of each party in regard to the donation.

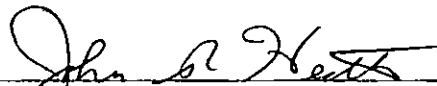
NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Salisbury, Maryland does hereby authorize the Mayor to sign the attached Memorandum of Understanding with the Delmarva Zoological Society dated October 4, 2016 and accept the donation of the improvements to the Visitor Center upon Final Acceptance of construction.

THIS RESOLUTION was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on September 26, 2016 and is to become effective immediately upon adoption.

ATTEST

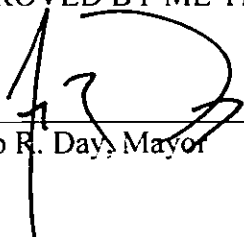


Diane K. Carter, Assistant City Clerk



John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS 27 day of SEPT, 2016.



Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

To: Thomas Stevenson, City Administrator
From: Michael S. Moulds, P.E., Director of Public Works *MSM*
Date: August 3, 2016
Re: Memorandum of Understanding with DZS for Zoo Visitor Center

The Delmarva Zoological Society (DZS) has raised funds for the new Visitor Center which is to be located in the W.E. Morgan Building. Attached is a Memorandum of Understanding with DZS which outlines the funding and the roles and responsibilities for DZS and the City. The City will review the design, perform the site survey, apply for the MDE floodplain permit, perform construction administration services, and perform part time inspection. The construction contract with the Vendor will be with DZS. The project is funded with donations, therefore the City is not providing funding for this project.

Attached is the Resolution to authorize the Mayor to sign the MOU and for the City to accept the donation upon Final Acceptance of the construction. DZS is planning to contract with Delmarva Veterans Builders under a Construction Management at Risk contract to perform the design and construction.

Unless you or the Mayor have further questions, please forward a copy of this memo, the resolution and the MOU to the City Council.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE DELMARVA ZOOLOGICAL SOCIETY, INC. AND
THE CITY OF SALISBURY**

This Agreement is made by and between the Delmarva Zoological Society, Inc. (“DZS”), a corporation organized under the not-for-profit corporation laws of the State of Maryland and the City of Salisbury (“City”) a municipal corporation incorporated under the laws of the State of Maryland.

WHEREAS, DZS is charged with promoting, raising funds for, publicizing, and supporting the exhibits, education efforts and projects of the Salisbury Zoological Park (“Salisbury Zoo”), in partnership with the Salisbury Zoo Commission, Inc. (“Zoo Commission”) and/or the Director of the Salisbury Zoo, by such means as fund-raising, appeals to the general public, corporate sponsorships, endowments, individual contributions, bequests, legacies, and other means; and

WHEREAS, the City also provides financial support to the Salisbury Zoo and, along with the Zoo Commission, manages the Zoo through a successful public/private partnership; and

WHEREAS, DZS has established a “Renew the Zoo Fund” and pledged that distributions from the Fund must be for the purpose of improving the Salisbury Zoo, which shall include, but shall not be limited to the construction and renovations of buildings and facilities at the Salisbury Zoo; and

WHEREAS, DZS, through its “Renew the Zoo” capital campaign, has raised funds, which will be used to finance the design, improvement, and construction of the existing William Morgan Visitor Center (“Visitor Center”) at the Salisbury Zoo; and

WHEREAS, the improvements to and construction of the Visitor Center are not funded by the City of Salisbury with the exception of providing in-kind labor for the specific tasks listed herein; and

WHEREAS, DZS will contract directly with a Vendor for the design, construction and Construction Management of the Visitor Center and will provide payment directly to the Vendor; and

WHEREAS, DZS will donate the improvements to the Visitor Center to the City of Salisbury upon completion of construction.

THEREFORE, based on the foregoing, the parties enter into the following Agreement.

SECTION 1. DZS REPRESENTATIONS.

DZS represents, acknowledges, and agrees that it will fund the Visitor Center from the Renew the Zoo Fund or any other fundraising efforts and will donate the improved Visitor Center to the City of Salisbury upon completion of construction. DZS will contract with the Construction Manager for design and construction of Visitor Center. DZS will pay the Construction Manager directly per the contract for design and construction. DZS will require that the Construction Manager provide Builder's Risk Insurance. DZS will require that the Construction Manager obtain all necessary permits prior to construction. DZS will purchase materials for the construction of animal exhibits. DZS will fund the acquisition and transport of animals for exhibition.

SECTION 2. CITY REPRESENTATIONS.

The City represents, acknowledges, and agrees that it will facilitate the design and construction of the Visitor Center. The Zoo staff will provide input regarding the Visitor Center layout, functionality and animal exhibits. The Zoo staff may assist with animal exhibit fabrication and may undertake minor, miscellaneous tasks including, but not limited to, landscape improvements and modifications that may be necessary to adjoining exhibit sites. The Salisbury Department of Public Works (SPW) will review the construction documents at the 60%, 90% and 100% levels and will approve the construction documents prior to construction commencing. SPW will provide Construction Administration services including attending progress meetings, reviewing payment applications, and providing part time inspection. SPW will perform the topographic site survey and will provide the survey in Auto CAD to DZS. SPW will perform utility locating. SPW will apply for the Maryland Department of the Environment permit for the alteration of any floodplain in Maryland. SPW will perform punch list and final inspections, and will recommend Substantial Completion and Final Acceptance.

The City shall not be responsible for paying for the design, permitting or construction of the Visitor Center. The City will waive all permitting fees that would be collected by the City. The City will not invoice DZS for in-kind services performed by City staff.

Upon completion of construction of the Visitor Center improvements, DZS shall not be responsible for any cost or expenses associated with staffing, operating, or maintaining the Visitor Center.

SECTION 3. LIABILITY.

DZS shall indemnify, defend, and hold the City and its employees or agents harmless against any claim or liability for loss from personal injury or property damage resulting from or arising out of the work done under this Memorandum of Understanding by DZS, and its employees or agents and its contractors and subcontractors, excepting,

however, such claims or damages that may be caused by the acts or omissions of the City or its employees or agents.

SECTION 4. TERMINATION FOR CONVENIENCE.

The performance of work under the Memorandum of Understanding may be terminated by the City in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that such termination is in the best interest of the City. The City will pay all reasonable costs associated with the Memorandum of Understanding that DZS has incurred up to the date of termination, and all reasonable costs associated with termination of the Agreement; provided, however, that DZS and any other parties shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

SECTION 5. ENTIRE AGREEMENT.

This Agreement represents the parties' entire agreement with respect to the matters specified herein.

SECTION 6. GOVERNING LAW AND VENUE.

It is understood that this Agreement shall be governed by and construed under and in accordance with the laws of the State of Maryland. Venue for any actions arising under this Agreement shall be in Wicomico County.

SECTION 7. SEVERABILITY.

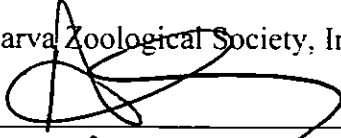
Any provision of the Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

SECTION 8. ATTORNEY'S FEES.

In the event of litigation over the terms or performance of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

THIS AGREEMENT is hereby executed by the duly authorized representatives of the parties as of this 4th day of October, 2016.

Delmarva Zoological Society, Inc.

By  _____

(Printed) Ashley A. Bosche

(Title) Chair

City of Salisbury

By  _____

(Printed) Jacob R. Day

(Title) Mayor