

RESOLUTION NO. 3105

A RESOLUTION of the Council of the City of Salisbury proposing the annexation to the City of Salisbury of certain area of land contiguous to and binding upon the Corporate Limit of the City of Salisbury to be known as “East Lincoln Avenue – M & L Rentals, LLP Annexation” beginning for the same point at a corner of the existing Corporate Limits Line of the City of Salisbury, MD, being near the northerly right of way line of East Lincoln Avenue and also being near the southwesterly corner of the land of M & L Rentals, LLP, being known as Lot A containing 0.245 acres, more or less.

RECITALS

WHEREAS, the City of Salisbury has received a Petition for Annexation, dated May 7, 2019, signed by at least twenty-five percent (25%) of the persons who are resident registered voters and of the persons who are owners of at least twenty-five percent (25%) of the assessed valuation of the real property in the area sought to be annexed binding upon the Corporate Limit of the City of Salisbury to be known as “East Lincoln Avenue – M & L Rentals, LLP Annexation” beginning for the same point on the westerly side of South Division Street. Said point beginning for the same point at a corner of the existing Corporate Limits Line of the City of Salisbury, MD being near the northerly right of way line of East Lincoln Avenue continuing around the perimeter of the affected property to the point of beginning, being all that real property identified as Map 0048, Parcel 0242 and further being the same real property more particularly described in **Exhibit A-1** attached hereto and incorporated herein (the aforesaid real property is hereinafter referred to as the “**Annexed Property**”); and

WHEREAS, the City of Salisbury has caused to be made a certification of the signatures on the said petition for annexation and the City of Salisbury has verified that the persons signing the petition represent at least twenty-five percent (25%) of the persons who are eligible voters and property owners owning twenty-five percent (25%) of the assessed valuation of real property in the area to be annexed, all as of March 13, 2020, as set forth in the certification by Leslie C. Sherrill, Surveyor, of the City of Salisbury, attached hereto and incorporated by reference herein; and

WHEREAS, it appears that the aforesaid Petition for Annexation, dated May 7, 2019, meets all the requirements of applicable state and local law; and

WHEREAS, pursuant to MD Code, Local Government, § 4-406, a public hearing on this Resolution, providing for the City of Salisbury’s annexation of the Annexed Property as set forth herein, shall be and hereby is scheduled for September 27, 2021 at 6:00 p.m.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY as follows:

Section 1. It is proposed and recommended that that the municipal boundaries of the City of Salisbury be changed so as to annex to and include within the said municipal boundaries of the City of Salisbury all that certain real property more particularly described in **Exhibit A-1** attached hereto and incorporated herein (the real property to be annexed by the City of Salisbury as contemplated by this Resolution is hereinafter referred to as the “**Annexed Property**”).

Section 2. The annexation of the Annexed Property be and hereby is approved by the Council of the City of Salisbury subject to all terms, conditions and agreements contained in **Exhibits A, B and C** each of which is attached hereto and incorporated herein as if all such terms, conditions and agreements contained in such Exhibits were specifically set forth at length in this Resolution.

Section 3. The Zoning Map of the City of Salisbury shall be amended to include the Annexed Property within that certain Zoning District of the City of Salisbury identified as “R-8 Residential”, which said real property newly annexed into Corporate Limits of the City of Salisbury, as contemplated by this Resolution, is presently zoned “R-8 Residential” in accordance with the existing zoning laws of Wicomico County, Maryland.

Section 4. Pursuant to MD Code, Local Government, § 4-406, the Council of the City of Salisbury shall hold a public hearing on this Resolution on September 27, 2021 at 6:00p.m. in the Council Chambers at the City-County Office Building, and the City Administrator shall cause a public notice of time and place of the said public hearing to be published not fewer than two (2) times at not less than weekly intervals, in at least one (1) newspaper of general circulation in the City of Salisbury, which said public notice shall specify a time and place at which the Council of the City of Salisbury will the hold the aforesaid public hearing, the date of which shall be no sooner than fifteen (15) days after the final required date of publication as specified hereinabove.

AND, BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY AS FOLLOWS:


Section 5. It is the intention of the Council of the City of Salisbury that each provision this Resolution shall be deemed independent of all other provisions herein.

Section 6. It is further the intention of the Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Resolution shall remain and shall be deemed valid and enforceable.

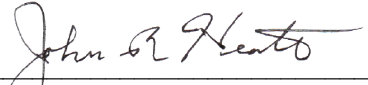
Section 7. The Recitals set forth hereinabove are incorporated into this section of this Resolution as if such recitals were specifically set forth at length in this Section 7.

Section 8. This Resolution and the annexation of the Annexed Property as contemplated herein, shall take effect upon the expiration of forty-five (45) days following its final passage, subject, however, to the right of referendum with respect to this Resolution as set forth in MD Code, Local Government, § 4-401, et seq.

THIS RESOLUTION was introduced, read and passed at the regular meeting of the Council of the City of Salisbury held on the 23rd day of August, 2021, having been duly published as required by law in the meantime a public hearing was held on the 27th day of September, 2021 at 6:00 p.m., and was finally passed by the Council at its regular meeting held on the 27th day of September, 2021.

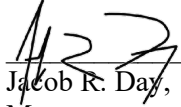


Kimberly R. Nichols,
City Clerk



John R. Heath,
Council President

APPROVED BY ME this 6th day of October, 2021.



Jacob R. Day,
Mayor

CITY OF SALISBURY

PETITION FOR ANNEXATION


To the Mayor and Council of the City of Salisbury:

I/We request annexation of my/our land to the City of Salisbury.

Parcel(s) # 0242

Map # 0048

SIGNATURE(S)



05/07/19
Date

Date

Date

Date

Exhibit A

EAST LINCOLN AVENUE – M & L RENTALS, LLP

Beginning for the same at a point at a corner of the existing Corporate Limits Line of the City of Salisbury, MD, being near the northerly right of way line of East Lincoln Avenue and also being near the southwesterly corner of the lands of M & L Rentals, LLP, being known as Lot A. X 1,204,899.93 Y 191,747.85 (1) Thence by and with the said existing Corporate Limits Line and crossing E. Lincoln Avenue South nineteen degrees forty minutes thirty-seven seconds West ($S 19^{\circ} 40' 37'' W$) thirty-nine decimal two, zero (39.20) feet to a point on the southerly right of way line of the said E. Lincoln Avenue. X 1,204,886.73 Y 191,710.94 (2) Thence by and with the southerly line of the said E. Lincoln Avenue South fifty-three degrees forty-two minutes fifty-two seconds East ($S 53^{\circ} 42' 52'' E$) fifty-one decimal one, five (51.15) feet to a point. X 1,204,927.97 Y 191,680.67 (3) Thence crossing the said E. Lincoln Avenue North thirty-six degrees seventeen minutes eight seconds East ($N 36^{\circ} 17' 08'' E$) forty decimal zero, zero (40.00) feet to a point at the southeasterly corner of the said Lot A. X 1,204,951.64 Y 191,712.91 (4) Thence by and with the easterly line of the said Lot A North thirty-six degrees eighteen minutes eight seconds East ($N 36^{\circ} 18' 08'' E$) one hundred thirty-three decimal eight, nine (133.89) feet to a point at the northeasterly corner of the said Lot A X 1,205,030.91 Y 191,820.81 (5) Thence by and with the northerly line of the said Lot A North fifty-three degrees forty-one minutes fifty-two seconds West ($N 53^{\circ} 41' 52'' W$) sixty-two decimal six, two (62.62) to a point on the said line of Lot A at its intersection with the existing Corporate Limits Line X 1,204,980.44 Y 191,857.89 (6) Thence by and with the said Corporate Limits Line South thirty-six degrees eleven minutes thirty-one seconds West ($S 36^{\circ} 11' 31'' W$) one hundred thirty-six decimal three, five (136.35) feet to the point of beginning.

Annexation containing 0.245 acres (10,651 square feet), more or less.



City of
Salisbury
Jacob R. Day, Mayor

CERTIFICATION

EAST LINCOLN AVENUE – M & L RENTALS, LLP ANNEXATION

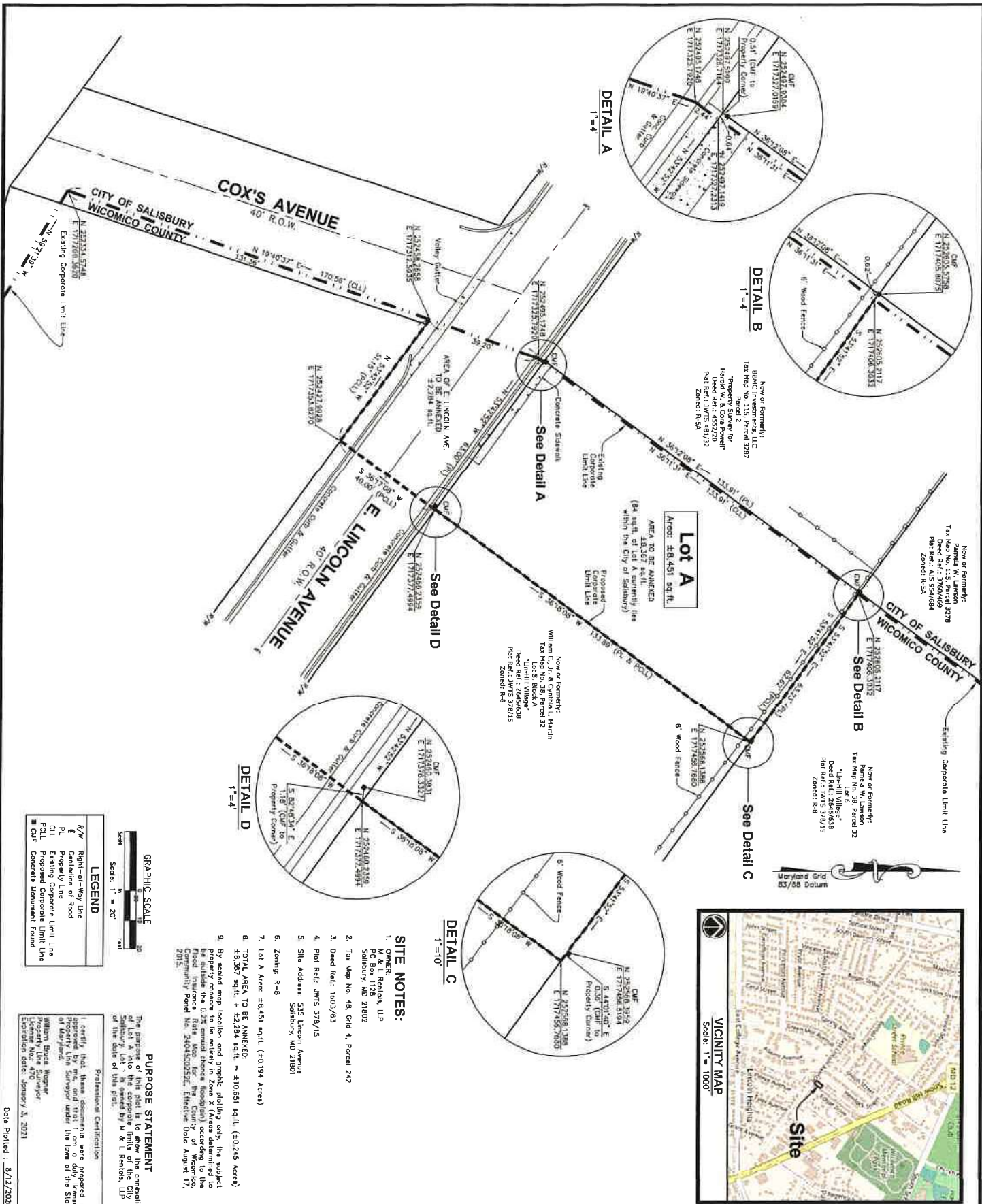
This is to certify that I have verified the petitions for the annexation and that to the best of my knowledge the persons having signed the petition represent at least 25% of the registered voters residing in the area to be annexed and are the owners of at least 25% of the assessed valuation of real property located in the area to be annexed.

Leslie C. Sherrill

Leslie C. Sherrill
Surveyor

Date: 08/17/2020

East Lincoln Ave – M+L Rentals LLP - Certification.doc



LEGEND

R/W Right-of-way Line
 CL Centerline of Road
 PL Property Line
 CLL Existing Corporate Limit Line
 PLL Proposed Corporate Limit Line
 CDP Concrete Monument Found

GRAPHIC SCALE

Scale: 1" = 20'

- SITE NOTES:**
- OWNER: B. & R. RENO, LLP
 100 E. Lincoln Avenue
 Salisbury, MD 21801
 - Tax Map No. 48, Grid 4, Parcel 242
 - Deed Ref.: 1603/63
 - Plot Ref.: WTS 378/15
 - Site Address: 335 Lincoln Avenue
 Salisbury, MD 21801
 - Zone: R-8
 - Lot A Area: 48.451 sq. ft. (0.1094 Acres)
 - TOTAL AREA TO BE ANNEXED:
 ±8,387 sq. ft. + 32,284 sq. ft. = 40,671 sq. ft. (0.934 Acres)
 - By record map location and graphic plotting only, the subject property appears to be entirely in Zone X (Areas determined to be outside the 0.2% annual chance floodplain) according to the Flood Insurance Rate Map for the County of Wicomico, Maryland, effective August 17, 2015.

PURPOSE STATEMENT

The purpose of this plot is to show the location of Lot A to the corporate limits of the City of Salisbury, Maryland, as shown by M & L Records, LP as of the date of this plot.

PROFESSIONAL CERTIFICATION

I certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Surveyor in the State of Maryland. My license number is 170. I am a member of the National Society of Professional Surveyors (NSPS) and the Maryland Society of Professional Surveyors (MSPS). My expiration date is January 3, 2021.

Date Plotted: 8/12/2020

Surveyed By	Drawn By
WBS	WBS
Date	Job No.
August 2020	20-033
Sheet No.	1 of 1

**ANNEXATION PLAN
 OF
 LOT A, BLOCK A
 "LIN-HILL VILLAGE"
 CAMDEN ELECTION DISTRICT
 WICOMICO COUNTY, MARYLAND**

REVISIONS	
Date	Issued for

W. BRUCE WAGNER
 PROPERTY LINE SURVEYOR, LLC
 33915 Bob Smith Rd.
 Pittsville, MD 21850
 410-430-0287
 bwagnersurveying@gmail.com



City of
Salisbury
Jacob R. Day, Mayor

December 21, 2020

M & L Rentals LLP
P. O. Box 1128
Salisbury, MD

RE: Annexation Zoning-535 Lincoln Avenue
Tax Map and Parcel: 0048/042
City of Salisbury, Wicomico County, Maryland

Dear Mr. Cannon,

The Salisbury-Wicomico Planning Commission at its December 17, 2020 meeting forwarded a **FAVORABLE** recommendation to the Mayor and City Council for this property to be zoned **R-8 RESIDENTIAL** upon annexation. The Commission also found that the proposed zoning is consistent with the Wicomico County Zoning and the Salisbury Comprehensive Plan.

If you have any questions, please don't hesitate to contact me.

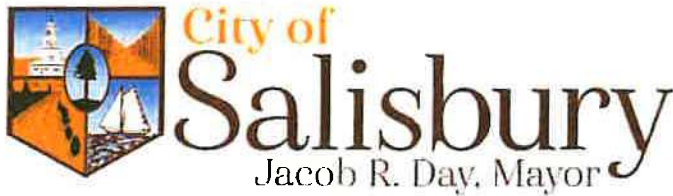
Sincerely,

Anne Roane

City Planner
Department of Infrastructure & Development
City of Salisbury
125 North Division St. Room 202
Salisbury, MD 21801
410-548-3170



www.salisbury.md



Infrastructure and Development Staff Report

December 17, 2020

I. BACKGROUND INFORMATION:

Project Name: 535 Lincoln Avenue Annexation
Applicant/Owner (s): M+L Rentals, LLP
Infrastructure and Development No.: 20-021
Nature of Request: Zoning Recommendation for Annexation
Location of Property: North side of Lincoln Avenue, west of Edgar Drive
Requested Zoning District: R-8 Residential

II. SUMMARY OF REQUEST:

A. Introduction:

The property owner of 535 Lincoln Avenue, M+L Rentals, LLP, entered into an annexation agreement with the City of Salisbury on May 7, 2019 (**Attachment A-Pre-Annexation Agreement**). Because this was part of a pre-annexation agreement, to property did not require a referral from the Council for a zoning recommendation. On that same day a petition for annexation was filed (**Attachment B**). The applicant/owner is now requesting a zoning recommendation from the Planning and Zoning Commission. This recommendation will then be forwarded to the City Council for consideration and approval.

B. Area Description:

The annexation request is comprised of one parcel for a total of 8,379 square feet and has a 1,904 square foot residential dwelling unit (**Attachments C and D**).

III. ZONING ANALYSIS:

A. Existing Zoning:

The annexation area and the adjoining County area is zoned R-8 Residential.

B. Proposed Zoning:

The applicant is requesting the City zone this property be zoned R-8 Residential.



City of
Salisbury
Jacob R. Day, Mayor

C. City and County Plans.

Both the city and county Comprehensive Plans designate this property and area as Medium-Density Residential. The property is within the City of Salisbury's designated growth area in the City's Comprehensive Plan, adopted in July, 2010.

C. Zoning for Annexed Areas.

1. Introduction.

Current City policy requires that all areas to be annexed shall be submitted to the Salisbury-Wicomico Planning Commission for review and recommendation of an appropriate zoning district. The Zoning Code does not establish specific procedures for zoning lands to be annexed to the City of Salisbury. The classification of future City areas, therefore, is conducted consistent with local adopted plan recommendations and Maryland Annexation Law.

2. Adopted Plans.

The Planning Commission is a jointly established agency for both the City of Salisbury and Wicomico County. One of its basic charges is to prepare and recommend various plans guiding the long-range development of both jurisdictions.

The information below summarizes the legal status of the plans currently in effect for Wicomico County and the City of Salisbury.

- a. The Salisbury Comprehensive Plan - The Salisbury City Council adopted the current Comprehensive Plan on July 12, 2010. That document includes land use policies for all lands within the Corporate Limits as well as a Municipal Growth Element addressing growth areas outside the Corporate Limits. This property is included within the Municipal Growth Area, and designates this area as Mixed Use.
- b. The Wicomico County Comprehensive Plan - The Wicomico County Council adopted the County Plan on March 21, 2017.



City of Salisbury

Jacob R. Day, Mayor

3. **Maryland Law.**

House Bill 1141 made two changes to Annexation Procedures that became effective October 1, 2006. They are:

1. **The Five-Year Rule.** First, the rule is applied solely on zoning. The issue becomes the degree of use change from the current county zoning classification to the proposed municipal classification following the annexation. When the zoning change is from one residential zone to another, "substantially different" is defined as a density change. The five-year rule does not apply for a density change unless the proposed zoning is denser by 50 percent. For example, if the current zoning permits 1 unit per acre, the new zoning can be subject to the five-year rule if it permits anything more than 1.5 units per acre. A municipality may obtain a waiver from the county to avoid the five-year wait until the new zoning classification applies.
2. **Annexation Plans Required.** An annexation plan is required that replaces the "outline" for the extension of services and public facilities prior to the public hearing for an annexation proposal. This section contains no additional language for the content of the annexation plan to be adopted, but does require it to be consistent with the municipal growth element for any annexations that begin after October 1, 2009 (unless extended for up to two six-month periods). The Plan must be provided to the county and the State (the Maryland Department of Planning) at least 30 days prior to the hearing.

IV. **ZONING RECOMMENDATION:**

- A. The specific purpose of the Planning Commission's review is to make a zoning recommendation for the annexation area that is currently zoned R-8 Residential in the County.

Department of Infrastructure & Development
125 N. Division St., #202 Salisbury, MD 21801
410-548-3170 (fax) 410-548-3107
www.salisbury.md



City of
Salisbury
Jacob R. Day, Mayor

The adopted Salisbury Comprehensive Plan designates this property and area as "Medium-Density Residential", and the proposed use and requested zoning classification meet this designation by utilizing the R-8 Residential zoning.

Staff recommends that the Planning Commission forward a **Favorable** recommendation to the Mayor and City Council for this property to be zoned **R-8 Residential** upon annexation.

M & L RENTALS LLP – 535 LINCOLN AVENUE ANNEXATION

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (“Agreement”) is made this _____ day of _____, 2021, by and between the **City of Salisbury, Maryland**, a municipal corporation of the State of Maryland (the “**City**”), and **M & L Rentals LLP**, a Maryland limited liability partnership (“**Petitioner**”) (the City and Petitioner are hereinafter referred to collectively as the “**Parties**”).

RECITALS

WHEREAS, for purposes of this Agreement, the term “Petitioner” shall be deemed to include each and every subsidiary, successor-in-interest and/or assign of Petitioner, as the case may be, such that this Agreement, and all of the terms and conditions set forth herein, shall apply to, be binding in all respects upon and inure to the benefit of each and every successor-in-interest and/or assign of Petitioner, as the case may be;

WHEREAS, Petitioner is the fee simple owner of that certain real property consisting of approximately 1.77 acres of land, more or less, having a premises address of 535 Lincoln Avenue, Salisbury, Maryland 21801 and a State of Maryland Tax Identification Number of 13-010846, being all that same real property identified as Map 0048, Grid 0004, Parcel 0242 on the Tax Records of the State of Maryland, and further being, in all respects, all that real property described in a Deed, dated September April 20, 1998, from Terry R. Sell to Petitioner, recorded among the Land Records of Wicomico County, Maryland in Liber 1603, Folio 0063 (the “**Subject Property**”);

WHEREAS, the Subject Property is contiguous and adjacent to the present corporate boundaries of the City, which said Subject Property is more particularly depicted and described by a plat entitled “Annexation Plan of Lot A, Block A “Lin-Hill Village” Camden Election District Wicomico County, Maryland”, dated August 12, 2020 (the “**Annexation Plat**”) (the Annexation Plat is incorporated herein and a reduced scale copy of said Annexation Plat is attached hereto as **Exhibit A**), prepared by W. Bruce Wagner Property Line Surveyor, LLC and intended to be recorded among the Plat Records of Wicomico County, Maryland upon the City’s annexation of the Subject Property, depicting all that same real property more particularly described by metes, bounds, courses and distances in that certain legal description attached hereto and incorporated herein as **Exhibit B** (the “**Subject Property Description**”);

WHEREAS, to effectuate the annexation of the Subject Property, Petitioner submitted to the City a Petition for Annexation of the Subject Property (the “**Petition**”) (a copy of the Petition is attached hereto and incorporated herein as **Exhibit C**);

WHEREAS, Petitioner, as of the date and year of this Agreement, constitutes the owner of one hundred percent (100%) of the assessed value of the Subject Property, being all that real property to be annexed by the City as contemplated by this Agreement;

WHEREAS, following the City’s annexation of the Subject Property as contemplated herein, there are no immediate plans for its development;

WHEREAS, the 2010 City of Salisbury Comprehensive Plan (the “**Comprehensive Plan**”) sets forth the land use polices for all lands located within the City’s municipal limits and includes a Municipal Growth Element addressing growth areas outside the municipal limits of the City;

WHEREAS, the Municipal Growth Element section of the City’s Comprehensive Plan provides in pertinent part: “the City has defined a Municipal Growth [A]rea that is sufficient to accommodate residential, commercial, and industrial land uses as illustrated on Map 11-3” attached to and incorporated within the Comprehensive Plan, and the land uses shown within the City’s Municipal Growth Area “reflect[] a policy decision by the City, and by Wicomico County, that the City will remain the center for employment and commercial development in Wicomico County”;

WHEREAS, the Subject Property is included within the City’s Municipal Growth Area, which designates the Subject Property as “Medium Density Residential”;

WHEREAS, following Petitioner's submission of the Petition, the City, through its Department of Infrastructure and Development (the "**I&D Department**"), referred the Petition to the Salisbury-Wicomico County Planning Commission (the "**Planning Commission**") for the Planning Commission's consideration and approval of the proposed zoning for the Subject Property upon its annexation by the City;

WHEREAS, at its December 17, 2020 meeting, the Planning Commission unanimously approved zoning the Subject Property as "R-8A" upon its annexation by the City, on the basis the R-8A zoning is consistent with Petitioner's proposed use of the Subject Property, as well as the land use policies set forth in the City's Comprehensive Plan;

WHEREAS, without annexation, the Subject Property is ineligible to receive City services, including municipal water and sanitary sewer utility service;

WHEREAS, the City agrees to annex the Subject Property, provided Petitioner agrees to adhere to all laws, ordinances and regulations of the City and all of the terms and conditions of this Agreement, including, expressly, such terms and conditions governing Petitioner's development and use of the Subject Property or any portion thereof;

WHEREAS, the City has held all public hearings regarding the proposed annexation of the Subject Property as required by applicable state and local law and as otherwise deemed appropriate by the City; and,

WHEREAS, in accordance with the Petition and pursuant to the authority granted unto the City by the provisions of MD Code, Local Government, § 4-101, et seq., the Parties hereby enter into this Agreement for the purpose of establishing the terms and conditions governing the City's annexation of the Subject Property and all annexation proceedings relating thereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties expressly acknowledge, the Parties agree as follows:

1. **Effective Date.** The effective date of this Agreement shall be the date upon which the Resolution authorizing the City's annexation of the Subject Property, passed by majority vote of the City Council of the City of Salisbury (the "**City Council**"), becomes effective (the Resolution passed by the City Council authorizing the City's annexation of the Subject Property is hereinafter referred to as the "**Annexation Resolution**"). The City's annexation of the Subject Property shall not become effective until all appeal and referendum periods for the Annexation Resolution have expired, and, if applicable, all appeals and referenda have been resolved in favor of the City's annexation of the Subject Property.

2. **Warranties & Representations of the City.**

(a) When reviewing any development plan submitted for or relating to the Subject Property or any portion thereof, including, but not limited to, any Subdivision Plat subdividing the Subject Property, the Planning Commission, and its associated staff, and the City, and all of its officials, employees, representatives, agents and consultants, shall be guided by all terms of this Agreement, to ensure all matters addressed by this Agreement are implemented in accordance with the terms and conditions set forth herein. All approvals relating to the development and/or use of the Subject Property granted by any commission, board, body or agent of the City or any other government agency having jurisdiction over the Subject Property or the development thereof, shall, to the fullest extent possible, comply with all terms and conditions of this Agreement.

(b) The Parties expressly acknowledge the City's annexation of the Subject Property is not intended, nor shall it be construed, in any way whatsoever, to prohibit the City from enacting or otherwise adopting any future ordinance(s), charter provision(s) and/or engineering standard(s), including any amendment(s) thereto, the City may deem necessary or appropriate to protect the health, safety and welfare of City residents or the public at large, or from applying the provisions of any such future ordinance(s), charter provision(s) and/or engineering standard(s), including any amendment(s) thereto, to any matter relating to the development or use of the Subject Property or any portion thereof; provided, however, any such application by the City shall not result in the divestment

or termination of any prior approval(s) for any development and/or use of the Subject Property or interfere with Petitioner's vested rights in and to the Subject Property to an extent greater than the impact such future ordinance(s), charter provision(s) and/or engineering standard(s), including any amendment(s) thereto, have upon other similarly-situated properties located within the municipal limits of the City.

3. Warranties & Representations of Petitioner.

(a) The execution of this Agreement shall constitute Petitioner's express written consent to the City's annexation of the Subject Property as required by MD Code, Local Government, § 4-403(b)(1)-(2).

(b) Petitioner represents and warrants to the City as follows: (i) Petitioner has the full power and authority to execute this Agreement; (ii) Petitioner is the sole, fee simple owner of the Subject Property, and, accordingly, is the fee simple owner of all that certain real property constituting one hundred percent (100%) of the assessed value of the Subject Property, as of the date and year first above written; and, (iii) to the best of Petitioner's knowledge and belief there is no action pending against or otherwise involving Petitioner and/or the Subject Property which could affect, in any way whatsoever, Petitioner's right and authority to execute this Agreement.

(c) The Parties expressly acknowledge and agree Petitioner will receive a benefit from the City's annexation of the Subject Property; accordingly, by his execution of this Agreement, Petitioner expressly waives and relinquishes any and all rights or claims he has, or may have, to withdraw his consent to the City's annexation of the Subject Property or any portion thereof; and, furthermore, neither Petitioner nor any of his agents or representatives shall petition the Annexation Resolution to referendum. The Parties expressly agree the waiver and relinquishment made by Petitioner under this Section 3(b) represents material consideration received by the City for its annexation of the Subject Property, without which the City would not enter into this Agreement.

4. Application of City Code and Charter; City Taxes. From and after the effective date of the Annexation Resolution, all provisions of the City of Salisbury Charter and the City Code shall have full force and effect as to all matters applicable or otherwise relating to the Subject Property including the development and/or use of any portion thereof, except as otherwise expressly set forth herein. The Parties expressly acknowledge and agree that, upon the City's annexation of the Subject Property, the Subject Property shall be subject to any and all applicable taxes, fees and/or other charges levied, assessed or imposed by the City from time to time.

5. Municipal Zoning. Upon the effective date of the Annexation Resolution, the Subject Property shall be zoned R-8.

6. Municipal Services.

(a) Subject to the obligations of Petitioner under Sections 9(c)(i)-(iii), the City agrees to provide all necessary municipal services required for Petitioner's development and/or use of the Subject Property, including, but not limited to, adequate water and sewer services, fire and police protection, and other municipal services generally available to residents of the City.

(b) With respect to the allocation of public water and/or wastewater capacity and/or services for the Subject Property or any portion thereof, any such allocation shall be determined by the City pursuant to the City's allocation plans in effect at the time a request for public water and/or wastewater capacity and/or services is submitted by Petitioner in accordance with the City's applicable policies and procedures. Notwithstanding any term to the contrary set forth herein, Petitioner expressly acknowledges and agrees that no public water or wastewater capacity for any existing use(s) or any future development of the Subject Property shall be allocated or otherwise reserved by the City unless and until Petitioner has made payment to the City for all applicable capacity fee(s) for any such allocation of water and/or wastewater capacity and/or services in accordance with the applicable policies of the City existing at such time. Petitioner shall not be obligated to pay any capacity fee(s) or to connect any portion of the Subject Property to the City's water and/or wastewater systems until the earlier occurrence of: (i) Petitioner's election, at his discretion, to connect the Subject Property, or any portion thereof, to the City's water and/or wastewater

systems; or (ii) the issuance, by the Wicomico County Health Department or the Maryland Department of the Environment (as the case may be), of a final non-appealable order requiring the connection of any portion of the Subject Property to the City's water and/or wastewater systems.

7. **Standards & Criteria.** Should any environmental, engineering or other similar standard or criteria expressly provided in this Agreement be exceeded by any local, state or federal law, regulation, rule, standard or authorized criteria enacted, promulgated, ordered or adopted following the date and year of this Agreement, the newer stricter law, regulation, rule, standard or authorized criteria shall govern the rights and obligations of the Parties hereunder.

8. **City Boundary Markers.**

(a) At his sole cost and expense, Petitioner shall install City Boundary Markers at the boundary lines of the Subject Property to identify the new, enlarged municipal boundaries of the City resulting from the annexation of the Subject Property. Within ninety (90) days from the date the forty-five (45) day referendum period for the Annexation Resolution expires, Petitioner shall provide the City with receipt(s), or other written documentation acceptable to the City, evidencing the installation of the aforesaid City Boundary Markers.

(b) If Petitioner fails to perform his obligations under Section 8(a), then, after the expiration of the ninety (90) day period provided in Section 8(a), Petitioner shall make payment to the City in the amount of Ten Thousand Dollars and 00/100 (\$10,000.00) or in the amount of the total costs incurred by the City to perform the obligations of Petitioner under Section 8(a), whichever amount is greater.

9. **Development Considerations.**

(a) **Fees & Costs.** Petitioner expressly acknowledges and agrees to pay the City for any and all fees, costs and/or expenses, including, but not limited to, any legal fees, planning fees and/or consulting fees, incurred by the City in connection with the preparation of this Agreement, the preparation of the Annexation Resolution, the preparation of any other document(s) pertaining to the annexation of the Subject Property, the publication of any public notice(s) for or in connection with the City's annexation of the Subject Property, and/or any other matter relating to or arising from the City's annexation of the Subject Property, as determined by the City in its sole discretion. The City shall invoice Petitioner for all costs to be paid by him under this Section 9(a); and, Petitioner shall make payment of all amounts due and owing the City under this Section 9(a) within fifteen (15) days of Petitioner's receipt of any invoice from the City.

(b) **Development of Subject Property.** Petitioner shall develop the Subject Property in a manner that complies with all laws and regulations governing the development of property located within the City's R-8A zoning district.

(c) **Contribution to the Re-Investment in Existing Neighborhoods.**

(i) Prior to Petitioner submitting or filing any application or request with the City for issuance of any permit relating to the development of the Subject Property (including an application for a building permit), or upon the expiration of one hundred eighty (180) days from the effective date of the Annexation Resolution, whichever occurs first, Petitioner shall pay a non-refundable development assessment to the City in the amount of One Thousand Seven Hundred Twelve Dollars and 00/100 (\$1,712.00) (the "**Development Assessment**"). The Parties expressly acknowledge and agree Petitioner's payment of the Development Assessment represents a material part of the consideration to be received by the City hereunder, without which the City would not enter into this Agreement.

(ii) In the event Petitioner fails to pay the Development Assessment in accordance with the terms of Section 9(c)(i), the Development Assessment shall bear interest from

the due date thereof to the date of payment at the rate of ten percent (10%) per annum. Notwithstanding any term to the contrary set forth herein, the Development Assessment, including all late charges incurred thereon (if any), shall be paid to the City prior to the issuance of any permit for or in connection with any development of the Subject Property.

- (iii) The Development Assessment is intended for use by the City, in its sole discretion, for purposes of beautification, restoration and revitalization improvements to existing neighborhoods within the City, or for any other purpose deemed necessary and appropriate by the City. The Development Assessment is in addition to and independent of: (A) any water and/or wastewater comprehensive connection charge(s), capacity fee(s) or any other assessment(s) charged, levied or otherwise imposed by the City in connection with the use or development of the Subject Property; (B) any impact fee(s) levied or imposed by Wicomico County or the City relating to any use or development of the Subject Property; and/or, (C) any other charge(s) or fee(s) the City may assess against Petitioner and/or the Subject Property in accordance with this Agreement and/or any applicable law(s) or regulation(s) governing the development or use of the Subject Property or any portion thereof.

(d) Public Utility Improvements & Extensions; Wastewater Service.

- (i) The Parties expressly acknowledge and agree the extension of public water and wastewater utilities will be necessary to meet the requirements for utility service provided to the Subject Property. Accordingly, at his sole cost and expense, Petitioner shall design and construct, or cause to be designed and constructed, such public water and wastewater utility extension(s), including, but not limited to, water main(s), sewer main(s), trunk line(s), fire hydrant(s) and any appurtenant facilities, necessary to serve the Subject Property, including any future development thereof, subject to all applicable City standards and specifications. Petitioner further acknowledges and agrees the water and wastewater sewer utility facilities designed and constructed in accordance with this Section 9(d)(i) shall be oversized in the manner and to the extent determined by the Director of the City's I&D Department.
- (ii) Petitioner's design and construction of the facilities required for the extension of the City's public water and wastewater utilities to serve the Subject Property shall be governed by the terms and conditions of a Public Works Agreement by and between Petitioner and the City (the "PWA"). The PWA shall be executed by the Parties as soon as reasonably practicable following the Planning Commission's approval of any development plan for or relating to the Subject Property or any portion thereof, including, but not limited to, any Subdivision Plat providing for the subdivision of the Subject Property, and any such approval from the Planning Commission shall be expressly conditioned upon the Parties execution of the PWA in accordance with the terms of this Section 9(d)(ii). Notwithstanding any term to the contrary set forth herein, no permit may be issued to Petitioner, or any party acting for or on his behalf, for any work associated or in connection with the development of the Subject Property or any portion thereof, until the PWA is executed by the Parties.

10. RECORD PLAT. Petitioner shall provide the City with a copy of the final record plat for any development of, on or within the Subject Property or any portion thereof, including any Subdivision Plat providing for the subdivision of the Subject Property.

11. NOTICES. All notices and other communication in connection with this Agreement shall be made in writing and shall be deemed delivered to the addressee thereof as follows: (a) when delivered in person on a

business day at the address set forth below; **(b)** on the third (3rd) business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage prepaid certified or registered mail, return receipt requested, at the address set forth below; or, **(c)** when delivered by a nationally-recognized delivery service company at the address set forth below, with written proof of delivery.

All notices and other communications to Petitioner shall be addressed to, and delivered at, the following addresses:

M & L Rentals LLP
c/o John Cannon
P.O. Box 1128
Salisbury, Maryland 21802

All notices and other communications to the City shall be addressed to, and delivered at, the following addresses:

City of Salisbury
c/o Amanda H. Pollack, P.E., Director
Department of Infrastructure and Development
125 N. Division Street, Room 202
Salisbury, Maryland 21801

With a copy to:
Michael P. Sullivan, Esquire
Cockey, Brennan & Maloney, P.C.
313 Lemmon Hill Lane
Salisbury, Maryland 21801

12. Future Uses of the Subject Property. Petitioner expressly acknowledges and agrees that, upon the effective date of the Annexation Resolution, any development or use of the Subject Property or any portion thereof must comply with all applicable laws, rules and regulations of the City, as may be amended from time to time, including, but not limited to, all applicable zoning laws of the City and all applicable permitting and/or approval procedures established by the City governing the development and/or use of property located within the City's R-8A zoning district. Any development, subdivision and/or use of the Subject Property shall be subject to, and must comply with, all applicable capacity fees and/or impact fees as established by the City and/or Wicomico County existing on the effective date of the Annexation Resolution, subject to any amendments thereto as may be adopted or promulgated, from time to time, by the City and/or Wicomico County, as the case may be. The Parties expressly acknowledge and agree that neither this Agreement nor any of the terms set forth herein shall, in any way whatsoever, constitute or otherwise be construed as an approval by the City of any specific development at, upon or within any portion of the Subject Property, including any subdivision of the Petitioner subsequent to the date and year first above written. The Parties further expressly acknowledge and agree that neither this Agreement nor any of its terms shall constitute or otherwise be construed as a waiver by the City of: any tax(es) levied or assessed by the City upon the Subject Property; or, any fee(s), assessment(s) or charge(s) that may be imposed by the City, from time to time, arising from or in connection with any development or use of the Subject Property, or any portion thereof, and/or any subdivision of the Subject Property.

13. Miscellaneous Provisions.

(a) Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Maryland, without regard to its conflict of laws principles. The Parties, acting for themselves and for their respective successors and assigns, without regard to domicile, citizenship or residence, hereby expressly and irrevocably consent to and subject themselves to the jurisdiction of the Maryland courts and to venue in Wicomico County, Maryland with respect to any matter arising from or in connection with this Agreement.

(b) Scope of Agreement. This Agreement is not intended to limit the exercise of any police power(s) of the City, nor is this Agreement intended to limit the operations of the City government or guarantee the outcome of any administrative process. Unless otherwise expressly set forth herein, this Agreement shall be subject to all properly enacted laws and properly adopted governmental regulations, now or hereafter existing and applicable. This Agreement shall not be rendered invalid by reason of the enactment or amendment of any law or the adoption or amendment of any regulation, which is: **(i)** enacted or adopted by the City in the exercise of a governmental power for a valid governmental purpose; **(ii)** enacted or adopted by the City as a result of a state or federal mandate; or, **(iii)** applicable to the Subject Property and to similarly situated property located outside of the City in Wicomico County.

(c) Entire Agreement. This Agreement and all exhibits attached hereto constitutes the entire agreement and understanding of the Parties with respect to the transactions contemplated herein, and all prior negotiations, writings and understandings of the Parties relating to the subject matter of this Agreement are merged herein and are superseded and canceled by this Agreement.

(d) Waiver. None of the terms or conditions of this Agreement may be waived, except if set forth in a writing signed by the party entitled to the benefit of the term(s) or condition(s) so waived; and, such waiver shall be effective only in the specific instance and for the specific purpose for which the waiver is given.

(e) Development of Subject Property as a Private Undertaking. The Parties expressly acknowledge and agree: **(i)** any development or use of the Subject Property, or any portion thereof, is a private undertaking by Petitioner; **(ii)** neither the City nor Petitioner is acting as the agent of any other party hereto in any respect hereunder; and, **(iii)** that each party hereto is an independent contracting entity with respect to the provisions of this Agreement. No partnership, joint venture or other association between the Parties, of any kind whatsoever, is formed by the terms of this Agreement.

(f) Modification. Neither this Agreement nor any term contained herein may be waived, modified, amended, discharged or terminated except in a writing signed by the Parties.

(g) Binding Effect. The terms of this Agreement shall be binding upon and shall inure to the benefit of the Parties, any successor municipal authority of the City and any successor owner(s) of record of the Subject Property or any portion thereof.

(h) Assignment of Agreement. The Parties expressly acknowledge and agree this Agreement shall be assignable, in whole or in part, by Petitioner to any purchaser of the Subject Property or any portion thereof, without the consent of the City or any of its elected officials, employees or agents; provided, however, any sale, transfer, assignment, gift or conveyance of the Subject Property, or any portion thereof, shall be subject to the terms of this Agreement. Notwithstanding any term to the contrary set forth in this Section 13(h), Petitioner shall not transfer, or pledge as security for any debt or obligation, any of his interest in or to all or any portion of the Subject Property without first obtaining the acknowledgment of the transferee or pledgee to be bound by all of the terms and conditions contained in this Agreement, as if such transferee or pledgee was a party to this Agreement. Petitioner shall provide the City with a copy of all documents, including all exhibits attached thereto (if any), evidencing any transfer or assignment by Petitioner of any of his interests in and to the Subject Property or any portion thereof.

(i) Express Condition. The obligations of Petitioner under this Agreement shall be contingent upon the annexation of the Subject Property becoming effective (as set forth in Section 1 hereof) and shall not constitute the personal obligations of Petitioner independent of his ownership of the Subject Property or any portion thereof. Notwithstanding any term to the contrary set forth herein, Petitioner expressly acknowledges and agrees his obligations under Section 9(a) are not contingent or otherwise conditioned upon the City's annexation of the Subject Property, and such obligations shall be binding upon Petitioner and enforceable by the City against Petitioner and/or any of Petitioner's successor(s), representative(s), transferee(s) and/or assign(s), to the fullest extent permitted by Maryland law.

(j) No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person or entity other than the Parties and their respective successors and/or assigns.

(k) **Recording of Agreement.** This Agreement, including all exhibits attached hereto (each of which is incorporated in this Agreement by this reference), shall be recorded among the Land Records of Wicomico County, the costs of which shall be paid by Petitioner. This Agreement and all terms and conditions contained herein shall run with the Subject Property, and any portion thereof, and shall be binding upon and inure to the benefit of the Parties and each of their respective heirs, personal representatives, successors, transferees and/or assigns.

(l) **No Reliance.** Each of the Parties, for itself, expressly acknowledges and agrees that, in entering into this Agreement, such party has not been induced by or relied upon any representation(s) or statement(s), whether express or implied, written or unwritten, made by any agent, representative or employee of the other party to this Agreement, which is not expressly set forth herein.

(m) **Further Assurances.** The Parties covenant and agree to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may be reasonably necessary or desirable to give full effect to this Agreement.

(n) **Severability.** In the event any term, provision, covenant, agreement or portion of this Agreement, or his application to any person, entity or property, is adjudged invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application thereof to any person, entity or property shall not be impaired thereby, but such remaining provisions shall be interpreted, applied and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

(o) **Waiver of Jury Trial.** The Parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counter-claim brought by a party hereto against the other party on any matters whatsoever arising out of or in any way connected with this Agreement, the relationship of the Parties to one another, and/or any claim, injury or damage arising from or consequent upon this Agreement.

(p) **Remedies.** In addition to each and every remedy now or hereafter existing at law or in equity, the Parties expressly agree that, provided the Annexation Resolution becomes effective, each party shall have the right to enforce this Agreement by an action for specific performance against the other.

(q) **Survival.** The terms and conditions of this Agreement shall survive the effective date of the Annexation Resolution and shall not be merged or expunged by the City's annexation of the Subject Property or any portion thereof.

(r) **Construction.** This Agreement and all of the terms and conditions set forth herein shall not be construed or enforced in favor of or against any party hereto by reason of the fact that party or that party's agent or attorney drafted all or any part of this Agreement. Section headings are for convenience of reference only and shall not limit or otherwise affect any of the provisions of this Agreement. As used herein, any reference to the masculine, feminine or neuter gender shall include all genders, the plural shall include the singular, and the singular shall include the plural.

(s) **Time.** Time is of the essence with respect to this Agreement and each and every provision hereof.

(t) **Recitals.** The Recitals set forth hereinabove are incorporated by reference herein, and made a part hereof, as if fully set forth in this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

[SIGNATURES APPEAR ON THE PAGE THAT FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals and acknowledged this Annexation Agreement as of the day and year first above written.

ATTEST/WITNESS:


"Petitioner":

M & L Rentals LLP

By: _____ (Seal)
John Cannon, Authorized Representative

THE "CITY":

City of Salisbury, Maryland

By:  _____ (Seal)
Jacob R. Day, Mayor

[Signature Page to Annexation Agreement by and between the City of Salisbury, Maryland and M & L Rentals LLP]

STATE OF _____, COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2021, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared JOHN CANNON, who acknowledged himself to be an Authorized Representative of M & L RENTALS LLP, and that he, as such Authorized Representative, being authorized so to do, executed the foregoing instrument on behalf of M & L RENTALS LLP for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

STATE OF MARYLAND, COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 2021, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared JACOB R. DAY, who acknowledged himself to be the MAYOR OF THE CITY OF SALISBURY, MARYLAND, and that he, as such officer, being authorized to do so, executed the foregoing instrument on behalf of said municipal corporation for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC

My Commission Expires: _____

CERTIFICATION BY ATTORNEY

I hereby certify that I am an attorney admitted to practice before the Court of Appeals of Maryland, and that the foregoing instrument was prepared under my supervision.

Michael P. Sullivan, Esq.