

RESOLUTION NO. 3128

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY AUTHORIZING THE MAYOR TO ENTER INTO, ON BEHALF OF THE CITY OF SALISBURY, AN AGREEMENT WITH ST. PETERS EPISCOPAL CHURCH AND LODGE WICOMICO NO. 91 AF & AM FOR THE CITY OF SALISBURY'S CONSTRUCTION AND INSTALLATION OF A HANDICAP ACCESS RAMP AT THE REAR ENTRANCE OF THE DOWNTOWN SALISBURY VISITOR CENTER BUILDING AND OTHER MATTERS RELATING THERETO.

WHEREAS, St. Peters Episcopal Church (the "**Church**") is the fee simple owner of all that certain real property situate in the City of Salisbury, Wicomico County, Maryland, identified as Map 0107, Grid 0014, Parcel 1032, consisting of 15,064 square feet of land, more or less, and having a premises address of 115 St. Peters Street, Salisbury, Maryland 21801 (the "**Church Property**"); and

WHEREAS, Lodge Wicomico No. 91 AF & AM (the "**Masonic Lodge**") is the owner of all that certain real property situate in the City of Salisbury, Wicomico County, Maryland, identified as Map 0107, Grid 0014, Parcel 1038, consisting of 8,136 square feet of land, more or less, and having a premises address of 110 North Division Street, Salisbury, Maryland 21801 (the "**Masonic Lodge Property**"); and

WHEREAS, pursuant to that certain Lease Agreement, dated June 9, 2020 (the "**Lease**"), by and between the Masonic Lodge, as "Lessor" thereunder, and the City of Salisbury (the "**City**"), as "Lessee" thereunder, the City leases approximately 2,320 square feet of floor space within the building located at the Masonic Lodge Property (the "**Masons Building**") for the City's use in connection with the operations of the Department of Business Development and the Downtown Salisbury Visitor Center (the space within the Masons Building leased by the City as aforesaid is hereinafter referred to as the "**Downtown Visitor Center**"); and

WHEREAS, the City desires to (i) construct and install a concrete handicap access ramp to the rear entrance of Downtown Visitor Center (the "**ADA Ramp**") and (ii) in connection with the ADA Ramp to be constructed by the City hereunder, the City desires to obtain the exclusive use of five (5) parking spots located on the rear side of the building at the Church Property (collectively the "**Church Parking Spots**"); and

WHEREAS, the terms and conditions governing the City's use of the Masonic Lodge Property and the Church Property, respectively, for the City's construction and installation of the ADA Ramp, as well as the City's exclusive rights to the use of the five (5) Church Parking Spots as aforesaid, are set forth in that certain Agreement for Construction & Maintenance of ADA Ramp (the "**Agreement**"), by and between the City, the Church and the Masonic Lodge attached hereto and incorporated herein as **Exhibit 1**; and

WHEREAS, any and all documents, easements, plats and/or plans prepared for or in connection with the Agreement and the transactions contemplated thereby shall be reviewed and approved by the City Solicitor prior to the Mayor's execution thereof on behalf of the City.

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

Section 1. Mayor Jacob R. Day is hereby authorized to execute, on behalf of the City of Salisbury, that certain Agreement for Construction & Maintenance of ADA Ramp, by and between the City of Salisbury, St. Peters Episcopal Church and Lodge Wicomico No. 91 AF & AM, attached hereto and incorporated herein as **Exhibit 1**.


Section 2. Any and all documents, easements, plats and/or plans (collectively the "**Related Documents**") prepared for, or in connection with, the Agreement shall be reviewed and approved by the City Solicitor prior to the Mayor's execution thereof on behalf of the City of Salisbury, and the Mayor is hereby authorized to take, on behalf of the City of Salisbury, all such action(s), including the negotiation, execution and/or delivery of all Related Documents, if any, as may be necessary to complete the transactions contemplated by the terms of the Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

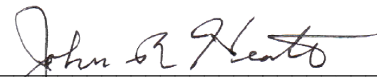
[SIGNATURES APPEAR ON THE PAGE THAT FOLLOWS]

THE ABOVE RESOLUTION was introduced and read and passed at the Regular Meeting of the Council of the City of Salisbury held on this 27th day of September, 2021 and is to become effective immediately upon adoption.

ATTEST:



Kimberly R. Nichols, City Clerk



John R. Heath, City Council President

Approved by me, this 6th day of October, 2021.



Jacob R. Day, Mayor

AGREEMENT FOR CONSTRUCTION & MAINTENANCE OF ADA RAMP

THIS AGREEMENT FOR CONSTRUCTION & MAINTENANCE OF ADA RAMP, is made this ___ day of _____, 2021, by and between *The City of Salisbury* (the “City”), *St. Peters Episcopal Church* (the “Church”) and *Lodge Wicomico No. 91 AF & AM* (the “Masonic Lodge”) (the City, the Church and the Masonic Lodge are hereinafter referred to collectively as the “Parties”). **WITNESSETH:**

RECITALS

WHEREAS, the Church is the owner of all that certain real property situate in the City of Salisbury, Wicomico County, Maryland, identified as Map 0107, Grid 0014, Parcel 1032, consisting of 15,064 square feet of land, more or less, and having a premises address of 115 St. Peters Street, Salisbury, Maryland 21801 (said real property is hereinafter referred to as “**Parcel 1032**”);

WHEREAS, the Masonic Lodge is the owner of all that certain real property situate in the City of Salisbury, Wicomico County, Maryland, identified as Map 0107, Grid 0014, Parcel 1038, consisting of 8,136 square feet of land, more or less, and having a premises address of 110 North Division Street, Salisbury, Maryland 21801 (said real property is hereinafter referred to as “**Parcel 1038**”);

WHEREAS, pursuant to that certain Lease Agreement, dated June 9, 2020 (the “**Lease**”), by and between the Masonic Lodge, as “Lessor” thereunder, and the City, as “Lessee” thereunder, the City leases approximately 2,320 square feet of floor space within the building located at Parcel 1038 (the “**Building**”) for use in connection with the City’s operations of its Department of Business Development and the Downtown Salisbury Visitor Center (the space leased by the City from the Masonic Lodge in accordance with Lease is hereinafter referred to as the “**Visitor Center**”);

WHEREAS, in connection with its use and operation of the Visitor Center, the City desires to construct and install a concrete handicap access ramp to the rear entrance of Visitor Center (the “**ADA Ramp**”);

WHEREAS, as planned by the City, the ADA Ramp will constructed and installed adjacent to certain parking spots located within the rear portion of Parcel 1032 and extending to the rear entrance of the Visitor Center, as more particularly shown on **Exhibit A** attached hereto and incorporated herein;

WHEREAS, for purposes of the City’s construction and installation of the ADA Ramp to the rear entrance of the Visitor Center as aforesaid, the City requires access to the rear portion of Parcel 1032 during the period of its construction of the ADA Ramp and from time to time thereafter to perform its obligations hereunder,

WHEREAS, pursuant to the terms of the Lease, the City’s construction and installation of the ADA Ramp to the rear entrance of the Visitor Center requires the consent of the Masonic Lodge;

WHEREAS, in accordance with the terms and conditions set forth herein, the Church hereby acknowledges and agrees to the City’s use of such portions of Parcel 1032 for the

construction, installation and maintenance of the ADA Ramp to the rear entrance of the Visitor Center as more particularly shown on **Exhibit A**; and,

WHEREAS, in accordance with the terms and conditions set forth herein, the Masonic Lodge hereby acknowledges and agrees to the City's construction and installation of the ADA Ramp upon the Building and at the rear entrance of the Visitor Center as more particularly shown on **Exhibit A**;

NOW, THEREFORE, in consideration of the mutual covenants, agreements and obligations of the Parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by the Parties, the Parties, for themselves and their respective successors and assigns, do hereby covenant and agree as follows:

1. The Church's Agreement for the City's Use of Parcel 1032 to Construct and Install the ADA Ramp.

(a) By its execution of this Agreement the Church expressly acknowledges and agrees to the City's use of such portions of Parcel 1032 for the City's construction, installation and maintenance of the ADA Ramp to the rear entrance of the Visitor Center, as more particularly depicted on **Exhibit A** attached hereto and incorporated herein.

(b) The City and the Church expressly acknowledge and agree as follows:

(i) The Church currently maintains five (5) parking spots behind the building located at Parcel 1032 commonly known as the "Former City Hall Building" (said five (5) parking spots are hereinafter referred to as the "**St. Peter's Parking Spots**");

(ii) The City currently maintains a municipal parking area on Church Street which is directly adjacent to the sanctuary owned and operated Church (the "**Church Street Municipal Parking Area**");

(iii) For so long as the City leases or otherwise uses the space defined herein as the Visitor Center, the Church hereby grants unto the City the exclusive right and access to use the St. Peter's Parking Spots.

(iv) For so long as the City leases or otherwise uses the space defined herein as the Visitor Center, the City shall convey, free of charge, to the Church five (5) permits authorizing the parking of vehicles within the Church Street Municipal Parking Area, which said five (5) permits may be used by the Church in its sole discretion subject to all applicable state and local laws.

(c) Upon completing the construction of the ADA Ramp, the City and Church shall enter into an Easement Agreement, as may be necessary, setting forth the City's right to access and enter upon such portions of Parcel 1032 for and in connection with the City's installation and maintenance of the ADA Ramp and the City's use of St. Peter's Parking Spots as provided herein. The aforesaid Easement Agreement (if any), shall be subject to the mutual agreement of the City and the Church and shall be prepared at the sole cost and expense of the City (excluding any attorney's fees or other professional contractor fees incurred by the Church in the negotiation thereof); upon the execution of the aforesaid Easement Agreement (if any) by the City and the Church, such Easement Agreement shall be recorded with the Land Records of Wicomico County, Maryland, at the sole cost and expense of the City.

2. The Masonic Lodge's Agreement for the City's Use of Parcel 1038 to Construct and Install the ADA Ramp.

(a) By its execution of this Agreement the Masonic Lodge expressly acknowledges and agrees to the City's construction and installation of the ADA Ramp at the rear entrance of the Visitor Center, as more particularly depicted on **Exhibit A** attached hereto and incorporated herein, which said construction shall include, but not be limited to, saw-cutting a section of the 14" exterior brick wall of the Building which borders Parcel 1032.

(b) The City and the Masonic Lodge expressly acknowledge and agree that the Masonic Lodge's execution of this Agreement shall constitute the Masonic Lodge's consent to the City's construction and installation of the ADA Ramp at the rear entrance of the Visitor Center as required by the terms of the Lease by and between the City and the Masonic Lodge.

(c) The City's rights and obligations with respect to construction, installation and maintenance of the ADA Ramp shall be governed by the terms and conditions of the Lease and any amendments thereto.

3. Term of Agreement. The "Term" of this Agreement shall commence upon the execution hereof by all of the Parties and shall expire, unless otherwise agreed to in a writing executed by the Parties hereto, upon (i) the expiration or termination of the Lease, and any extensions thereof or amendments thereof, by and between the City and the Masonic Lodge or (ii) at such time as the City shall cease to use the Visitor Center space for the operation(s) of any municipal government function(s), whichever shall occur later.

4. Construction of the ADA Ramp. In connection with the construction and installation of the ADA Ramp as contemplated herein, the City shall:

(a) Obtain any and all permits necessary for the construction of the ADA Ramp;

(b) Construct and, during the Term of this Agreement, maintain the ADA Ramp in compliance with all applicable laws, regulations and/or ordinances of each governmental agency having jurisdiction over the construction and/or use of the ADA Ramp.

5. Indemnification by the City. During the term of this Agreement, the City hereby expressly agrees to defend, indemnify and hold the Church and the Masonic Lodge, and each of their representatives, agents, successors and assigns, and harmless from and against any and all claims by any person, firm or entity for labor, services, materials or supplies provided in connection with the construction, installation and/or maintenance of ADA Ramp which arise from the sole negligence of the City or any of its officials, employees, representatives, successors and/or assigns.

6. Miscellaneous.

(a) **Authority.** Each party represents and warrants to the other party that it: (i) has the full right, power and authority to execute this Agreement; (ii) the execution and delivery of this Agreement and the performance of its obligations hereunder are not prohibited by or in breach of, and the provisions hereof do not conflict with, any other agreement, mortgage, contract or other instrument or document to which it is a party or by which it is otherwise bound; and, (iii) there are no legal requirements imposed upon it which prohibit or limit the execution and delivery of this Agreement and the performance of its obligations hereunder.

(b) Waiver-Amendments. Any of the terms or conditions contained in this Agreement may be waived but only in writing by the party which is entitled to the benefit thereof, and this Agreement may be amended or modified in whole or in part only by an agreement in writing executed by all of the Parties. Each and every right, remedy and power granted to a party under this Agreement or allowed by law shall be cumulative and not exclusive of any other.

(c) Severability. If any term of this Agreement or any application thereof is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable.

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

(e) 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

(f) Notices. All notices and other communication given by a party to the other in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof: **(i)** when delivered in person on a business day at the address set forth below; or, **(ii)** 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, **(iii)** 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 the City shall be addressed to, and delivered at, the following address:

The City of Salisbury
Department of Business Development
Attn: Laura Soper, Director
110 N. Division Street
Salisbury, Maryland 21801

All notices and other communications to the Church shall be addressed to, and delivered at, the following address:

St. Peter's Church
115 Church Street
Salisbury, Maryland 21801

All notices and other communications to the Masonic Lodge shall be addressed to, and delivered at, the following address:

Lodge Wicomico No. 91 AF & AM
110 N. Division Street
Salisbury, Maryland 21801

Either party may change its address by providing notice to the other party as set forth in this Section 6(f).

(g) Governing 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.

(h) 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 Agreement for Construction and Maintenance of ADA Ramp as of the day and year first above written.

WITNESS/ATTEST:

THE "CITY":

City of Salisbury, Maryland

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

THE "CHURCH":

St. Peter's Episcopal Church

By: _____ (SEAL)
Rev. David Michaud, Authorized Representative

THE "MASONIC LODGE":

Lodge Wicomico No. 91 AF & AM

By: _____ (SEAL)
James Royal, Authorized Representative



City of
Salisbury
Jacob R. Day, Mayor

Memo

To: City Council
From: Laura Soper
Date: 9/15/2021
Subject: ADA Ramp Installation

The Department of Business Development is working with the working with the Masonic Lodge and St. Peter's on a solution that would allow us to construct an ADA ramp to our office. The ramp would span both the Masonic Lodge property (where the Visitor Center is located) and the St. Peter's vestry building property (the old City Hall). The ADA entrance will be at the back of the building, leading up from the parking lot behind St. Peter's and the Downtown Visitor Center. The contractor would do a small cut in the existing brick wall and construct a ramp that would lead to our office's rear entrance.

In advance of bringing this to Council, we shared the proposed agreement with both St. Peter's and the Masonic Lodge, and they were both satisfied with the language proposed.

We look forward to answering any questions you may have on this matter.