



**CITY OF SALISBURY
SPECIAL MEETING AGENDA**

DECEMBER 20, 2021

5:50 p.m.

Government Office Building, Room 301, Salisbury, Maryland and Zoom Video Conferencing

Times shown for agenda items are estimates only.

5:50 p.m. CALL TO ORDER

5:51 p.m. ADOPTION OF SPECIAL MEETING AGENDA

5:52 p.m. RESOLUTION- City Administrator Julia Glanz
Resolution No. 3141- authorizing the Mayor to enter into a land disposition agreement with Rivermitch, LLC setting forth the terms and conditions governing the sale of the Mitchell Landing Apartment Complex

6:00 p.m. ORDINANCE- City Attorney Ashley Bosche
Ordinance No. 2701- 2nd reading- authorizing the Mayor to appropriate funds in the FY2022 General Fund Budget, General Capital Projects Fund Budget and the FY22 Water Sewer Fund Budget

6:15 p.m. ADJOURNMENT

Copies of the agenda items are available for review in the City Clerk's Office, Room 305 – City/County Government Office Building, 410-548-3140 or on the City's website at www.salisbury.md. City Council meetings are conducted in Open session unless otherwise indicated. All or part of the Council's meetings can be held in Closed Session under the authority of the Maryland Open Meetings Law, Annotated Code of Maryland General Provisions Article § 3-305(b), by vote of the City Council.

Join Zoom Meeting
<https://us02web.zoom.us/j/88186172560>
Meeting ID: 881 8617 2560
Phone: 1.301.715.8592

Posted 12-17-21



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: City Council
From: Julia Glanz, City Administrator
Subject: Mitchell Landing Apartment Complex Land Disposition Agreement
Date: December 16, 2021

Attached please find a Resolution that will allow the Mayor to execute a Land Agreement Contract with Rivermitch, LLC, for the purchase of Mitchell Landing Apartment Complex. Rivermitch, LLC is a joint venture by Green Street Housing Partners, LLC and Wicomico County Housing Authority.

The LDA is attached for your review. Please let me know if you have any questions.

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RESOLUTION NO. 3141

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY TO AUTHORIZE THE MAYOR TO ENTER INTO, ON BEHALF OF THE CITY OF SALISBURY, A LAND DISPOSITION AGREEMENT WITH RIVERMITCH, LLC SETTING FORTH THE TERMS AND CONDITIONS GOVERNING THE SALE OF THE MITCHELL LANDING APARTMENT COMPLEX.

WHEREAS, the Mayor and Council of the City of Salisbury (the “**Council**”) determined there is surplus real property owned by the City of Salisbury (the “**City**”) that should be sold;

WHEREAS, the City is the owner of all that certain real property identified as Map 0106, Parcel 1116 (Maryland Tax Account No. 09-056238), having a premises address of 135 Mitchell Road, Salisbury, Maryland 21801 and consisting of 2.68 acres more or less, being that same property conveyed by Salisbury Brick Co., Inc. to the City, by Deed dated October 22, 1983 and recorded among the Land Records of Wicomico County, Maryland in Liber 1023, Folio 0046 (the said real property described as aforesaid is hereinafter referred to as the “**Property**”), and all improvements located thereon;

WHEREAS, the Property is improved by: four (4) two-story buildings, each of which contains six (6) apartment units, comprised of four (4) three-bedroom units and two (2) two-bedroom units (each an “**Apartment**” and collectively the “**Apartments**”); and, one (1) one-story multi-purpose building, at which the management office, laundry room and community center are located to serve the residents of the Apartments (the “**Community Center**”) (the Apartments and the Community Center are hereinafter referred to collectively as the “**Mitchell Landing Apartment Facilities**” (the Property and any and all improvements located thereon, including, expressly, the Mitchell Landing Apartment Facilities are hereinafter referred to collectively as the “**Mitchell Landing Apartment Complex**”);

WHEREAS, since its development, the Mitchell Landing Apartment Complex has provided quality, affordable housing for households of lower income in accordance with the provisions governing the State of Maryland Partnership Rental Housing Program (the “**Program**”) administered by the Department of Housing and Community Development of the State of Maryland (“**DHCD**”);

WHEREAS, on August 26, 2021, the City declared the Mitchell Landing Apartment Complex surplus property;

WHEREAS, pursuant to § 16-8 *et seq.* of the Salisbury City Charter (the “**Charter**”) and Chapter 2.36 of the Salisbury City Code (the “**City Code**”), the City has to right to offer at public sale property declared surplus and to make awards thereof in the best interest of the City;

WHEREAS, the City sought proposals from “**Qualified Applicants**” to purchase and operate the Mitchell Landing Apartment Complex, subject to all valid and existing Lease Agreements;

WHEREAS, the term “**Qualified Applicant**” is defined as a party that (i) is an “Eligible Borrower” within the meaning of that term under COMAR 05.05.05.04 and/or COMAR 05.05.05.05 respectively, and (ii) meets the requirements governing DHCD approval of an application for a “partnership project” set forth in MD Code, Hous. & Cmty. Dev., § 4-1207.

WHEREAS, City has determined Rivermitch, LLC is a “Qualified Applicant” and that the sale of the Mitchell Landing Apartment Complex to Rivermitch, LLC is in the best interest of the citizens of the City because Rivermitch, LLC will continue to operate the Mitchell Landing Apartment Complex;

44 **WHEREAS**, by this Resolution, the Council **(i)** hereby approves the Land Disposition Agreement
45 (“LDA”) (attached hereto and incorporated herein as **Exhibit A**) authorizing the sale of the Mitchell
46 Landing Apartment Complex to Rivermitch, LLC and **(ii)** hereby authorizes the Mayor’s execution thereof
47 on behalf of the City; and,

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

50 **Section 1.** The Mayor is hereby authorized to execute, on behalf of the City of Salisbury, that
51 certain Land Disposition Agreement, by and between the City of Salisbury and Rivermitch, LLC, attached
52 hereto and incorporated herein as **Exhibit A**.

53 **Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision
54 of this Resolution shall be deemed independent of all other provisions herein.

55 **Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any
56 section, paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid,
57 unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication
58 shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other
59 provisions of this Resolution shall remain and shall be deemed valid and enforceable.

60 **Section 4.** The recitals set forth hereinabove and **Exhibit A** attached hereto, and all exhibits
61 attached thereto and incorporated therein, are incorporated into this section of the Resolution as if such
62 recitals and **Exhibit A** were specifically set forth at length in this Section 4.

63 **THE ABOVE RESOLUTION** was introduced and read and passed at the regular meeting of the
64 Council of the City of Salisbury held on this ____ day of December 2021 and is to become effective
65 immediately upon adoption.

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67 **ATTEST:**

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71 _____
72 **Kimberly R. Nichols, City Clerk**

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75 _____
76 **John R. Heath, City Council President**

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79 Approved by me, this _____ day of _____, 2021.

80 _____
81 **Jacob R. Day, Mayor**

LAND DISPOSITION AGREEMENT

THIS LAND DISPOSITION AGREEMENT (“Agreement”), made this ____ day of December 2021 (the “**Effective Date**”), by and between the *City of Salisbury*, a municipal corporation of the State of Maryland (the “**City**”), and *Rivermitch, LLC* (“**Developer**”), a Maryland limited liability company (the City and Developer are hereinafter referred to collectively as the “**Parties**”). **WITNESSETH:**

RECITALS

WHEREAS, Developer is a Maryland limited liability company, which, on or before Closing, shall have a managing member which is a limited liability company consisting of two (2) members: **(i)** GSH Partners, LLC (“**GSH**”), a Maryland limited liability company, owning and otherwise holding a fifty-one percent (51%) membership interest in and to Developer, and, furthermore, serving as the “**Managing Member**” of Developer; and **(ii)** the Wicomico County Housing Authority (“**WCHA**”), a Maryland public housing authority established pursuant to MD Code, Housing & Community Development, § 12-101 et seq., or a special purpose corporation wholly owned by WCHA, owning and otherwise holding a forty-nine percent (49%) membership interest in and to Developer;

WHEREAS, as set forth in that certain letter, dated November 3, 2021, from John MacLean, Director, Multifamily Asset Management, Maryland Department of Housing and Community Development (“**DHCD**”), by virtue of WCHA’s membership interest in and to Developer, as set forth hereinabove, Developer qualifies as a “local government entity” for purposes of constituting an eligible borrower under COMAR 05.05.05.05 and MD Code, Housing & Community Development, § 4-1207;

WHEREAS, the City is the owner of all that certain real property identified as Map 0106, Parcel 1116 (Maryland Tax Account No. 09-056238), having a premises address of 135 Mitchell Road, Salisbury, Maryland 21801 and consisting of 2.68 acres more or less, being that same property conveyed by Salisbury Brick Co., Inc. to the City, by Deed dated October 22, 1983 and recorded among the Land Records of Wicomico County, Maryland in Liber 1023, Folio 0046 (the said real property described as aforesaid is hereinafter referred to as the “**Property**”), and all improvements located thereon;

WHEREAS, the Property is improved by: four (4) two-story buildings, each of which contains six (6) apartment units, comprised of four (4) three-bedroom units and two (2) two-bedroom units (each an “**Apartment**” and collectively the “**Apartments**”); and, one (1) one-story multi-purpose building, at which the management office, laundry room and community center are located to serve the residents of the Apartments (the “**Community Center**”) (the Apartments and the Community Center are hereinafter referred to collectively as the “**Mitchell Landing Apartment Facilities**”) (the Property and any and all improvements located thereon, including, expressly, the Mitchell Landing Apartment Facilities are hereinafter referred to collectively as the “**Mitchell Landing Apartment Complex**”);

WHEREAS, by the unanimous vote of the Council of the City of Salisbury (the “**City Council**”) at the August 23, 2021 Regular Meeting of the City Council, the City declared the Property, and all improvements thereon, to be surplus property;

WHEREAS, following the City’s declaration of the Property as surplus property, the City of Salisbury Department of Procurement (the “**Dept. of Procurement**”) issued “RFP 22-101 Disposition of Mitchell Landing” (the “**RFP**”), soliciting bids from a “Qualified Applicant”, as defined in the RFP, for **(i)** the purchase of Mitchell Landing Apartment Complex and **(ii)** the operation of the Mitchell Landing Apartment Facilities, subject, in all respects, any and all valid lease agreements, existing as of the date of Closing (as defined herein), for the rental of any Apartment (each such lease agreement is hereinafter referred to as an “**Apartment Lease Agreement**”, and collectively the “**Apartment Lease Agreements**”);

WHEREAS, by the unanimous vote of the City Council at the November 22, 2021 Regular Meeting of the City Council, the City awarded the RFP to Developer; and,

WHEREAS, subject to all terms and conditions provided in this Agreement, the City desires to sell to Developer, and Developer desires to purchase from the City, the Mitchell Landing Apartment Complex.

NOW, THEREFORE, for and in consideration of the premises and mutual obligations of the Parties hereto, the foregoing Recitals, which are deemed a substantive part of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the City and Developer, the Parties, for each of themselves and their respective successors and/or permitted assigns, hereby represent, covenant, warrant and agree as follows:

1. Conveyance of the Mitchell Landing Apartment Complex by the City to Developer. Pursuant to all terms contained in this Agreement and the RFP, the City hereby agrees to sell and convey unto Developer, and Developer hereby agrees to purchase and accept from the City, the Mitchell Landing Apartment Complex, together with all rights, privileges, permits, approvals, easements and agreements appertaining thereto, including, expressly, any and all Apartment Lease Agreements in effect on the Closing Date (as defined herein).

2. Consideration for Seller's Sale of the Mitchell Landing Apartment Complex. By their execution of this Agreement, the Parties expressly acknowledge and agree as follows:

(a) The PRHP Loan Issued by DHCD to the City for the Partnership Project. Pursuant to Resolution No. 428 approved by the City Council on or about June 14, 1993, the City authorized: **(i)** the development and construction of the Mitchell Landing Apartment Complex as a "Partnership Project" under applicable State law; and, **(ii)** the financing for such development and construction of the Mitchell Landing Apartment Complex in the form of a loan, in the principal amount of One Million Four Hundred Seventy-Eight Thousand Eight Hundred Fifty-One Dollars (\$1,478,851.00) (the "**PRHP Loan**"), issued by the Maryland Department of Housing and Community Development ("**DHCD**") to the City. Pursuant to that certain Loan Agreement, dated June 14, 1993, by and between the City and DHCD, the PRHP Loan is for a term of forty (40) years (the "**Loan Term**") and is secured by: **(x)** that certain Deed of Trust, Security Agreement and Assignment of Rents by and among the City and DHCD, dated June 29, 1993 and recorded among the Land Records of Wicomico County, Maryland at Liber 1344, Folio 339 (the "**Deed of Trust**"); and, **(xi)** that certain Regulatory Agreement by and between the City and DHCD, dated June 29, 1993 and recorded among the Land Records of Wicomico County, Maryland at Liber 1344, Folio 377 (the "**Regulatory Agreement**") (the Deed of Trust and the Regulatory Agreement are hereinafter referred to collectively as the "**Partnership Project Loan Documents**"). As of the Effective Date, the principal sum of the PRHP Loan due and payable to DHCD is in the amount of One Million Three Hundred Eighty-One Thousand Eight Hundred Seven Dollars and 00/100 (\$1,381,807.00) (the "**Assumed Debt**").

(b) The City's Assignment and Developer's Assumption of the City's PRHP Loan. In consideration for the City's sale of the Mitchell Landing Apartment Complex to Developer as contemplated by this Agreement, Developer represents and warrants as follows:

(i) At Closing (as defined herein), Developer shall accept the City's absolute assignment of all indebtedness, liabilities, obligations and responsibilities the City has or may have, as of the Closing Date (as defined herein), arising from, or in connection with, the Partnership Project Loan Documents and any and all terms and conditions thereof, including, expressly: **(A)** the City's obligation(s) to pay, or otherwise satisfy, the Assumed Debt and all other amounts (if any) due and owing DHCD under the Partnership Project Loan Documents for the PRHP Loan issued by DHCD to the City for the development and construction of the Mitchell Landing Apartment Complex as set forth in Section 2(a); and, **(B)** any and all rights, title and interests the City has or may have in and to any and all cash accounts maintained in the name of the City pursuant to the terms of the Partnership Project Loan Documents or any other agreement(s) governing the PRHP Loan and/or the City's use of the funds thereof.

(ii) Pursuant to the Developer's acceptance of the absolute assignment made by the City under Section 2(b)(i), as of the Closing Date (as defined herein), Developer shall assume, observe, perform, fulfill and be bound by all terms, covenants, conditions and obligations of the Partnership Project Loan Documents, and all liabilities and indebtedness arising therefrom including, expressly, the Assumed Debt and all other amounts (if any) due and payable to DHCD, which are to be observed, performed, paid, satisfied and otherwise fulfilled by the "Borrower" named therein, in the same manner and to the same extent as if Developer (and not the City) was the "Borrower" named the Partnership Loan Documents.

(iii) Upon the request of DHCD and/or the City, Developer, at or prior to Closing, shall execute, acknowledge and deliver, or cause to be done, executed, acknowledged or delivered, any such further document(s), assignment(s), transfer(s), conveyance(s), power(s) of attorney or assurance(s) as DHCD and/or the City may deem reasonably necessary or desirable to give full effect to the City's assignment of all its indebtedness, liabilities, obligations and responsibilities arising from or in connection with the Partnership Project Loan Documents and all terms and conditions set forth herein, including, expressly, the City's obligation to pay, in full, or otherwise satisfy, the Assumed Debt and all other amounts (if any) due and owing DHCD in accordance with the terms and conditions of the Partnership Project Loan Documents intended to be assigned by the City and assumed by Developer at Closing as contemplated by this Agreement.

(c) The Parties expressly acknowledge and agree that the representations and warranties of Developer contained in Section 2(b)(i)-(iv) constitute the material part of the consideration to be received by the City for its sale of the Mitchell Landing Apartment Complex to Developer as contemplated by this Agreement, without which the City would not enter into this Agreement.

(d) The City hereby acknowledges receipt of a One Hundred Thirty-Eight Thousand One Hundred Eighty and 70/100 Dollar (\$138,180.70) deposit (the "**Initial Deposit**") made with the initial response to the City's RFP. Upon Developer's execution of this Agreement, City shall refund all but Twenty-Five Thousand Dollars and 00/100 (\$25,000.00) of such Initial Deposit to Green Street Housing, LLC and retain the remaining Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) (the "**Deposit**"), which said Deposit shall be held by the City in accordance with the terms and conditions of this Agreement.

(e) **Due Diligence Access.** At all times during the term of this Agreement and prior to Closing, City shall cooperate with Developer in its endeavor to carry out due diligence on the Property (i.e. by providing any information reasonably requested, etc...) and the City does hereby agree to grant the right of unrestricted, non-exclusive access to the Property to Developer and its employees, agents, subcontractors or representatives, with reasonable notice during normal business hours for the purpose of carrying out any inspections or studies Developer deems necessary. During the Term of this Agreement and prior to Closing, Developer agrees to carry Commercial General Liability Insurance including coverages of \$1,000,000 per occurrence, with a \$1,000,000 aggregate. Developer does hereby agree to return the Property to its condition immediately prior to the conduct of any studies or inspections, and does hereby agree to indemnify the City due to any loss or damage resulting from such access during the Term hereof.

3. Closing.

(a) **Time and Place of Closing.** Subject to the terms and conditions set forth in Section 3(b), Closing shall occur, on the demand of Developer, and no later than sixty (60) days from the date Developer executes the commitment letters from Maryland Community Development Administration ("**CDA**") for MBP and RHW financing (the date of Closing is hereinafter referred to as the "**Closing Date**"). Closing shall occur at the offices of Developer's settlement agent or such other offices as Developer may determine.

(b) **Adjustments.** Rent, water, taxes and other public charges against the Mitchell Landing Apartment Complex as of the Closing Date shall be paid by Developer at Closing.

(c) **Settlement Charges.** All State and County recordation and transfer taxes and documentary stamps in connection with the sale and purchase of the Property shall be paid by Developer at Closing. All conveyancing charges, title company charges, title insurance premiums and title examination and survey charges, if any, shall be borne entirely by Developer. The City shall be responsible for payment of any and all attorneys' and/or other professional fees the City incurs, at its sole discretion, in connection with Closing.

(d) **The City's Obligations.** At Closing, the City shall deliver to Developer a good and sufficient special warranty deed containing covenant of further assurances, duly executed and acknowledged by the City, conveying to Developer good and merchantable fee simple title to the Property. The Parties expressly acknowledge and agree: (i) the City shall convey the Property and all improvements comprising the Mitchell Landing Apartment Complex (as defined hereinabove) to Developer, or its assigns pursuant to the terms hereof; and, (ii) Developer shall not assign this Agreement or any of its rights, title, interests or obligations hereunder to any uninterested third party that does not comply with the requirements herein without the express, prior written consent of the City. The provisions of Section

3(d)(ii) constitute a material part of the consideration to be received by the City, without which the City would not enter into this Agreement. Notwithstanding anything contained herein to the contrary, nothing in this Agreement shall prevent Developer from causing WCHA to be the owner of the Property acting as landlord to Developer for the purpose of qualifying for taxation under Maryland Property Tax Article 7-215, such election being at the sole and absolute discretion of Developer.

4. Title to the Property.

(a) Title to the Property shall be good and marketable and free and clear of all liens, encumbrances, easements, reservations and/or restrictions of any nature, excepting, expressly: (i) any and all easements, rights-of-ways, covenants and other restrictions of record as of Effective Date; (ii) any and all Permitted Title Exceptions (as defined in Section 4(b); and, (iii) any and all other easements, rights-of-ways, covenants and/or restrictions required by a public utility or governmental authority, and/or otherwise approved by Developer prior to the Closing Date, including any and all Permitted Title Exceptions (as defined in Section 4(b) below). Subject to the terms and conditions set forth in the immediately preceding sentence, as of the Closing Date, the Property shall be insurable, as aforesaid, at regular, standard rates by any reputable title insurer licensed to do business in Maryland.

(b) Developer may, at Developer's expense, promptly obtain a title commitment for the Property from a title insurer of Developer's choice. At any time following receipt of such title commitment, but no later than sixty (60) days prior to Closing, Developer shall deliver to the City: (i) a copy of the aforesaid title commitment, together with all exceptions thereto (if any); and, (ii) written notice specifying all of Developer's objections to title to the Property (if any) (the "**Title Objection(s)**").

(c) Subject to the terms and conditions contained in Section 4(b), within Ten (10) days following the City's receipt of Developer's Title Objections (if any), the City shall notify Developer, in writing, whether the City intends to eliminate, or otherwise cure to the reasonable satisfaction of Developer's title insurer, the Title Objection(s) prior to the Closing Date (said written notice from the City to Developer is hereinafter referred to as the "**Title Notice**").

(d) The City may determine, in its sole discretion, not to eliminate, or otherwise cure to the reasonable satisfaction of Developer's title insurer, the Title Objection(s) (if any) specified by Developer pursuant to Section 4(b), provided the City specifies such determination in the Title Notice delivered to Developer pursuant to Section 4(c). In the event of any such determination made by the City pursuant to this Section 4(d) not to eliminate or otherwise cure any and/or all of the Title Objections specified in the written notice from Developer and delivered to the City under Section 4(b), the Parties expressly acknowledge and agree as follows: (i) Developer, at its sole option, may terminate this Agreement by delivering written notice thereof to the City within Fifteen (15) business days from the date of Developer's receipt of the Title Notice from the City (the "**Title Termination Period**") (the written notice from Developer to the City under this Section 4(d)(i) is hereinafter referred to as the "**Title Termination Notice**"); and, (ii) upon the City's receipt of such written notice from Developer, this Agreement shall be deemed terminated, and of no force and effect whatsoever, and the City shall promptly refund the Deposit to Developer.

(e) If no Title Termination Notice is delivered to the City within the Title Termination Period as in accordance with the terms and conditions of Section 4(d), all Title Objections (if any) the City has not agreed to eliminate or otherwise cure prior to the Closing Date pursuant to the Title Notice delivered to Developer under Section 4(b) shall be deemed "**Permitted Title Exceptions**". For purposes of this Agreement and the transactions contemplated hereunder, Permitted Title Exceptions, shall mean all those matters and title exceptions set forth on Developer's title report, excluding only those title exceptions the City has agreed to eliminate as set forth in the Title Notice, together with any and all easements, rights-of-ways, covenants, and other restrictions of record as of the Closing Date and any and all other easements, rights-of-ways, covenants, and restrictions required by public utilities and/or the local governmental authority and/or approved by Developer.

5. Responsibility for Physical Condition. The Parties expressly acknowledge and agree the Mitchell Landing Apartment Complex shall be held at the sole and absolute risk of the City until legal title to the Property has passed to Developer and possession of the Mitchell Landing Apartment Complex has been given to Developer.

6. Conditions of Developer's Obligation to Settle. It shall be a condition of Developer's obligation to proceed to Closing on its purchase of the Mitchell Landing Apartment Complex as contemplated by this Agreement, that:

(a) **Representations and Warranties.** The representations and warranties made by the City in Section 4(a) and this Section 6 shall be true and correct on and as of the date of Closing as fully as if made at that time.

(b) **Specified Conditions Not Present.** On the date of Closing there shall be no: (i) proceeding pending or threatened to change or redefine the zoning classification of all or any portion of the Property; (ii) suits or judgments pending or threatened relating to or affecting the Property; or, (iii) other impediments which will significantly interfere with Developer's development or use of the Property or the resale thereof by Developer.

(c) **Assignment and Assumption of Lease Agreements, Rents & Security Deposits.** At Closing, the City shall deliver to Developer an executed Assignment of Leases, Rents and Security Deposits (the "**Assignment of Leases**"), in form attached hereto and incorporated herein as **Exhibit A**, assigning to Developer any and all Apartment Lease Agreements (as defined hereinabove) valid and existing as of the Closing Date, including any and all rights and/or obligations of the City thereunder, in accordance with the terms and conditions set forth in the Assignment of Leases. Nothing contained herein to the contrary, the Closing contemplated herein shall be conditioned upon the approval of such Assignment of Leases by all lenders of Developer.

(d) **Bill of Sale.** At Closing, the City shall deliver to Developer an executed Bill of Sale (the "**Bill of Sale**"), in form attached hereto and incorporated herein as **Exhibit B**, conveying to Developer all of the City's right, title and interest in and to any and all furniture, fixtures and/or equipment owned by the City and located at the Mitchell Landing Apartment Complex as of the Closing Date. Nothing contained herein to the contrary, the Closing contemplated herein shall be conditioned upon the approval of such Bill of Sale by all lenders of Developer.

(e) **Assignment and Assumption of the PRHP Loan.** The Parties expressly acknowledge and agree to execute any and all agreements, acknowledgements or other documents deemed necessary by DHCD and/or the City for the City's assignment of the PHRP Loan, and the assumption thereof by Developer, as contemplated by the terms set forth in Section 2.

7. **Representations and Warranties of the City.** The City expressly acknowledges and agrees that each of the following representations and warranties is true and correct as of the date and year of this Agreement and shall be true and correct on the Closing Date:

(a) **No Material Omissions.** Neither this Agreement (including all exhibits attached hereto, if any) nor any other certificate, statement, document or other information furnished, or to be furnished, to Developer, by or on behalf of the City, pursuant to or in connection with the transactions contemplated by this Agreement, contains or will contain any misstatement of a material fact or omits or will omit to state a material fact necessary to make the representations and warranties and other statements herein or therein contained not misleading, in the circumstances in which made.

(b) **Authority.** The City has the full power and authority to sell and convey to Developer fee simple title to the Property as set forth herein.

(c) **Representations True at Closing.** The City's representations and warranties to Developer hereunder shall be true and correct on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date.

8. **Default.**

(a) In the event the City has complied with all conditions and representations of the City hereunder and Developer fails, or otherwise refuses, for any reason whatsoever (or no reason), to proceed to Closing then, in such event the Deposit shall be paid to the City as liquidated damages and this Agreement shall thereupon terminate immediately, with the Parties forever released from any further liability or obligation to the other arising from or in connection with this Agreement and/or any of the transactions contemplated hereunder.

(b) In the event Developer has complied with all conditions and representations of Developer hereunder and the City fails, or otherwise refuses, for any reason whatsoever (or no reason), to proceed to Closing then, in such event, Developer may avail itself of any and all rights Developer may have, at law or in equity, against the City hereunder, including, but not limited to, specific performance.

9. **Insurance Coverage.** The City shall cause the Fire, Casualty and General Liability Insurance Policies now in force on the Mitchell Landing Apartment Complex to be maintained through and until the Closing Date or the earlier termination of this Agreement. Notwithstanding any term to the contrary set forth herein, the Property shall be held at the risk of the City until legal title to the Property, or such applicable portion(s) thereof, has passed to Developer.

10. **Delivery of Possession.** It is expressly understood and agreed by the Parties that the Purchase Price is being paid by Developer for both title to and possession of the Property, and the failure by the City to deliver possession of the Property to Developer upon Closing, as set forth herein, shall constitute a breach by the City of this Agreement.

11. **Condition of Property.** The Property is being sold by the City to Developer “As-Is”.

12. **Notices.** Any notice required or permitted under this Agreement shall be deemed sufficiently given or served by hand-delivery or if sent by United States certified mail, return receipt requested, addressed as follows:

If to Developer:

Thomas J. Ayd, Jr.
Green Street Housing, LLC
212 E. Main Street, Suite 200
Salisbury, MD 21801

With a copy to:

John P. Custis, Esq.
Long, Badger & Sheller, LLP
124 East Main Street
Salisbury, MD 21801

If to the City:

City of Salisbury
c/o Julia Glanz, City Administrator
125 N. Division Street, Room 304
Salisbury, Maryland 21801

With a copy to:

Ashley A. Bosche, Esq.
Cockey, Brennan & Maloney, P.C.
313 Lemmon Hill Lane
Salisbury, Maryland 21801

The Parties shall each have the right from time to time to change the place notice is to be given under this Section 12 by giving written notice thereof to the other party. Each such notice shall be deemed delivered upon receipt or refusal.

13. **Further Assurances.** The City covenants with Developer, and Developer covenants with the City, that each will execute or procure any additional documents necessary to establish the rights of the other hereunder.

14. **Miscellaneous.**

(a) **Authority.** Each party represents and warrants to the other party that: (i) it 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) Entire Agreement. This Agreement (and all exhibits attached hereto, if any) 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.

(c) Waiver - Amendments. Any of the terms or conditions of 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.

(d) Binding Nature of Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns.

(e) 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.

(f) 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.

(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. The Parties hereto acting for themselves and for their respective successors and assigns, without regard to domicile, citizenship or residence, hereby expressly and irrevocably consent and subject themselves to the jurisdiction of the Maryland courts and to venue in Wicomico County, Maryland with respect to any matter arising under, from or in connection with this Agreement.

(h) Assignment. The Parties expressly acknowledge and agree this Agreement shall not be assignable, in whole or in part, by Developer without the prior written consent of the City.

(i) 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.**

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

(k) Effective Date. The Effective Date of this Agreement (as defined hereinabove) shall be that certain date upon which this Agreement is **(i)** is fully and finally approved by Resolution adopted by the City Council and **(ii)** is fully executed by the Parties.

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

(m) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be signed by facsimile or electronic form of signature and such signature shall be fully binding.

(n) Professional Fees. In the event a party hereto brings any action or proceeding against another party hereunder by reason of any breach of any covenant, agreement or provision on the part of the other party arising out of this Agreement, then the prevailing party shall be entitled to recover from the other party all actual costs and expenses of the action or proceeding, including reasonable attorneys', accounting, engineering and other professional fees.

(o) Waiver of Insurance Requirements. Provided the Developer is compliance with the insurance

obligations under Section 2(e) above, the City hereby agrees that Green Street Housing, LLC, GSH Partners, LLC and/or the Developer shall not be obligated to comply with the insurance requirements set forth in Section 4.13 of the RFP.

[The remainder of this page is intentionally left blank]

[SIGNATURES APPEAR ON THE PAGE THAT IMMEDIATELY FOLLOWS]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals and acknowledged this Land Disposition Agreement as of the date and year first above written.

WITNESS/ATTEST:

“DEVELOPER”:

A Maryland limited liability company

Rivermitch, LLC

By: Rivermitch MM, LLC,
It’s Sole Member

By: GSH Partners, LLC,
It’s Sole Member

By: _____ (SEAL)
Thomas Ayd, Authorized Member

THE “CITY”:

City of Salisbury, Maryland

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

EXHIBIT A – LAND DISPOSITION AGREEMENT

ASSIGNMENT AND ASSUMPTION OF LEASES, RENTS AND SECURITY DEPOSIT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF LEASES, RENTS AND SECURITY DEPOSIT AGREEMENT (“Assignment”) is made and entered into this ____ day of _____, 2022, by and between the *City of Salisbury*, a municipal corporation of the State of Maryland (the “City”), and *Rivermitch, LLC* (“Assignee”), a Maryland limited liability company (the City and Developer are hereinafter referred to collectively as the “Parties”).

RECITALS

WHEREAS, Assignee is a Maryland limited liability company consisting of two (2) members: **(i)** GSH Partners, LLC (“GSH”), a Maryland limited liability company, owning and otherwise holding a fifty-one percent (51%) membership interest in and to Assignee, and, furthermore, serving as the “**Managing Member**” of Assignee; and **(ii)** the Wicomico County Housing Authority (“WCHA”), a Maryland public housing authority established pursuant to MD Code, Housing & Community Development, § 12-101 et seq., owning and otherwise holding a forty-nine percent (49%) membership interest in and to Assignee;

WHEREAS, pursuant to the terms and conditions of that certain Land Disposition Agreement, dated December _____, 2021, by and between the Parties, to which this Assignment is attached thereto and incorporated therein as “Exhibit A”), the City has conveyed unto Assignee all that certain real property identified as Map 0106, Parcel 1116 (Maryland Tax Account No. 09-056238), having a premises address of 135 Mitchell Road, Salisbury, Maryland 21801 and consisting of 2.68 acres more or less, being that same property conveyed by Salisbury Brick Co., Inc. to the City, by Deed dated October 22, 1983 and recorded among the Land Records of Wicomico County, Maryland in Liber 1023, Folio 0046 (the said real property described as aforesaid is hereinafter referred to as the “**Leased Premises**”);

WHEREAS, the Leased Premises is improved by: four (4) two-story buildings, each of which contains six (6) apartment units, comprised of four (4) three-bedroom units and two (2) two-bedroom units (each an “**Apartment**” and collectively the “**Apartments**”); and, one (1) one-story multi-purpose building, at which the management office, laundry room and community center are located to serve the residents of the Apartments (the “**Community Center**”) (the Apartments and the Community Center located at the Leased Premises are hereinafter referred to collectively as the “**Apartment Facilities**”);

WHEREAS, the City is the “Landlord” under certain Lease Agreements (each an “**Apartment Lease**”, and collectively the “**Apartment Leases**”) by and between the City and multiple tenants for the lease of the Apartments located at the Leased Premises (a copy of each of the Apartments Leases which are the subject this Assignment are attached hereto and incorporated herein as Schedule 1); and,

WHEREAS, in conjunction with the City’s conveyance of the Leased Premises to Assignee on the date and year first above written and pursuant to the terms and conditions of the aforesaid Land Disposition Agreement by and between the Parties, the City has agreed to assign all of its right, title and interest in and to each and every Apartment Lease to Assignee, and Assignee has agreed to assume and perform the City’s liabilities and obligations arising under such Apartment Leases on and after the date hereof, all in accordance with the terms of this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by the Parties hereto, the Parties, intending to be legally bound, hereby agree as follows:

1. Assignment of the Apartment Leases by the City to Assignee.

(a) Absolute Assignment of the Apartment Leases & Rents. The City hereby assigns, transfers and conveys to Assignee all of the City’s right, title and interest as lessor in and to:

(i) The Apartment Leases, and any and all extensions and renewals thereof and substitutions therefor, independent of the term or duration thereof and whether or not evidenced by a written document;

(ii) All future leases of all or any part or portion of the Leased Premises, if any, and all extensions and renewals thereof and substitutions therefor, independent of the term or duration thereof and whether or not evidenced by a written document; and,

EXHIBIT A – LAND DISPOSITION AGREEMENT

(iii) All rent and other sums payable in accordance with the terms of the Apartment Leases (hereinafter referred to collectively as the “**Rents**”), including, but not limited to, any and all fees, charges, reimbursements, casualty insurance proceeds, option payments, payments made in consequence of any default(s) by tenants, their successors, representatives, guarantors, and/or permitted assigns, under the Apartment Leases or in settlement, compromise or satisfaction of any obligations of tenants due the City as a result or in consequence of the Apartment Leases, and further including all of the City’s claims and rights to the payment of money, including all accounts receivable due and payable to the City, existing prior to and/or as of the date and year first above written, which arise from or are in connection with the Apartment Leases, a breach of the Apartment Leases, and/or the City’s ownership and/or operation of the Leased Premises.

(b) **Assignment of Security Deposit.** The City hereby assigns, transfers and conveys to Assignee any and all security deposit(s) (the “**Security Deposit**”) collected by the City from tenants in accordance with the terms and conditions of the Apartment Leases, to the fullest extent of the City’s rights in and to the Security Deposit. Upon the Parties’ execution of this Assignment, the City shall immediately relinquish control of the Security Deposit held by or in favor of the City in accordance with the terms and conditions of the Apartment Leases assigned to Assignee hereunder.

(c) **Nature of the Assignment of the Apartment Leases by the City to Assignee.** The assignment of the Apartment Leases, the Rents, and the Security Deposit by the City to Assignee hereunder is absolute, unconditional and immediate, and is intended to transfer and convey to Assignee any and all of the City’s present interest in and right to the Apartment Leases, the Rents and the Security Deposits.

2. **Assumption of the Apartment Leases.** Assignee hereby accepts the foregoing assignment of the Apartment Leases and Assignee hereby covenants and agrees that, as of the date and year first above written, Assignee shall assume, observe, perform, fulfill and be bound by all terms, covenants, conditions and obligations of the Apartment Leases that arise on and after the date and year first above written and are to be observed, performed and fulfilled by the “Landlord” named therein, on and after the date and year first above written, in the same manner and to the same extent as if Assignee were the “Landlord” named in the Apartment Leases.

3. **The City Representations to Assignee.**

(a) The City, for itself and for its representatives, successors and assigns, represents and warrants to Assignee and its representatives, successors and assigns, as follows:

- (i) The Apartment Leases are now in full force and effect;
- (ii) There has been no event of default by the City under the Apartment Leases as of the date and year first above written; and,
- (iii) The City has the right to assign, give, grant, bargain, sell, convey and transfer all of its right, title and interest in and to the Apartment Leases to Assignee as contemplated by the terms of this Assignment.

(b) Except as set forth in Subsections 3(a)(i)-(iii), the City’s assignment of the Apartment Leases to Assignee hereunder is made without any representations or warranties, expressed or implied, and is without recourse against the City in any event whatsoever.

4. **Responsibilities of Assignee.** Assignee hereby covenants and agrees to indemnify the City and to defend and hold the City harmless from and against all liabilities, losses, costs, damages, judgments and expenses (including, without limitation, reasonable counsel fees and disbursements incurred to enforce this indemnity) arising from Assignee’s failure to perform or comply with any of the obligations of Assignee under the Apartment Leases arising or accruing on and after the date hereof.

5. **Responsibilities of the City.** The City hereby covenants and agrees to indemnify Assignee and to defend and hold Assignee harmless from and against all liabilities, losses, costs, damages, judgments and expenses (including, without limitation, reasonable counsel fees and disbursements incurred to enforce this indemnity) arising from the City’s failure to perform or comply with any of the obligations of the City under the Apartment Leases arising or accruing prior to the date hereof.

EXHIBIT A – LAND DISPOSITION AGREEMENT

6. **Further Assurances.** The City covenants with Assignee, and Assignee covenants with the City, that each will execute or procure any additional documents necessary to establish the rights of the other hereunder.

7. **Miscellaneous.**

(a) **Authority.** Each party represents and warrants to the other party that: (i) it has the full right, power and authority to execute this Assignment; (ii) the execution and delivery of this Assignment 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, including, but not limited to, the Apartment Leases assigned hereunder, 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 Assignment and the performance of its obligations hereunder.

(b) **Entire Agreement.** This Assignment and 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 Assignment are merged herein and are superseded and canceled by this Assignment. Except for the assignment made by the City to Assignee hereunder, the terms of the Apartment Leases shall remain in full force and effect.

(c) **Waiver - Amendments.** Any of the terms or conditions of this Assignment may be waived but only in writing by the party which is entitled to the benefit thereof, and this Assignment may be amended or modified in whole or in part only by an agreement in writing executed by all of the Parties.

(d) **Binding Nature of Agreement.** This Assignment shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns.

(e) **Severability.** The invalidity or unenforceability of any provision of this Assignment shall not affect or otherwise limit the validity and enforceability of the other provisions hereof.

(f) **Construction.** This Assignment 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 Assignment. Section headings are for convenience of reference only and shall not limit or otherwise affect any of the provisions of this Assignment. 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.

(g) **Governing Law.** This Assignment 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 hereto 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 under, from or in connection with this Assignment.

(h) **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 Assignment, the relationship of the Parties to one another, and/or any claim, injury or damage arising from or consequent upon this Assignment.

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

(j) **Counterparts.** This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

NOTE: EXHIBIT ONLY – DO NOT EXECUTE

EXHIBIT A – LAND DISPOSITION AGREEMENT

SCHEDULE 1

[NOTE: Prior to Closing, the City will attach a copy of all existing Apartment Leases intended for assignment to Developer. prior to Closing.]

EXHIBIT B – LAND DISPOSITION AGREEMENT

BILL OF SALE

The City of Salisbury, Maryland to Rivermitch, LLC

THIS BILL OF SALE (“Bill of Sale”) is made this ___ day of _____, 2022 by and between the *City of Salisbury*, a municipal corporation of the State of Maryland (the “**City**”), and *Rivermitch, LLC* (“**Purchaser**”), a Maryland limited liability company (the City and Developer are hereinafter referred to collectively as the “**Parties**”) (the City and Purchaser are hereinafter referred to collectively as the “**Parties**”).

RECITALS

WHEREAS, Assignee is a Maryland limited liability company consisting of two (2) members: **(i)** GSH Partners, LLC, a Maryland limited liability company, owning and otherwise holding a fifty-one percent (51%) membership interest in and to Assignee, and, furthermore, serving as the “**Managing Member**” of Assignee; and **(ii)** the Wicomico County Housing Authority, a Maryland public housing authority established pursuant to MD Code, Housing & Community Development, § 12-101 et seq., owning and otherwise holding a forty-nine percent (49%) membership interest in and to Assignee;

WHEREAS, pursuant to the terms and conditions of that certain Land Disposition Agreement, dated December _____, 2021, by and between the Parties, to which this Bill of Sale is attached thereto and incorporated therein as “Exhibit B”), the City has conveyed unto Purchaser all that certain real property identified as Map 0106, Parcel 1116 (Maryland Tax Account No. 09-056238), having a premises address of 135 Mitchell Road, Salisbury, Maryland 21801 and consisting of 2.68 acres more or less, being that same property conveyed by Salisbury Brick Co., Inc. to the City, by Deed dated October 22, 1983 and recorded among the Land Records of Wicomico County, Maryland in Liber 1023, Folio 0046 (the said real property described as aforesaid is hereinafter referred to as the “**Leased Premises**”);

WHEREAS, the Leased Premises is improved by: four (4) two-story buildings, each of which contains six (6) apartment units, comprised of four (4) three-bedroom units and two (2) two-bedroom units (each an “**Apartment**” and collectively the “**Apartments**”); and, one (1) one-story multi-purpose building, at which the management office, laundry room and community center are located to serve the residents of the Apartments (the “**Community Center**”) (the Apartments and the Community Center located at the Leased Premises are hereinafter referred to collectively as the “**Apartment Facilities**”); and,

WHEREAS, in conjunction with the City’s conveyance of the Leased Premises to Purchaser on the date and year first above written and pursuant to the terms and conditions of the aforesaid Land Disposition Bill of Sale by and between the Parties, the City has agreed to sell and convey to Purchaser, and Purchaser has agreed to accept and pay for all of the City’s right, title and interest in and to certain furniture, fixtures, equipment and other personal property of the City (collectively the “**FF&E**”) which is located and/or situated at, on, within or upon the Leased Premises, or is otherwise used by the City in connection with the City’s ownership Apartment Facilities, as more particularly described in the “Apartment Facilities FF&E Schedule” attached hereto and incorporated herein as **Schedule 1**.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by the Parties hereto, the Parties, intending to be legally bound, hereby agree as follows:

1. The City, for good and valuable consideration received, the receipt and sufficiency of which is hereby expressly acknowledged by the City, hereby sells, transfers, sets over and assigns, and grants and conveys unto Purchaser, and Purchaser accepts and agrees to pay for, the FF&E more fully described in the “Apartment Facilities FF&E Schedule” attached hereto and incorporated herein as **Schedule 1**.

EXHIBIT B – LAND DISPOSITION AGREEMENT

2. The City warrants that it has unencumbered title to the FF&E and the right to sell the same and that the FF&E includes the items described herein. By their execution of this Bill of Sale, Purchaser and the City expressly acknowledge and agree: the City hereby sells and conveys the FF&E “AS IS, WHERE IS, AND OTHERWISE MAKES NO WARRANTY WHATEVER, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONDITION, DESIGN, OPERATION, CAPACITY OR OTHERWISE, AND PURCHASER HEREBY EXPRESSLY WAIVES ALL SUCH REPRESENTATIONS AND WARRANTIES AND RELEASES AND DISCHARGES MAKER FROM ALL LIABILITIES AND ALL OBLIGATIONS WITH RESPECT THERETO AND FROM ALL LIABILITIES AND OBLIGATIONS WITH RESPECT TO THE CONDITION OF THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, LIABILITY BASED IN NEGLIGENCE OR TORT.”

3. Purchaser, by accepting the FF&E and executing this Bill of Sale, acknowledges that it has inspected the FF&E to be conveyed hereunder and that by taking title to the FF&E, Purchaser accepts the FF&E in an “as is,” “where is” condition “with all faults” as of the date of this Bill of Sale. Notwithstanding anything to the contrary stated herein, the City makes no warranty or representation of any kind or nature whatsoever as to the condition of the FF&E including, but not limited to, the warranties of merchantability or fitness for particular purpose. Purchaser covenants and warrants that it will not utilize the FF&E except in the manner for which it was designed and intended and assumes the sole responsibility for the condition, operation, maintenance, testing, retrofitting, and repair of said FF&E.

4. Miscellaneous.

(a) **Authority.** Each party represents and warrants to the other party that: (i) it has the full right, power and authority to execute this Bill of Sale; (ii) the execution and delivery of this Bill of Sale 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 Bill of Sale and the performance of its obligations hereunder.

(b) **Entire Bill of Sale.** This Bill of Sale (and all exhibits attached hereto, including, expressly, **Schedule 1**) 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 Bill of Sale are merged herein and are superseded and canceled by this Bill of Sale.

(c) **Waiver - Amendments.** Any of the terms or conditions of this Bill of Sale may be waived but only in writing by the party which is entitled to the benefit thereof, and this Bill of Sale may be amended or modified in whole or in part only by an agreement in writing executed by all of the Parties.

(d) **Binding Nature of Bill of Sale.** This Bill of Sale shall be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and permitted assigns.

(e) **Severability.** In the event any term, provision, covenant, agreement or portion of this Bill of Sale, or its application to any person, entity or property, is adjudged invalid by a court of competent jurisdiction, the remaining provisions of this Bill of Sale 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 Bill of Sale to the greatest extent permitted by applicable law.

(f) **Construction.** This Bill of Sale 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 Bill of Sale. Section headings are for convenience of reference only and shall not limit or otherwise affect any of the provisions of this Bill of Sale. 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.

(g) **Governing Law.** This Bill of Sale 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 hereto acting for themselves and for their respective successors and assigns, without regard to domicile, citizenship or residence, hereby expressly and irrevocably consent and subject themselves to the jurisdiction of the Maryland courts and to venue in Wicomico County, Maryland with respect to any matter arising under, from or in connection with this Bill of Sale.

EXHIBIT B – LAND DISPOSITION AGREEMENT

(h) **Assignment.** The Parties expressly acknowledge and agree this Bill of Sale shall not be assignable, in whole or in part, by Developer without the prior written consent of the City.

(i) **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 Bill of Sale, the relationship of the Parties to one another, and/or any claim, injury or damage arising from or consequent upon this Bill of Sale.

(j) **Time.** Time is of the essence with respect to this Bill of Sale and each and every provision hereof.

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

(l) **Counterparts.** This Bill of Sale may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Bill of Sale may be signed by facsimile or electronic form of signature and such signature shall be fully binding.

NOTE: EXHIBIT ONLY – DO NOT EXECUTE.

EXHIBIT B – LAND DISPOSITION AGREEMENT

SCHEDULE 1

1. All tangible personal property owned by the City and located at the Leased Premises, on and as of the date of the Parties' execution of this Bill of Sale, including all appliances, machinery, furnishings, appurtenances, materials, and other tangible personal property, identified as follows [**NOTE: The City will prepare a list of all personal property located at the Leased Premises intended for conveyance to Developer prior to Closing.**]

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ORDINANCE NO. 2701

**AN ORDINANCE OF THE CITY OF SALISBURY AUTHORIZING THE
MAYOR TO APPROPRIATE FUNDS IN THE FY2022 GENERAL FUND
BUDGET, GENERAL CAPITAL PROJECTS FUND BUDGET AND THE
FY22 WATER SEWER FUND BUDGET.**

WHEREAS, the City of Salisbury recently determined there is a return of over 3 million into surplus FY 2020; and

WHEREAS, during the course of the past few months, the City Administration has been assessing urgent needs and opportunities that should be funded; and

WHEREAS, the appropriations below, as provided hereinabove, must be made upon the recommendation of the Mayor and the approval of four-fifths of the Council of the City of Salisbury.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 1. The City of Salisbury’s FY22 General Fund Budget be and hereby is amended as follows:

Increase Decrease	Account Type	Account No	Account Description	Amount	Dept
Increase	Revenue	01000-469810	Current Year Surplus	1,945,000	
Increase	Expense	21021-577030	Equipment	30,000	Police
Increase	Expense	25200-577025	Vehicles	30,000	Housing First
Increase	Expense	11600-555513	Events	30,000	River & ABCD Events
Increase	Expense	21021-577025	Vehicles	80,000	Police CRU Vehicles
Increase	Expense	91001-599105	Trf Special Revenue NFF	100,000	NFF
Increase	Expense	91001-599109	Trf General Capital Projects	1,675,000	General Cap Projects

25 **Section 2.** The City of Salisbury’s General Capital Project Fund Budget be and hereby is amended
 26 as follows:
 27

Increase Decrease	Account Type	Account No	Project No	Account Description	Amount	Project
Increase	Revenue	98022-469313	Various	Trf In - General Fund	1,675,000	Various Projects Below
Increase	Expense	98122-577026	TBD	Construction	25,000	Police Officers Gym
Increase	Expense	98122-577026	TBD	Construction	10,000	Police Shooting Range
Increase	Expense	98122-577026	TBD	Construction	500,000	Tiny Homes for Homeless
Increase	Expense	98122-577010	TBD	Land	180,000	City Yard Land Acquisition
Increase	Expense	98122-577026	TBD	Construction	600,000	Carroll Street Bikeway
Increase	Expense	98122-577026	TBD	Construction	30,000	Wayfinding
Increase	Expense	98122-577026	TBD	Construction	25,000	Historic Markers
Increase	Expense	98122-577026	TBD	Construction	70,000	Sign inventory
Increase	Expense	98122-577026	TBD	Construction	65,000	GIS/Paving
Increase	Expense	98122-577026	TBD	Construction	70,000	Community Centers
Increase	Expense	98122-577026	TBD	Construction	30,000	Murals
Increase	Expense	98122-577026	TBD	Construction	30,000	Riverfront Games Park
Increase	Expense	98122-577030	TBD	Equipment	7,500	Doverdale playground equip.
Increase	Expense	98122-577030	TBD	Equipment	5,000	Doverdale playground equip.
Increase	Expense	98122-577030	TBD	Equipment	5,000	Woodcock playground equip.
Increase	Expense	98122-577030	TBD	Equipment	7,500	Lake Street playground equip.
Increase	Expense	98122-577026	TBD	Construction	15,000	Waterside Basketball Painting

28 **Section 3.** The City of Salisbury’s FY2022 Water Sewer Fund Budget be and hereby is amended
 29 as follows:
 30
 31

Increase Decrease	Account Type	Account No		Account Description	Amount	Purpose
Increase	Revenue	60100-469810		Current Year Surplus	200,000	Water Meters
Increase	Expense	82076-546012		Equipment & Maintenance	200,000	

32
 33 **BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF**
 34 **SALISBURY, MARYLAND,** as follows:
 35

36 **Section 4.** It is the intention of the Mayor and Council of the City of Salisbury that each provision
 37 of this Ordinance shall be deemed independent of all other provisions herein.

38 **Section 5.** It is further the intention of the Mayor and Council of the City of Salisbury that if any
 39 section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid,
 40 unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication
 41 shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other
 42 provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

43 **Section 6.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as
 44 if such recitals were specifically set forth at length in this Section 5.

45 **Section 7.** This Ordinance shall take effect from and after the date of its final passage.
 46

47 **THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of
48 Salisbury held on the _____ day of _____, 2021 and thereafter, a statement of the substance
49 of the Ordinance having been published as required by law, in the meantime, was finally passed by the
50 Council of the City of Salisbury on the _____ day of _____, 2021.

51
52 **ATTEST:**

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56 _____
57 **Kimberly R. Nichols, City Clerk**

_____ **John R. Heath, City Council President**

58
59
60 Approved by me, this _____ day of _____, 2021.

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64 _____
65 **Jacob R. Day, Mayor**

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