

RESOLUTION NO. 3137

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY TO AUTHORIZE THE MAYOR TO ENTER INTO, ON BEHALF OF THE CITY OF SALISBURY, AN AMENDED AND RESTATED LAND DISPOSITION AGREEMENT WITH SALISBURY DEVELOPMENT GROUP, LLC SETTING FORTH THE TERMS AND CONDITIONS GOVERNING THE SALE AND REDEVELOPMENT OF THE PORT OF SALISBURY MARINA.

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 redeveloped and, furthermore, that there is a strong public need for increased infill development within the City;

WHEREAS, the City is the owner of all that certain real property identified as (i) Map 0106, Parcel 1100 (Maryland Tax Account No. 09-067612) (“**Parcel 1100**”) and (ii) Map 0106, Parcel 1108 (Maryland Tax Account No. 09-057919) (“**Parcel 1108**”) (Parcel 1100 and Parcel 1108 are hereinafter referred to as the “**Port of Salisbury Marina Property**”);

WHEREAS, on June 14, 2016, the City declared the Port of Salisbury Marina Property 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 the right to offer at public sale property declared surplus and to make awards thereof in the best interest of the City;

WHEREAS, City-owned surplus property should be developed, not only in consideration of the highest bid price but in consideration of the type of development proposed, and such development should require a commitment from the purchaser to develop such City-owned surplus property in a manner that will raise the City’s tax base and be in the best interest of the citizens of the City;

WHEREAS, in accordance with the foregoing, the City determined it to be in the best interest of the citizens of the City to sell and lease the surplus property defined hereinabove as the Port of Salisbury Marina Property;

WHEREAS, the City of Salisbury advertised for proposals for the purchase and redevelopment of the Port of Salisbury Marina Property, as more particularly set forth in “RFP 09-16 Re-Bid Disposition and Development of the Port of Salisbury Marina” (the “**Marina Landing RFP**”), three times from June 14, 2016 to June 16, 2016 and responses were due from interested parties by June 28, 2016;

WHEREAS, pursuant to Resolution No. 2639, Council: (i) selected the proposal submitted by Salisbury Development Group, LLC, dated January 22, 2016, as the awardee of the Marina Landing RFP, and, in accordance therewith, (ii) authorized the Mayor, on behalf of the City, to enter into that certain Land Disposition Agreement, dated July 7, 2016, with Salisbury Development Group, LLC setting forth the terms and conditions governing Salisbury Development Group, LLC’s purchase, lease and redevelopment of the Port of Salisbury Marina Property as more particularly set forth therein; (the “**Original LDA**”);

WHEREAS, for various reasons, including the global COVID-19 pandemic, the Salisbury Development Group, LLC’s purchase, lease and redevelopment of the Port of Salisbury Marina Property has been delayed, and the City and Salisbury Development Group, LLC have agreed to amend the Original LDA, in its entirety, as more particularly set forth in the Amended and Restated Land Disposition Agreement (the “**Amended LDA**”) attached hereto and incorporated herein as **Exhibit A**, to provide the rights and obligations of the City and Salisbury Development Group, LLC with respect to the following: (i) Salisbury Development Group, LLC’s purchase of such portion of the Port of Salisbury Marina Property

as described in the Amended LDA; **(ii)** Salisbury Development Group, LLC's lease of such portion of the Port of Salisbury Marina Property as described in the Amended LDA; and, **(iii)** such other matter(s) relating to Salisbury Development Group, LLC's purchase, lease and redevelopment of the Salisbury Marina Property, subject to the terms and conditions contained in the Amended LDA; and

WHEREAS, by this Resolution, the Council **(i)** hereby approves the Amended LDA (attached hereto and incorporated herein as **Exhibit A**) and **(ii)** hereby authorizes the Mayor's execution thereof on behalf of the City; and,

WHEREAS, upon the Mayor's execution of the Amended LDA on behalf of the City, as authorized hereunder, all of the terms set forth in the Amended LDA shall be deemed and otherwise construed to supersede and replace, in its entirety, the Original LDA.

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

Section 1. The Mayor is hereby authorized to execute, on behalf of the City of Salisbury, that certain Amended and Restated Land Disposition Agreement, by and between the City of Salisbury and Salisbury Development Group, LLC, attached hereto and incorporated herein as **Exhibit A** (the "**Amended LDA**").

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

Section 3. It is further the intention of the Mayor and 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.

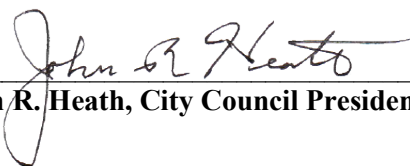
Section 4. The recitals set forth hereinabove and **Exhibit A** attached hereto, and all exhibits attached thereto and incorporated therein, are incorporated into this section of the Ordinance as if such recitals and **Exhibit A** were specifically set forth at length in this Section 4.

THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 22nd day of November 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 7th day of December, 2021.



Jacob R. Day, Mayor

AMENDED AND RESTATED LAND DISPOSITION AGREEMENT

THIS AMENDED AND RESTATED LAND DISPOSITION AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2021, being the date that such is fully executed by all parties and fully and finally approved and adopted by the City Council for the City of Salisbury, Maryland (the “**Effective Date**”) by and between the *City of Salisbury*, a municipal corporation of the State of Maryland (the “**City**”), and *Salisbury Development Group, LLC*, a Delaware limited liability company validly registered to do business in the State of Maryland (“**Developer**”) (the City and Developer are hereinafter referred to collectively as the “**Parties**”).
WITNESSETH:

RECITALS

WHEREAS, for purposes of this Agreement, the term “**Developer**” shall be deemed to include the following: **(i)** Salisbury Development Group, LLC, **(ii)** each and every subsidiary, successor-in-interest and/or assign of Salisbury Development Group, LLC and **(iii)** each of and every successor-in-interest, transferee, assignee and/or grantee of any right, title and/or interest of Salisbury Development Group, LLC and/or its successor(s)-in-interest(s) and/or assign(s) in and to the Property or any portion thereof. Accordingly, pursuant to the immediately preceding sentence, this Agreement, and all amendments hereto (if any), shall, in all respects, be construed and otherwise deemed to apply to and be binding upon Salisbury Development Group, LLC and each and every of its successor-in-interest(s) and/or assign(s) with respect to any and all right(s), title and/or interest(s) intended to be granted unto “Developer” in accordance with all terms and conditions set forth herein; and

WHEREAS, the City is the owner of all that certain real property identified as **(i)** Map 0106, Parcel 1100 (Maryland Tax Account No. 09-067612) (“**Parcel 1100**”) and **(ii)** Map 0106, Parcel 1108 (Maryland Tax Account No. 09-057919) (“**Parcel 1108**”) (Parcel 1100 and Parcel 1108 are hereinafter referred to as the “**Property**”); and

WHEREAS, by the unanimous vote of the Council of the City of Salisbury (the “**City Council**”) at the March 14, 2016 Regular Meeting of the City Council, the City declared the Property to be surplus property; and

WHEREAS, for purposes of the Project to be developed and constructed by Developer as set forth herein, and all transactions between the Parties arising from or relating to the development and/or construction of the Project as contemplated by this Agreement, the City desires to subdivide the Property into three (3) separate lots and parcels of land as more particularly shown on the Subdivision Plat of the Property attached hereto and incorporated herein as **Exhibit B** (the “**Marina Landing Subdivision Plat**”), which said lots and parcels of land are identified and depicted on the Marina Landing Subdivision Plat as follows: **(i)** “LOTS 3, 4, & 5” consisting of 104,470.69 square feet (2.40+/- acres) of land, more or less (the “**Sby Dev. Lot**”) (being all that same lot of land more particularly described in **Exhibit A** attached hereto and incorporated herein; **(ii)** “LOT 1AA” consisting of 78,003.52 square feet (1.79+/- acres) of land, more or less (the “**City Lot**”); and, **(iii)** “LOT 2” consisting of 112,052.90 square feet (2.57+/- acres) of land, more or less (the “**Salisbury Marina Lot**”); and

WHEREAS, subject to the terms and conditions set forth in this Agreement, the City desires sell to Developer, and Developer desires to purchase from the City the Sby Dev. Lot, being all that same lot and parcel of land more particularly depicted on the Marina Landing Subdivision Plat and identified thereon as “LOTS 3, 4, & 5” thereon (*see* **Exhibit B**), for the express purpose of Developer’s development and construction of: **(i)** two (2) five (5) story or more tall mixed-use buildings containing not less than twenty-eight (28) apartment units (each such building is hereinafter referred to as a/the “**Marina Landing Towers**” and collectively the “**Marina Landing Towers**”); **(ii)** one (1) five (5) story or more mixed-use building, consisting of **(A)** first (1st) floor commercial floorspace developed for the operation thereon of a boathouse business, and any other use reasonably related thereto, and **(B)** the second (2nd) through fifth (5th) floors containing not less than twenty (20) apartment units (said five (5) story building is hereinafter referred to as the “**Boathouse Building**”) floors (the Marina Landing Towers and the Boathouse Building to be developed and constructed by Developer at or upon the Sby Dev. Lot are more particularly depicted on that certain Development Plan attached hereto and incorporated herein as **Exhibit C** (hereinafter referred to as the “**Marina Landing Development Plan**”); and, **(iii)** all improvements related to, or required for, Developer’s development and construction of the Marina Landing Towers and the Boathouse Building at or upon the Sby Dev. Lot, including, expressly, any and all improvements required by all applicable laws, regulations, City Salisbury code or policy, and any federal, state or local permitting authority having jurisdiction over Developer’s development of the Sby Dev. Lot as aforesaid. as more particularly depicted in the

plans attached hereto and incorporated herein as **Exhibit C** (Developer’s development of the Sby Dev. Lot as described hereinabove is hereinafter referred to collectively as the “**Marina Landing Project**”); and

WHEREAS, the City desires to lease to Developer, and Developer desires to lease from the City, the Salisbury Marina Lot for the purposes of **(i)** operating the marina facilities located thereon for transient boat dockage and **(ii)** providing other services and/or amenities that facilitate public use of the Wicomico River, subject to all terms and conditions of a lease agreement to be executed by the Parties at Closing (as defined hereinbelow) as more particularly set forth in Article IV hereof (the lease agreement for Developer’s lease of the Salisbury Marina Lot from the City is hereinafter referred to as the “**Marina Lease**”);

WHEREAS, following the City’s declaration of the Property as surplus property, the City and Developer entered into that certain Land Disposition Agreement, dated July 7, 2016, which, together with all amendments thereto, set forth *inter alia* the rights and obligations of the Parties for the City’s conveyance or lease of such respective portions of the Property to Developer for the development, construction and operation of the Property as provided therein (the Land Disposition Agreement, dated July 7, 2016, and all amendments thereto entered into by the Parties prior to this Agreement are hereinafter referred to collectively as the “**Original Land Disposition Agreement**”); and

WHEREAS, for various reasons, including the global COVID-19 pandemic, the Project has been delayed and the parties now wish to amend and restate the Original Land Disposition Agreement, in its entirety, to provide the rights and obligations of the Parties with respect to the following: **(i)** the City’s conveyance of the Sby. Dev. Lot to Developer; Developer’s development and construction of the Project at or upon the Sby. Dev. Lot; **(ii)** Developer’s lease of the Salisbury Marina Lot from the City; and, **(iii)** any other matter(s) related thereto, subject, in every respect, to the terms and conditions set forth herein.

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 the Parties hereto, the City and Developer, for each of themselves, their respective successors and/or assigns, hereby represent, covenant, warrant and agree as follows:

ARTICLE I

GENERAL TERMS FOR CLOSING ON CONVEYANCE OF THE SBY DEV. LOT

- 1.1 Purchase Price.** In consideration of Developer’s payment to the City in the amount of One Dollar and 00/100 (\$1.00) (the “**Purchase Price**”), which said payment shall be made at Closing (as defined herein), and subject to all terms and conditions of this Agreement, the Parties expressly acknowledge and agree as follows: **(i)** the City shall deliver to Developer a special warranty deed (the “**Deed**”), duly executed and acknowledged by the City, conveying good and merchantable fee simple title to the Sby Dev. Lot unto Developer, and containing such express reference(s), acceptable to the City, that the conveyance of the Sby Dev. Lot to Developer thereunder is made by subject to all terms and conditions of this Agreement; and, **(ii)** the Parties shall execute the Marina Lease as contemplated by this Agreement and in accordance with the terms and conditions set forth in Article IV hereof.
- 1.2 Study Period.** Upon approval of the Marina Landing Subdivision Plat by the Salisbury-Wicomico County Planning and Zoning Commission (the “**Planning Commission**”): **(i)** the City, at Developer’s sole cost and reasonable expense, shall promptly record the approved Marina Landing Subdivision Plat with the Land Records of Wicomico County, Maryland; and, **(ii)** following recordation of the approved Marina Landing Subdivision Plat as aforesaid, Developer shall have a reasonable period of time thereafter to obtain a commercially reasonable title insurance binder showing clear title to the Sby Dev. Lot to be conveyed from the City to Developer hereunder.

- 1.3 **Building Permit.** The City shall cooperate with Developer in obtaining any and all approvals and/or permits necessary for Developer’s development and construction of the Project as more particularly shown on the Marina Landing Development Plan (*see Exhibit C*) and as otherwise required by the terms and conditions of this Agreement. Subject to the terms and conditions set forth in Sections 3.6, 3.7, 3.8 and 3.9 hereof and all applicable State and local laws, rules and/or regulations, Developer, at any time after the Effective Date, may apply for any permit(s) required for Developer’s development and construction of the Marina Landing Project contemplated by this Agreement.
- 1.4 **Closing Date.** Subject to Developer obtaining a commercially reasonable title insurance binder for its purchase of the Sby Dev. Lot as provided in Section 1.2, settlement on the City’s conveyance of the Sby Dev. Lot to Developer in accordance with Section 1.1 (hereinafter referred to as “**Closing**”) shall take place within Sixty (60) days from the date the City records the Marina Landing Subdivision Plat under Section 1.2(i).
- 1.5 **Condition of Property.**
- 1.5.1 Developer’s purchase of the Sby Dev. Lot at Closing, as contemplated hereunder, shall not be contingent upon the condition of the Sby Dev. Lot or any inspection thereof made by Developer, and/or any representative(s) of Developer, prior to the Effective Date or prior to the date of Closing (the “**Closing Date**”).
- 1.5.2 Except as specifically set forth herein, Developer expressly acknowledges and agrees that: (i) the City has made no warranties or representations to Developer regarding the condition of the Property or any portion thereof; and (ii) Developer has not relied upon any statements or representations made by the City, or any of its elected officials, appointed officials, employees, agents, attorneys, representatives or contractors, regarding the condition of the Property or any portion(s) thereof or any other matter(s) relating to the Property and any part of the Project to be developed and constructed thereon by Developer as contemplated by this Agreement.
- 1.6. **Perpetual Parking Dedication.** The City hereby expressly acknowledges and agrees to reserve the parking lot located on the City Lot (the “**LOT 1AA Parking Lot**”), which consists of approximately One Hundred Fourteen (114) public parking spaces more or less, shall be used exclusively for public parking and/or parking for the Marina Landing Project to be developed by Developer hereunder. At Closing, the Parties shall enter into a separate, written agreement, to be titled “**LOT 1AA Parking Lot Exclusive Use Agreement**” (the “**Parking Lot Agreement**”), containing such terms and conditions the Parties deem acceptable for purposes of setting forth the City’s acknowledgement and agreement to reserve the LOT 1AA Parking Lot, and all parking spaces thereof, for the exclusive uses of (i) public parking and (ii) parking for the Marina Landing Project, as expressly intended by the Parties under this Section 1.6. Notwithstanding any term to the contrary set forth herein, the Parties expressly acknowledge and agree Closing on the City’s conveyance of the Sby Dev. Lot to Developer and Developer’s development of the Marina Landing Project as contemplated by this Agreement shall be expressly conditioned upon the Parties’ execution of the Parking Lot Agreement Closing.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

- 2.1 **Developer’s Representations.** As of the Effective Date and continuing through the Closing Date, Developer represents and warrants to the City as follows:
- 2.1.1 (i) Developer has not applied for, consented to, acquiesced to, nor is subject to, the appointment of a receiver, trustee, custodian, liquidator or other similar official for itself or for all or substantially all of Developer’s assets; (ii) Developer is not subject to any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar proceeding, and Developer has not admitted, in writing, to any inability to pay its debts as they become due; (iii) Developer has not made any assignment for the benefit of creditors; (iv) Developer has not filed a petition or an answer seeking, consenting to or acquiescing in a reorganization or an arrangement with creditors, or sought to take advantage of any bankruptcy law, insolvency law or other law for the benefit of debtors; and (v) Developer has not filed an answer

admitting the material obligations of a petition filed against it in any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar proceeding.

2.1.2 (i) Developer is duly formed, validly existing and in good standing, under the laws of its respective state of formation and, if not an entity formed under the laws of the State of Maryland, Developer is duly and validly registered, and in good standing, to do business as a foreign entity in the State of Maryland, (ii) Developer has all necessary power(s) and authority(ies) to execute and deliver this Agreement and to execute and deliver any and all related documents contemplated hereunder, including, expressly, the Marina Lease, to be executed by Developer in connection with the performance of its obligations hereunder and any and all such related documents.

2.1.3 This Agreement, and any and all related documents contemplated hereunder to be executed by Developer including, expressly, the Marina Lease, (i) have been duly authorized by all requisite partnership, corporate or other action on the part of Developer, and (ii) are the valid and legally binding obligation of Developer, enforceable in accordance with their respective terms and conditions. Neither the execution and delivery of this Agreement or any related document(s) to be executed by Developer as contemplated hereunder, nor the performance of the obligations of Developer hereunder or thereunder, will result in the violation of any law or provision of the partnership agreement, articles of organization, articles of incorporation, by-laws, operating agreement or other organizational document of Developer, nor will this Agreement or any related document(s) contemplated hereunder, including, expressly, the Marina Lease, conflict with any order or decree of any court or governmental instrumentality by which Developer is bound.

2.1.4 Developer hereby covenants that it will complete the development and construction of the Project as shown on the Marina Landing Development Plan (see **Exhibit C**) and in accordance with all terms and conditions of this Agreement and the Proposal, dated January 22, 2016, submitted by Developer to the City in response to RFP 09-16 (the “**Proposal**”, except for any modification(s) thereto as may be required for any approval(s) and/or permit(s) required for the development and/or construction of the Project (a copy of the Proposal is attached hereto and incorporated herein as **Exhibit D**). Subject to all applicable Federal, State and/or local law(s), rule(s) and/or regulation(s), there shall be no additional restrictions on Developer’s use of the Sby Dev. Lot except for the terms and conditions set forth in this Agreement and all conditions (if any) imposed by any Federal, State or Local permitting authority having jurisdiction over Developer’s development of the Project on the Sby Dev. Lot as contemplated hereunder.

2.2 **City Representations.** As of the Effective Date and continuing through and until Closing, the City represents and warrants to Developer as follows:

2.2.1 The City is the fee simple owner of the Sby Dev. Lot and the Salisbury Marina Lot.

2.2.2 All bills and claims, incurred by the City, for labor performed and materials furnished to or for the Sby Dev. Lot, as the case may be, for all periods prior to the Closing Date have been, or will be, paid in full prior to or on the Closing Date, such that upon Closing, as provided in Section 1.1, there shall be no mechanics’ liens or materialmen’s liens (whether or not perfected) on or affecting the Sby Dev. Lot. Notwithstanding any term to the contrary set forth herein, for purposes of this Agreement, Developer shall pay any and all costs or fees relating or arising from any labor performed, services provided and/or materials furnished for or in connection with Developer’s acquisition of the Sby Dev. Lot, the lease of the Salisbury Marina Lot, and/or the development of the Marina Landing Project.

2.2.3 To the City’s actual knowledge, no party has ever mined on or under Sby Dev. Lot, and no party has the right to do so.

2.2.4 To City’s actual knowledge, with respect to the Sby Dev. Lot: (i) there are no violations or potential violation of any zoning, building, health, environmental or other laws, codes, ordinances, regulations, orders or requirements of any State or local governmental authority having jurisdiction thereof; and, (ii) except for all publicly recorded restriction(s) encumbering the Sby Dev. Lot, there are no private restrictive covenants affecting the Sby Dev. Lot.

- 2.2.5 To the City's actual knowledge: **(i)** there are no pending or threatened condemnation actions or any other matter(s) of litigation, proceeding(s) or action(s) involving the Sby Dev. Lot or of any portion(s) thereof; and, **(ii)** there are no existing, proposed or contemplated plans to widen, modify or realign any public rights-of-way located adjacent to any portion of the Sby Dev. Lot.
- 2.2.6 To the City's actual knowledge and except as on record in the Land Records for Wicomico County: **(i)** There are no leases, management, maintenance, service or other contracts with respect to the Sby Dev. Lot; and, **(ii)** there are no pending contracts of sale, options to purchase or rights of first refusal (or the like) with respect to the Sby Dev. Lot.
- 2.2.7 Between the Effective Date and the Closing Date, the City expressly acknowledges and agrees not to: **(i)** make or enter into any lease or other agreement for the use, occupancy or possession of all or any part of the Sby Dev. Lot and/or the Salisbury Marina Lot; or, **(ii)** otherwise enter into any contract that would be in effect as of the Closing Date or bind Developer with respect to the Sby Dev. Lot and/or the Salisbury Marina Lot from and after the Closing Date without the prior written approval of Developer.
- 2.2.8 Notwithstanding any term to the contrary set forth herein, the Parties expressly acknowledge and agree that: **(i)** as of the Effective Date, the City has entered into lease agreements with third parties for the lease or rental of certain boat slips existing at or upon certain portions of the Salisbury Marina Lot (each such lease agreement is hereinafter referred to as a "**Boat-Slip Lease**", and collectively the "**Boat-Slip Leases**"); **(ii)** Developer has been provided a copy of the Boat-Slips Leases prior to the Effective Date; and, **(iii)** upon the Parties' execution of the Marina Lease at Closing, as provided in Section 1.1, Developer and the City shall execute an Assignment and Assumption of Boat-Slip Leases, Rents and Deposits, the terms of which shall be subject to the prior approval of the Parties which shall not be unreasonably withheld, which shall provide that the City shall assign, and Developer shall assume, any and all rights and obligations of the City existing under each and every of the Boat-Slip Leases.
- 2.2.9 Except as expressly set forth in this Agreement, from and after the Effective Date, the City shall: **(i)** refrain from performing any grading or excavation on or within, constructing or removing any improvement on or upon, or otherwise making any other change(s) to the Sby Dev. Lot or the Salisbury Marina Lot, without the prior written approval of Developer; **(ii)** refrain from committing any waste or placing any refuse at or upon the Sby Dev. Lot and/or the Salisbury Marina Lot; **(iii)** observe all laws, ordinances, regulations and restrictions affecting the Sby Dev. Lot and/or the Salisbury Marina Lot and the respective use(s) thereof; **(iv)** refrain from taking any action to rezone or re-subdivide the Sby Dev. Lot and/or the Salisbury Marina Lot except as approved by Developer, in writing, which said approval shall be subject to the sole discretion of Developer; and, **(v)** maintain such insurance now in force on or for the Sby Dev. Lot and/or the Salisbury Marina Lot as is currently in effect.
- 2.2.10 From and after the Effective Date, the City shall not, without obtaining the prior written consent of Developer, which may be given or withheld in Developer's sole discretion: **(i)** lease, sell or transfer the Sby Dev. Lot or the Salisbury Marina Lot or any portion(s) thereof or any interest(s) therein; **(ii)** encumber or pledge the Sby Dev. Lot or the Salisbury Marina Lot or any portion thereof; **(iii)** grant a lien or security interest in or to the Sby Dev. Lot and/or the Salisbury Marina Lot or any portion(s) thereof; **(iv)** permit to exist any recorded mechanics', materialmen's, laborers' or other lien upon all or any portion of the Sby Dev. Lot and/or the Salisbury Marina Lot, unless such lien is the result of work performed by or on behalf of Developer; or **(v)** in any other way affect title to the Sby Dev. Lot and/or the Salisbury Marina Lot prior to the Closing Date.
- 2.2.11 The City has duly and validly authorized, executed and delivered this Agreement, and neither the execution and delivery of this Agreement nor the City's performance of its obligations hereunder are restricted by or violate any legal, contractual or other obligation of the City.

- 2.2.12 Except as expressly set forth in this Agreement, as of the Closing Date, there shall be: (i) no contract(s) affecting the Sby Dev. Lot and/or the Salisbury Marina Lot or any portion(s) thereof; (ii) no contract(s) or agreement(s) for the management of either the Sby Dev. Lot and/or the Salisbury Marina Lot or any portion(s) thereof; and, (iii) there shall be no commission(s) due or owing in connection with the City's sale of the Sby Dev. Lot to Developer or the City's lease of the Salisbury Marina Lot to Developer as contemplated by this Agreement.
- 2.2.13 There are no assessments for public improvements against the Sby Dev. Lot which remain unpaid, including, without limitation, any assessment(s) attributable to the construction of sewer or water lines or mains, public streets, sidewalks and /or curbs.

ARTICLE III

CLOSING ON THE CONVEYANCE OF THE SBY DEV. LOT

- 3.1 **Date, Time and Place of Closing.** The City shall convey the Sby Dev. Lot unto Developer in accordance with all terms and conditions contained in this Agreement, including, but not limited to, the provisions set forth in Sections 1.1, 1.2, 1.4 and 1.5 hereof. Subject to the terms set forth in Section 1.5, Closing shall occur at such time as agreed to by the Parties and at such place as determined by Developer, the location of which shall be provided to the City not less than Five (5) days prior to the Closing Date. In consideration for Developer's performance of all its obligations under this Agreement and any related document(s) contemplated hereunder, including, expressly, the Marina Lease, the Parties expressly acknowledge and agree that, subject to the terms set forth in Section 1.1, at Closing, title and possession of the Sby Dev. Lot shall be conveyed and delivered by the City to Developer.
- 3.2 **Delivery of the Deed at Closing.** At Closing, the City shall deliver or cause to be delivered to Developer the special warranty Deed (as defined in Section 1.1) conveying the Sby Dev. Lot unto Developer shall comply with the provisions set forth in Section 1.1 and shall further contain a covenant of special warranty and further assurances, and shall be subject to any and all publicly recorded easements for public utilities and any other publicly recorded easements, agreements, covenants and/or restrictions encumbering the Sby Dev. Lot or any portion(s) thereof. Subject to all applicable terms and conditions contained in this Agreement, upon the City's delivery of the executed Deed to Developer at Closing (as provided in Section 1.1), Developer, at its sole cost and expense, shall record the Deed in the Land Records for Wicomico County, Maryland.
- 3.3 **Closing Agent.** Developer shall have the option of selecting its own Title Insurance company or Title Attorney for Closing on its purchase of the Sby Dev. Lot as contemplated hereunder.
- 3.4 **Pro-rations/Recordation Taxes.** All public or governmental charges or assessments against the Sby Dev. Lot which are or may be payable on an annual basis, including all assessments, liens or encumbrances for sewer, water, drainage or other public improvements completed on or prior to the Closing shall be adjusted and apportioned between the Parties as of the Closing Date and shall be assumed and paid thereafter by Developer, regardless of whether any such assessments have been levied as of the Closing Date. In addition, the costs of any and all state and local recordation and transfer taxes arising from the City's conveyance of the Sby Dev. Lot to Developer shall be paid by Developer at Closing.
- 3.5 **Marina Landing Subdivision Plat.** Within twenty business (20) days following the Parties' execution of this Agreement, Developer shall submit the Marina Landing Subdivision Plat attached as **Exhibit B** (or in substantially the same form as **Exhibit B**) to the City of Salisbury Department of Infrastructure and Development ("**City DID**") for review and acceptance by the City. Any and all costs, fees and/or taxes arising from, relating to or in connection with the preparation, modification, submission and/or approval(s) of the Marina Landing Subdivision Plat shall be paid by Developer at its sole cost and expense. As provided in Section 1.4 hereof, upon the Planning Commission's approval of the Marina Landing Subdivision Plat, the City shall have the approved Marina Landing Subdivision Plat recorded in the Land Records for Wicomico County, Maryland and all costs and/or fees associated with the recordation of the approved Marina Landing Subdivision shall be paid by Developer at its sole cost and expense.

3.6 Site Plan Approval.

- 3.6.1. By its execution of this Agreement, Developer hereby expressly acknowledges and agrees that, on or before One Hundred Eighty (180) days from the Effective Date, Developer shall submit a final site plan for the Marina Landing Project (the “**Final Site Plan**”) to City DID for its review and acceptance thereof, which said Final Site Plan shall provide for the development and construction of the Marina Landing Project as contemplated by the Marina Landing Development Plan and in accordance with all terms and conditions set forth herein, subject to all applicable State and local law(s), rule(s) and/or regulations(s) governing final site plans for property development. Upon City DID’s acceptance of the Final Site Plan, City DID shall have the Final Site Plan promptly scheduled for consideration and approval by the Planning Commission.
- 3.6.2 In the event Developer shall fail or refuse, for any reason(s) whatsoever (or no reason), to submit the Final Site Plan for the Marina Landing Project to DID within One Hundred Eighty (180) days from the Effective Date, the City, at its sole discretion, may assess the Delayed Performance Penalties (as defined below) in accordance with the terms and conditions contained in Section 3.9.

3.7 Building Permit.

- 3.7.1 By its execution of this Agreement, Developer hereby expressly acknowledges and agrees that, on or before two hundred forty (240) days from the Effective Date, Developer shall obtain, or shall have obtained, from the City all building permits necessary for construction of the Marina Landing Project (each a “**Building Permit**”, and collectively (the “**Building Permits**”). All Building Permits requested by Developer in connection with the Marina Landing Project hereunder shall: (i) comply with all applicable Federal, State and local law(s), rule(s) and regulation(s) governing the construction of the improvements which are the subject of such Building Permit; and (ii) shall be subject to review and approval by City DID in accordance with its policies and procedures governing the issuance of building permits.
- 3.7.2 In the event Developer fails, to obtain all Building Permits for construction of the Marina Landing Project within Two Hundred Forty (240) days from the Effective Date, due to delay(s) outside the control of Developer and which otherwise do not arise from, or relate to, any breach by Developer of its obligations hereunder, the Two Hundred Forty (240) day period set forth in Section 3.7.1 shall be extended by One (1) day for each and every day of such delay and until such time as the Building Permits are issued by City DID to Developer. Any extension provided Developer under this Section 3.7.2 shall be subject to the prior written approval of the City which shall not be unreasonably withheld.
- 3.7.3 In the event the Building Permits for construction of the Marina Landing Project are not issued by City DID to Developer within Three (3) months from the date Developer submits its request for the issuance of the Building Permits to City DID, provided such delay(s) does not arise from, or relate to, any breach by Developer of its obligations hereunder, including, but not limited to, Developer’s obligation to comply with all applicable Federal, State and/or local law(s), rule(s) and/or regulation(s) governing the Building Permits for the construction of the Marina Landing Project, Developer shall have the right to terminate this Agreement by delivering written notice to the City, c/o Jacob R. Day, Mayor, specifying Developer’s election to terminate this Agreement in accordance with this Section 3.7.3.

3.8 Certificate of Occupancy Completion.

- 3.8.1 Developer expressly acknowledges and agrees that Developer shall (i) substantially complete the Marina Landing Project in accordance with all terms and conditions of this Agreement, and as shown on the Marina Landing Development Plan (see **Exhibit C**) and the Final Site Plan approved by the Planning Commission, such that Developer shall have secured a Certificate of Occupancy from the City for the Marina Landing Towers and the Boathouse within Thirty-Two (32) months from the Effective Date (the “**C-O Deadline**”). Subject to all applicable Federal, State and local law(s), rule(s) and regulation(s) and Developer’s performance of all its obligations in accordance with all terms and conditions of this Agreement, the issuance of a Certificate of Occupancy for each the Marina Landing Tower and/or the Boathouse shall not be unreasonably withheld by the City. (For purposes of this Agreement the term

“**Certificate of Occupancy**” shall mean when each Marina Landing Tower and the Boathouse, respectively, is structurally complete to the point that the building inspector for the City would ordinarily issue an occupancy permit for the referenced building size described herein.)

3.8.2 Notwithstanding any term to the contrary set forth herein, in the event Developer has not secured a Certificate of Occupancy from the City for a Certificate of Occupancy for the Marina Landing Towers and the Boathouse on or before the C-O Deadline, Developer may, in its sole and absolute discretion, and without incurring liability for the Delayed Performance Penalties set forth in Section 3.9, extend the C-O Deadline and the performance of Developer’s obligations under Section 3.8.1, by up to Sixteen (16) months (said extended time period is hereinafter referred to as the “**Extended C-O Deadline**”); provided, however, the right to extend the C-O Deadline granted to Developer under this Section 3.8.2 may be exercised by Developer only once and, if exercised by Developer, such Extended C-O Deadline shall apply to Developer’s completion of the development and construction of all, and not less than all, of the improvements constituting the Marina Landing Project as approved by the City for issuance of the Building Permits.

3.9 **Delayed Performance Penalties.** Except as expressly set forth in Section 3.8.2, in the event Developer fails to perform its obligations under Section 3.6, Section 3.7 and/or Section 3.8, respectively, the City, at its sole discretion, may assess financial penalties (each a “**Delayed Performance Penalty**”, collectively the “**Delayed Performance Penalties**”) against Developer. A Delayed Performance Penalty may be assessed by the City against Developer beginning Thirty (30) days from the date of written notice from the City to Developer specifying the obligation(s) Developer failed to performed in accordance with the terms and conditions contained in Section 3.6, Section 3.7 and/or Section 3.8 (said written notice from the City to Developer is hereinafter referred to as a “**Notice of Penalty**”). If Developer fails to cure the default(s) specified in the Notice of Penalty within Thirty (30) days from the date of delivery thereof to Developer, the City may, in its sole discretion, assess a Delayed Performance Penalty against Developer in an amount which does not exceed Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) for each and every month Developer remains in default of its obligation(s) under Section 3.6.1, Section 3.7.1 and/or Section 3.8.1 (subject to the provisions contained in Section 3.8.2, if applicable), as the case may be. Notwithstanding any term to the contrary set forth herein, the maximum aggregate amount of the Delayed Performance Penalties the City may assess against the City against Developer under this Section 3.9 shall not exceed Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00).

3.10 **Merger.** Parties expressly acknowledge and agree that none of the provisions of this Agreement shall be merged by reason of any deed transferring title to Sby Dev. Lot to Developer or any of its successor(s)-in-interest and/or assign(s). The Parties further expressly acknowledge and agree that the terms contained in Sections 1.1, 3.4, 3.5, 3.6, 3.7, 3.8, and 4.1 each constitute a material part of the consideration to be received by the City hereunder, without any of which the City would not enter into this Agreement.

3.11 **Code Covenant.** Developer agrees that all final plans for any all structures and site improvements constructed by Developer for or in connection with the development of the Marina Landing Project by Developer pursuant to its obligations hereunder, including any and all landscaping plans for or relating to the Marina Landing Project or any portion(s) thereof, shall be comply with all applicable provisions of Federal, State and local law(s), rule(s) and/or regulation(s).

3.12 **Assignment.** No less than Fifteen (15) days prior to the Closing Date, Developer may assign all, and not less than all, of its rights, title and interests in and to this and this Agreement to a “**Related Party**” upon delivery of such written notice of assignment to the City, attn: Jacob R. Day, Mayor; provided, however, any such assignment by Developer to a Related Party shall be (i) conditioned upon the written acknowledgement and agreement of the Related Party assignee to assume all, and not less than all, of Developer’s obligations and responsibilities hereunder as if such assignee Related Party was the Developer named herein, and (ii) the City’s approval and acceptance of such written acknowledgment and agreement of the Related prior to the execution thereof by Developer and the Related Party assignee. (For purpose of this Agreement, the term “**Related Party**” shall mean an entity which is majority owned by and controlled by the Developer or by the same principals as Developer.)

- 3.13 Cooperation.** The City shall make good faith efforts regarding the consideration of any request submitted by Developer for approval of any financing incentive(s), including by way of example only: Payment in Lieu of Taxes, Enterprise Zone designation, Comprehensive Connection Fee Waiver(s), HORIZON Program benefits, Building Permit Fee(s) Waiver(s), Riverwalk Reimbursement Program benefits, and/or public funding for public spaces. Further, the City acknowledges Developer may lease certain commercial space located within any (or both) of the Marina Landing Towers and/or the Boathouse for use as a restaurant(s); and, provided the restaurant-tenant's request and application for an alcoholic beverage license for use in connection with the operation of a restaurant located at a Marina Landing Tower and/or the Boathouse is in compliance with all applicable laws and regulations applicable to the request and/or issuance of an alcoholic beverage license, the City shall not unreasonably obstruct the Wicomico County Board of License Commission's consideration of such alcoholic beverage license request and/or application therefor.

ARTICLE IV

THE MARINA LANDING LEASED PREMISES

- 4.1 Lease.** As part of the Marina Landing Project to be developed and constructed by Developer in accordance with the terms and conditions of this Agreement, and as a material part of the consideration to be received by the City for its conveyance of the Sby Dev. Lot to Developer at Closing as provided herein, Developer hereby expressly acknowledges and agrees to lease from the City, and the City agrees to lease to Developer, the Salisbury Marina Lot subject to the terms and conditions contained in the Marina Lease (as defined above) to be executed by the Parties at Closing. Possession of the Salisbury Marina Lot and commencement of the marina management by Developer shall take place at such time that Developer provides the City written notice of its intention to do so, but no later than the City's issuance of the Certificate of Occupancy for the Boathouse to be developed at the Sby Dev. Lot as provided herein. The Parties expressly acknowledge and agree Closing on the City's conveyance of the Sby Dev. Lot to Developer as contemplated by this Agreement shall be expressly conditioned upon the Parties' execution of the Marina Lease at Closing.
- 4.2 Terms to be Contained in the Marina Lease.** In addition to all other provisions to be contained in the Marina Lease, which shall be subject to the prior approval thereof by the City and Developer which shall not be unreasonably withheld, the Parties expressly acknowledge and agree the Marina Lease shall contain the following terms:
- 4.2.1 Rent.** The annual rental amount for Developer's lease of the Salisbury Marina Lot shall be in the amount of One Dollar and 00/100 (\$1.00).
- 4.2.2 Lease Term.** The term of the Marina Lease shall be for a period of Fifty (50) years (the "Initial Term"), with Three (3) automatic renewal terms each of which shall be for a period of Fifty (50) years; unless otherwise agreed to, in writing by the Parties, each and every of the Three (3) automatic renewal terms shall be subject to all terms and conditions contained in the Marina Lease, including, expressly, the rental amount due from Developer during the Initial Term. The Marina Lease shall provide that the Initial Term shall commence in accordance with Section 4.2.6 hereof and any other applicable terms and conditions set forth in the Marina Lease as agreed to by the Parties.
- 4.2.3 Continuing Operations of the Marina Facilities Conducted at the Salisbury Marina Lot.** Upon commencement of the Initial Term of the Marina Lease, Developer shall keep the Salisbury Marina Lot in good working order, fully operational, fully staffed, with fuel, electric, water, sewer, and internet service.
- 4.2.4 Use of the Salisbury Marina Lot.** During the Initial Term and any renewal term(s) thereafter, Developer shall use the Salisbury Marina Lot for the purposes of (i) operating the marina facilities located thereon for transient boat dockage and (ii) providing other services and/or amenities that facilitate public use of the Wicomico River, subject to all terms and conditions of the Marina Lease.

- 4.2.5 Maintenance and Repair of the Salisbury Marina Lot.** In the event Developer fails to keep the Salisbury Marina Lot in good, clean condition or otherwise fails to maintain, in good working-order or repair, all improvements located at, on, upon or within any portion(s) of the Salisbury Marina Lot, including all marina facilities installed thereat or constructed thereon, in accordance with all terms and conditions of the Marina Lease to be executed by the Parties at Closing, the City shall have the option to terminate the Marina Lease by delivering written notice to Developer **(i)** specifying Developer's default of its obligations under the Marina Lease and **(ii)** stating the City's election to terminate the Marina Lease; **(iii)** provided, however, prior to any such termination of the Marina Lease by the City taking effect, Developer shall have the opportunity to cure the default specified in the written notice delivered by the City within **(A)** One Hundred Twenty (120) days from the date of the written notice from the City terminating the Marina Lease; or, **(B)** the number of days reasonably necessary for Developer to cure such default, so long as Developer diligently pursues such cure to completion.
- 4.2.6 Possession and Operation of the Salisbury Marina Lot.** Unless otherwise agreed to, in writing, by the City: **(i)** Developer's use and operation(s) of the Salisbury Marina Lot and the improvements located thereon as permitted under the Marina Lease shall commence at such time that the Developer provides written notice to the City of its election to take over such operation, provided, however, that such date of operation shall take place no later than the City's issuance of the Certificate of Occupancy for the Boathouse to be developed at the Sby Dev. Lot as provided herein; and, **(ii)** prior to the City's issuance of the Building Permit for Developer's construction of the Boathouse, the City shall maintain all marina facilities located at, on, upon or within the Salisbury Marina Lot, and perform all marina-related operations conducted thereon. Upon commencement of the Initial Term of the Marina Lease in accordance with the terms and conditions of this Section 4.2.6, Developer shall be responsible for all day-to-day costs arising from or associated with the marina facilities maintained at, and the marina operations conducted on, the Salisbury Marina Lot, subject to all terms and conditions set forth in the Marina Lease. During the Initial Term of the Marina Lease and any renewal term thereafter: **(x)** Developer shall have the right to sublease the Salisbury Marina Lot any portion(s) thereof, subject to the written consent of the City which shall be set forth in a written Sublease Agreement, prepared by Developer and approved by the City, and executed by Developer, the sublessee and the City; and, **(xi)** Developer shall have the right to collect any and all docking fees and revenue generated from the use of, and operations conducted, at the Salisbury Marina Lot as expressly permitted by the terms and conditions of the Marina Lease.
- 4.2.7 Developer Obligations for the Salisbury Marina Lot.** Upon commencement of the Initial Term of the Marina Lease and for so long as the Marina Lease shall be in effect, Developer shall use the Salisbury Marina Lot and all improvements located thereon for the operations of a public marina, which shall include the dockage of transient boat traffic. Developer shall be responsible for the routine maintenance of the Salisbury Marina Lot and all improvements located thereon; provided, however, Developer shall not be responsible for any "capital expenditures" (as defined in Section 4.2.8 hereof) relating to the Salisbury Marina Lot or any improvements located thereon; provided, however, Developer shall be responsible for any capital expenditures attributable to any improvements constructed and/or installed by Developer, subject to the prior approval of the City, on any portion(s) of the Salisbury Marina Lot and/or within any improvement(s) existing at the Salisbury Marina Lot as of the commencement of the Initial Term. Subject to the prior written approval of the City and all applicable terms and conditions set forth in the Marina Lease, Developer may construct improvements on the Salisbury Marina Lot for or in connection with Developer's permitted use thereof, as Developer may desire from time to time. The Parties expressly acknowledge and agree that, at all times during the Initial Term of the Marina Lease and any renewal term thereafter: **(i)** Developer shall provide the Salisbury Fire Department, One (1) boat slip, free of charge, for the dockage of the Salisbury Fire Department fire boat; additionally, **(ii)** Developer shall provide One (1) boat slip for use by the Maryland Department of Natural Resources. All costs and expenses of the Salisbury Marina Lot not specially assumed by the City under this Article IV or pursuant to the terms and conditions of the Marina Lease, shall be the sole responsibility of Developer, including, but not limited to, any and all: **(x)** repairs and/or maintenance of improvements located at or constructed on the Salisbury Marina Lot; **(xi)** insurance costs for the Salisbury Marina Lot

and all improvements thereon and the operations conducted thereat as permitted by the terms and conditions of the Marina Lease; (xii) financing costs for improvements made by Developer to the Salisbury Marina Lot and/or any marina facilities as permitted under the Marina Lease; and (xiii) any legitimate demands for money or any assessments against the Salisbury Marina Lot or the City which arise from the existence of the Marina Lease and/or Developer's use and/or operation of the Salisbury Marina Lot and any improvements located or constructed thereon.

- 4.2.8 City Obligations for the Salisbury Marina Lot.** During the Initial Term of the Lease and any renewal term thereafter, the City shall be responsible for all capital expenditures related to the Marina Landing Leased Premises. For purposes of this Agreement and the Marina Lease to be executed by the Parties at Closing as provided herein, the term “**capital expenditure**” shall mean any necessary improvement (as opposed to a voluntary improvement of Developer) or repair to the Salisbury Marina Lot that is by nature not a repair or maintenance to the Salisbury Marina Lot (Developer shall be responsible for such repairs and maintenance and any and all costs or expenses arising therefrom). A capital expenditure would be an expenditure relating to a rebuild or replacement of an improvement to the Salisbury Marina Lot after the end of its economic useful life or due to damage or destruction that is not considered normal wear and tear.
- 4.2.9 Marina Riverwalk.** Upon the commencement of the Initial Term of the Marina Lease, Developer shall be obligated to maintain the Riverwalk located on the Salisbury Marina Lot in good repair, and to extend and connect, at its sole cost and expense, the Riverwalk from the Salisbury Marina Lot to the adjacent property known as “River’s Edge”.
- 4.2.10 Marina Fund and Marina Commission.** The City hereby agrees that the current Marina Fund and Marina Commission shall remain in existence. The Marina Fund shall be maintained by the City to fulfill its obligation under Section 4.2.8. The Parties acknowledge that the current Marina Commission may expand its scope to a broader Port of Salisbury Commission. During the Initial Term of the Marina Lease and any renewal term thereafter, Developer shall have representation on the Commission.
- 4.2.11 City Cooperation for City Marina.** The Marina Lease shall contain language to such effect that, to continue on not less than a semi-annual basis, the City shall pursue any reasonable grants, opportunities, designations, preferred financing, other funding options that may improve the City Marina or other portions of the Marina Landing Leased Premises. Such efforts shall be reported by the City to Developer at least semi-annually, and Developer agrees to cooperate with the City to pursue such opportunities if such opportunities are acceptable to Developer, in its reasonable discretion.

ARTICLE V

PRE-CLOSING DEFAULT BY DEVELOPER OR THE CITY

- 5.1. Default by Developer.** In the event Closing fails to occur by reason of Developer's failure or refusal to perform its obligations in accordance with the terms and conditions of this Agreement, or by reason of any misrepresentation by Developer under this Agreement existing on the Closing Date (any of which shall be considered a “**Developer's Closing Default**”), the City shall have the right to pursue all remedies available to the City, at law and/or in equity, as a result of any Developer's Closing Default, which said remedies available to the City under this Section 5.1 shall include, but not be limited to, the City's right to terminate this Agreement upon written notice thereof to Developer and the City's the right to seek damages against Developer arising from or relating to such Developer's Closing Default.
- 5.2. Default by the City.** In the event Closing fails to occur by reason of the City's failure or refusal to perform its obligations in accordance with the terms and conditions of this Agreement, or by reason of any misrepresentation by the City under this Agreement existing on the Closing Date (any of which shall be considered a “**City's Closing Default**”), Developer shall have the right to elect to: (i) terminate this Agreement by delivering written notice thereof to the City; (ii) waive the condition and proceed to close the transactions contained herein; or (iii) enforce specific performance of the City's obligation to execute the documents required for settlement on the City's conveyance of the Sby Dev. Lot to Developer and the City's lease of the Salisbury Marina Lot to

Developer, each of which shall be subject to all terms and conditions contained in this Agreement and any other agreement(s) to be executed by the Parties as contemplated hereunder, including, with respect to the City's lease of the Salisbury Marina Lot, the Marina Lease. In the event Developer elects to terminate this Agreement upon the occurrence of any City's Closing Default, neither party shall have any further rights, obligations or liabilities under this Agreement except for those which are expressly stated herein to survive the termination of this Agreement.

ARTICLE VI
MISCELLANEOUS

- 6.1 Risk of Loss to the Sby Dev. Lot.** Prior to Closing on the City's conveyance of Sby Dev. Lot to Developer as contemplated by this Agreement, the Sby Dev. Lot shall be held at the risk of the City. In the event of substantial loss or damage to the Sby Dev. Lot prior to the Closing Date, provided such substantial loss or damage to the Sby Dev. Lot does not arise from or relate to the gross negligence or willful misconduct of Developer, Developer, within ten (10) days from the occurrence of such substantial loss or damage to the Sby Dev. Lot, shall deliver written notice to the City specifying Developer's election to: **(i)** terminate this Agreement, in which event this Agreement, and all rights and obligations of the Parties hereunder shall terminate immediately (except for any and all rights and/or obligations of the Parties expressly stated herein to survive termination of this Agreement) and the Parties shall have no further liability whatsoever to one another; or **(ii)** affirm this Agreement, and all terms and conditions contained herein, in which event, the City shall assign to Developer any all of City's rights under any policy or policies of insurance applicable to the Sby Dev. Lot, to the extent permitted by the City's insurance carrier. In the event Developer fails to deliver the aforesaid written notice to the City within the time period set forth in this Section 6.1, Developer shall be deemed to have affirmed this Agreement in accordance with the terms and conditions of subsection (ii) hereof.
- 6.2 Assignment.** Except as set forth in Section 3.12, neither City nor Developer may assign this Agreement or any of their respective rights or obligations hereunder, in whole or in part, without the prior written consent of the other party. Except as set forth in Section 3.12, any attempt by a party hereto to assign this Agreement or such party's right(s) and/or obligation(s) hereunder without the prior written consent of non-assigning party, such assignment shall be deemed void and of no force and effect in any way whatsoever.
- 6.3 Brokers.** The City and Developer each represent to the other that it has had no dealings with any broker, finder or other party concerning Developer's acquisition of the Sby Dev. Lot and/or Developer's lease of the Salisbury Marina Lot as contemplated hereunder. The City and Developer each hereby agree to indemnify, protect, defend (with counsel satisfactory to the other) and hold harmless the other from and against any and all claims, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees) suffered or incurred by the other in connection with any claim arising out of the acts of the indemnifying party (or others on its behalf) for a commission, finder's fee or similar compensation made by any broker, finder or any party who claims to have dealt with the indemnifying party or others on its behalf). The terms of this Section 6.3 shall survive Closing or the earlier termination of this Agreement.
- 6.4 Notice.** Any notice, request, demand, consent, approval and other communications ("**Notice**") under this Agreement shall be in writing, and shall be sent by personal delivery, reputable overnight courier service or certified mail, postage prepaid, return receipt requested. Each Notice shall be sent, addressed to the party for whom it is intended at its address set forth below or to such other address as it may designate for the delivery of Notices to it by giving at least five (5) days prior Notice to the other party in accordance with this Section 6.4:

If to Developer:

With a copy to:

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

If to City:

With a copy to: Heather R. Konyar, Esq.
Cockey, Brennan & Maloney, P.C.
313 Lemmon Hill Lane
Salisbury, Maryland 21801

Any Notice sent by personal delivery in accordance with the foregoing shall be delivered during normal business hours and shall be deemed received when delivered or, if delivery is rejected, when delivery was attempted. Any Notice sent by overnight courier service in accordance with the foregoing shall be deemed received on the first business day following the date sent. Any Notice sent by certified mail in accordance with the foregoing shall be deemed received on the third (3rd) business day following the date mailed.

- 6.5 Integration; Waiver.** This Agreement constitutes the entire understanding between the Parties hereto with respect to the matters set forth herein and the transactions contemplated hereunder, and all prior agreements, understandings, representations and statements, oral or written, relating to the subject matter of this Agreement, including, expressly, the Original Land Disposition Agreement (as defined hereinabove), are merged herein and superseded and canceled by this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except in a writing signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. No waiver by either party hereto of any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
- 6.6 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws principles.
- 6.7 Waiver by Jury.** EACH OF THE PARTIES HEREBY EXPRESSLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY HERETO AGAINST ANY OTHER PARTY ON ANY MATTER 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.
- 6.8 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.
- 6.9 Construction.** The captions in this Agreement are inserted for reference only and in no way define, describe or limit the scope or intent of this Agreement or of any of the provisions hereof. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. All references in this Agreement to Articles, Sections and Exhibits are references to the Articles and the Sections of this Agreement and the Exhibits attached hereto. This Agreement, and all the terms and conditions thereof, 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. All Exhibits attached hereto are incorporated herein by reference.

- 6.10 **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors, assigns and heirs. If more than one person and/or entity shall execute this Agreement as Developer or subsequently becomes Developer hereunder, then the liability of each such person and entity hereunder, and under each document or other instrument required to be executed and delivered by Developer as contemplated by this Agreement at Closing or otherwise, shall be joint and several.
- 6.11 **Severability.** If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 6.12 **No Third-Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at the Closing are and will be for the benefit of the City and Developer only and are not for the benefit of any third party. Accordingly, no third party shall have the right to enforce the provisions of this Agreement or any documents to be executed and delivered at or in connection with Closing.
- 6.13. **Recordation.** Developer, at its sole cost and expense, may record or otherwise place in any public record this Agreement or any memorandum or notice hereof.
- 6.14 **Further Assurances.** Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Developer shall, if requested by the City, execute acknowledgments of receipt with respect to any materials, deposits or other items delivered by the City to Developer.
- 6.15 **Recitals.** The Recitals set forth hereinabove are incorporated by reference herein, and made a part hereof, as if fully set forth in this Agreement.
- 6.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same agreement.

*[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 Amended and Restated Land Disposition Agreement as of the date and year first above written.

WITNESS/ATTEST:

“DEVELOPER”:

Salisbury Development Group, LLC

By: _____ (SEAL)

THE “CITY”:

City of Salisbury, Maryland

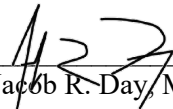
By:  _____ (SEAL)
Jacob R. Day, Mayor

EXHIBIT A

Legal Description of the Sby Dev. Lot

EXHIBIT B

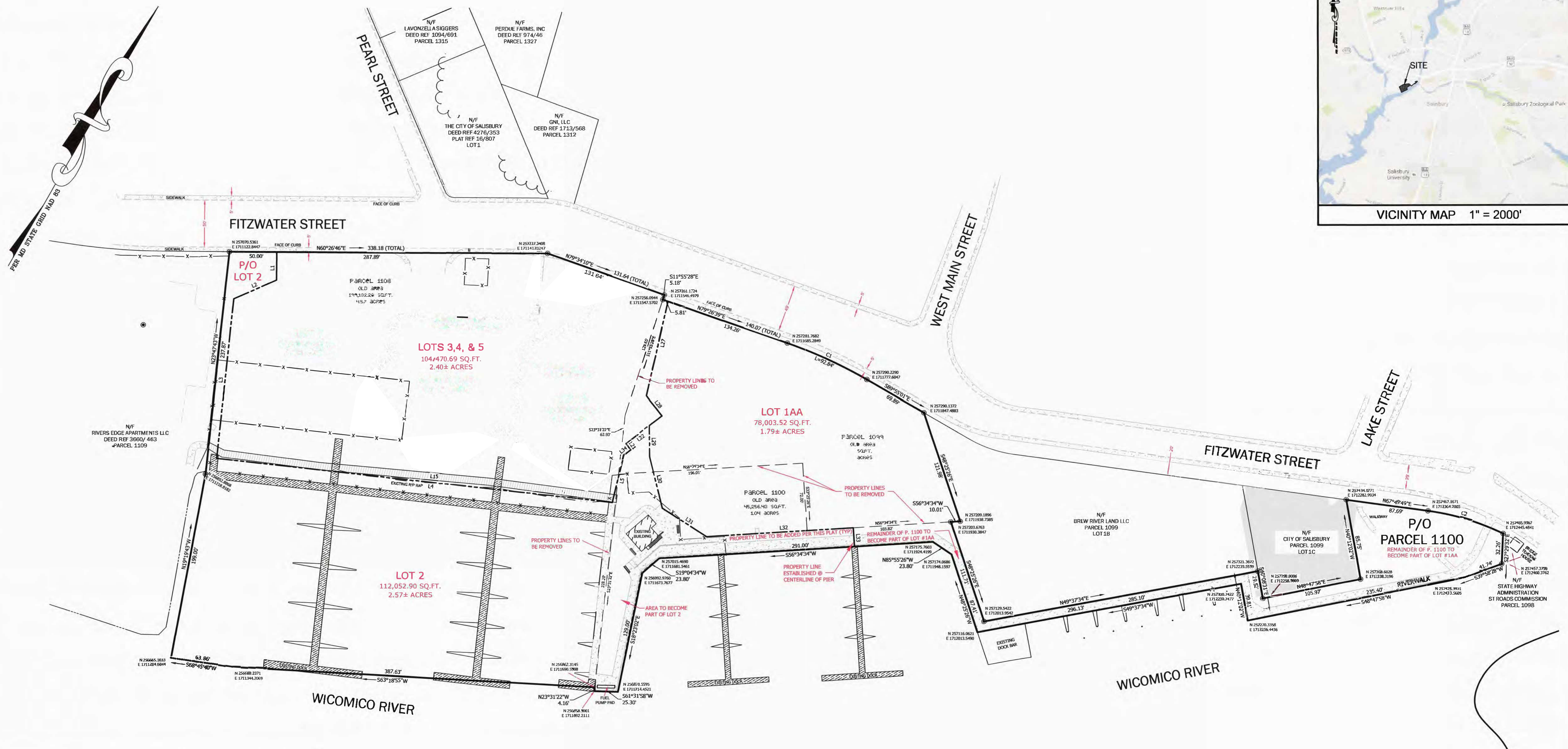
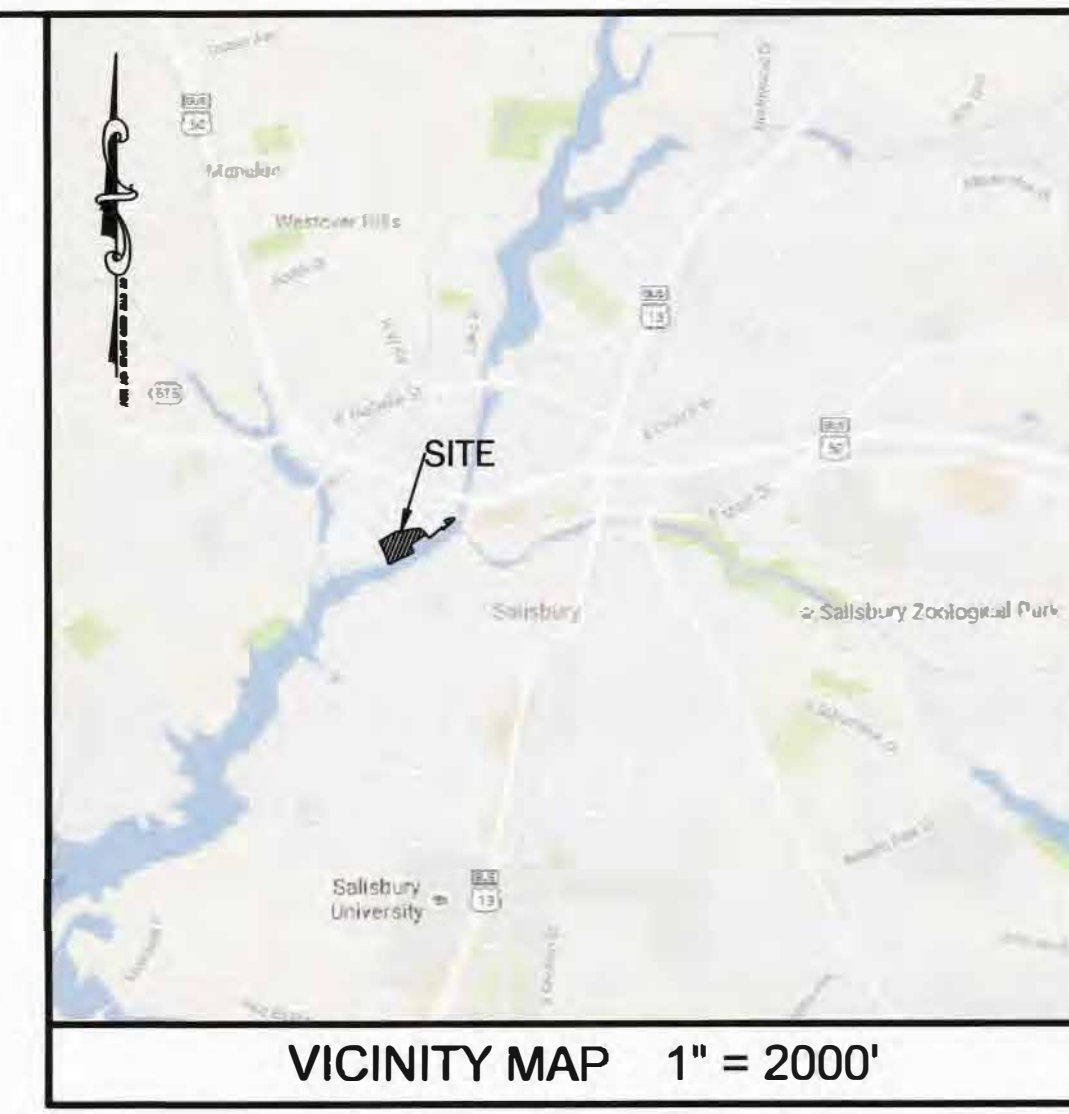
The Marina Landing Subdivision Plat

EXHIBIT C

The Marina Landing Development Plan

EXHIBIT E

Copy of Developer's RFP Proposal



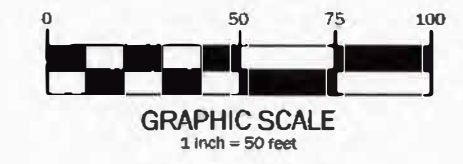
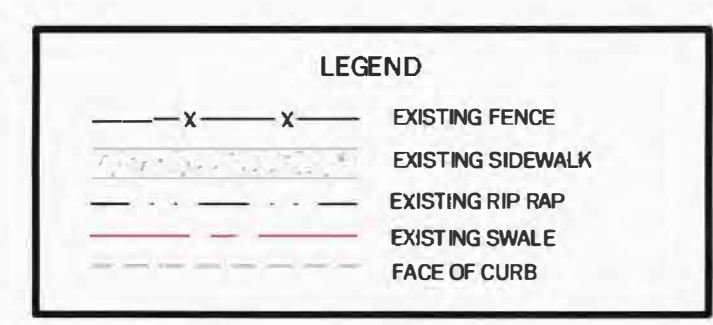
- GENERAL NOTES**
- 1) THE PROPERTY SHOWN HEREON IS CURRENTLY OWNED BY:
PARCEL 1100, 1108
CITY OF SALISBURY
125 N DIVISION STREET, ROOM 305
SALISBURY, MD 21801
DEED REFERENCE: 2375/278, 1167/114; PLAT REFERENCE 11/352
 - 2) TOTAL AREA OF PROPERTY = 7.11± ACRES.
 - 3) TOTAL NUMBER OF EXISTING LOTS = 1
 - 4) TOTAL NUMBER OF PROPOSED LOTS = 5
 - 5) TOTAL NUMBER OF EXISTING PARCELS = 2
 - 6) THE PRESENT ZONING OF THIS PROPERTY IS: RIVERFRONT DEVELOPMENT AND CENTRAL BUSINESS DISTRICT
 - 7) THIS PROPERTY IS LOCATED WITHIN G.P.R. MANAGEMENT ZONE A
 - 8) THIS PROPERTY IS SHOWN ON F.I.R.M. COMMUNITY PANEL #2404500261E (PANEL 251 OF 375), DATED 8/17/15, AS BEING IN FLOOD ZONE AE, AREA OF FLOODING.
 - 9) CITY OF SALISBURY UTILITY EASEMENTS SHALL BE RESERVED FOR FUTURE USE BY THE CITY AT NO COST TO THE CITY FOR CITY UTILITY INSTALLATION, SIDEWALKS, DRAINAGE OR OTHER SUCH PUBLIC USE, WHICH MAY BE DETERMINED BY THE DIRECTOR OF PUBLIC WORKS AND SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS OR THE OWNERS ASSOCIATION. NO STRUCTURAL IMPROVEMENTS, TREE OR SHRUB PLANTING OR THE PLACEMENT OF ANY LANDSCAPING OTHER THAN GRASS CAN BE MADE IN OR ON THE CITY OF SALISBURY UTILITY EASEMENTS, INCLUDING IN THE AIR RIGHTS OVER THE EASEMENTS, WITHOUT THE PRIOR WRITTEN CONSENT OF THE CITY OF SALISBURY.
 - 10) ALL NON-CITY UTILITIES, SUCH AS, BUT NOT LIMITED TO, ELECTRIC, TELEPHONE, GAS AND C.A.T.V. SHALL BE INSTALLED OUTSIDE THE CITY OF SALISBURY UTILITY EASEMENTS. PERPENDICULAR CROSSINGS WILL BE ALLOWED.
 - 11) THIS PROPERTY IS SHOWN ON CITY MAP 106.
 - 12) OWNER/DEVELOPER, AND SUCCESSOR OWNERS, THEIR SUCCESSORS AND ASSIGNS, SHALL NOT MODIFY THE INDIVIDUAL LOT GRADING PLANS AND/OR THE IMPROVEMENTS CONSTRUCTION PLAN, AS APPROVED BY THE SALISBURY PUBLIC WORKS WITH CONSTRUCTION, GRADINGS OR LANDSCAPING.
 - 13) PRIVATE IRRIGATION LINES SHALL NOT BE INSTALLED IN CITY RIGHT OF WAYS OR EASEMENTS WITHOUT WRITTEN APPROVAL OF SALISBURY PUBLIC WORKS.
 - 14) FINAL PLAT APPROVAL CERTIFIES THAT THE SUBDIVISION HAS BEEN REVIEWED FOR STORMWATER DRAINAGE AFFECTING ONLY STREETS AND PUBLIC AREAS WITHIN ITS OWN BOUNDARIES, NOT INDIVIDUAL LOTS.
 - 15) THE APPROVAL OF THE CITY OF SALISBURY DEPARTMENT OF INFRASTRUCTURE AND DEVELOPMENT DOES NOT RELIEVE THE APPLICANT OF THE RESPONSIBILITY TO COMPLY WITH ALL OTHER APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.
 - 16) ALL FUTURE CONSTRUCTION SHALL CONFORM TO THE CITY OF SALISBURY STANDARDS.
 - 17) THIS RESUBDIVISION PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH.

Line Table

| Line # | Direction | Length |
|--------|-------------|--------|
| L1 | S29°33'14"E | 29.96 |
| L2 | S36°34'22"W | 49.52 |
| L3 | S23°47'43"E | 170.67 |
| L4 | N66°28'38"E | 423.05 |
| L5 | N16°11'56"W | 51.88 |
| L21 | S67°43'48"E | 8.29 |
| L22 | S22°16'12"W | 48.17 |
| L27 | S17°00'45"E | 103.16 |
| L28 | S67°43'48"E | 26.81 |
| L29 | N30°31'15"W | 33.54 |
| L30 | N43°46'56"W | 55.99 |
| L31 | N87°02'12"W | 56.00 |
| L32 | S56°34'34"W | 155.88 |
| L33 | N33°30'38"W | 39.99 |

Curve Table

| CURVE | LENGTH | RADIUS | CHORD | TANGENT | DELTA |
|-------|--------|--------|-------|---------|-----------|
| C1 | 92.84 | 500.00 | 92.71 | 46.55 | 10°38'20" |
| C2 | 83.79 | 263.00 | 83.44 | 42.25 | 18°15'10" |



SHEET 2

REVISIONS

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SUBDIVISION AND RESUBDIVISION PLAT
OF
PARCEL 1099, 1100 AND 1108

LOCATION: CITY OF SALISBURY
SALISBURY ELECTION DISTRICT, WICOMICO COUNTY, MARYLAND

SCALE: 1" = 50' DATE: 12/07/18 TAX MAP: 106

JOB NO: S2142 DRAWN BY: EDR PARCEL: 1100, 1108

SURVEYING FORESTRY

PARKER ASSOCIATES

ESTABLISHED 1977

CIVIL ENGINEERING INC.

SITE PLANNING

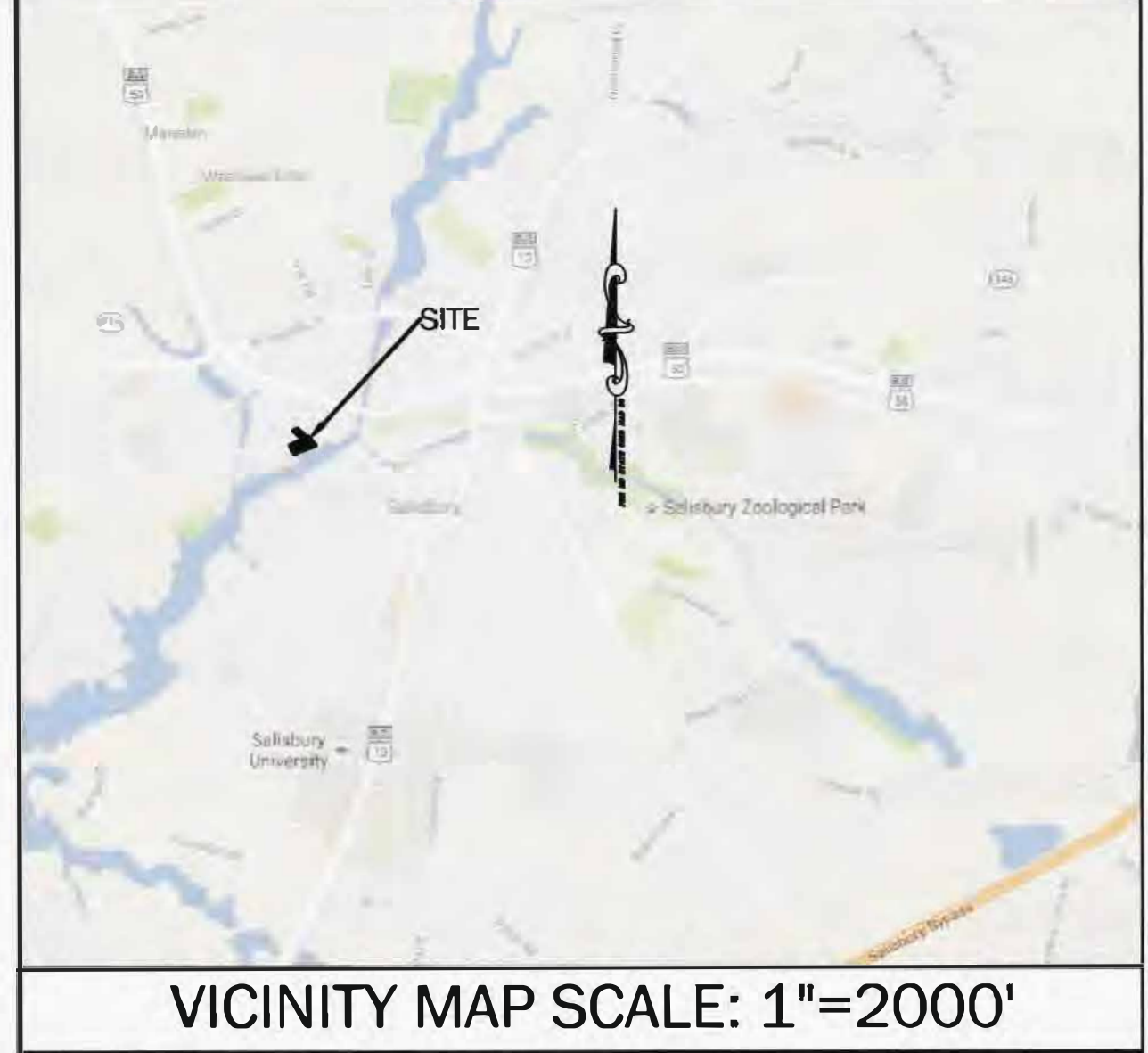
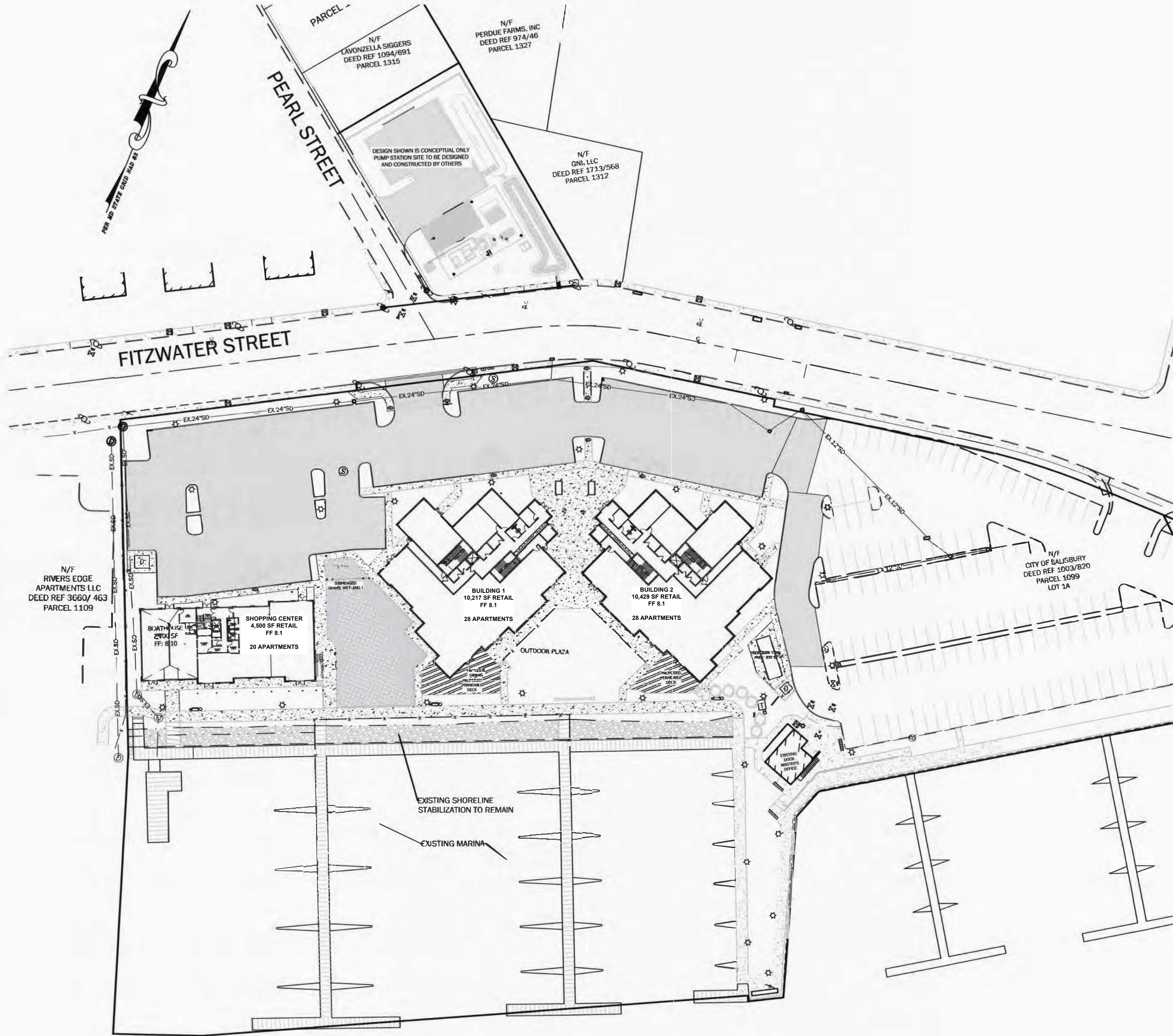
JAN 28, 2020 10:21 AM

CITY OF SALISBURY STANDARD NOTES

- THE CITY RESERVES THE RIGHT TO REQUIRE STRUCTURAL MODIFICATIONS TO THE SITE WORK FOLLOWING PERMIT ISSUANCE IF SUCH MODIFICATIONS ARE NECESSARY.
- ALL STABILIZATION, PAVING, AND ROAD PATCHING IN THE PUBLIC ROADWAY WHICH IS NECESSITATED BY THE CONSTRUCTION OF THIS PROJECT SHALL BE THE RESPONSIBILITY OF THE DEVELOPER, USING A PAVING CONTRACTOR WHO IS CURRENTLY APPROVED BY THE CITY. MILLING & REPAVING WILL BE IN ACCORDANCE WITH RESOLUTION 2298.
- ALL DETERIORATED CURB, GUTTER, AND SIDEWALKS, AS DETERMINED BY THE CITY, ALONG THE FRONTAGE(S) OF THE PROPERTY MUST BE REPLACED AT THE TIME OF CONSTRUCTION USING A CONCRETE CONTRACTOR WHO IS CURRENTLY APPROVED BY THE CITY. HANDICAP RAMPS PER CURRENT ADA GUIDELINES ARE REQUIRED AT ALL PUBLIC STREET AND DRIVEWAY INTERSECTIONS. DETECTABLE WARNING DEVICES (TRUNCATED DOMES) MUST BE PROVIDED AT ALL PUBLIC STREET INTERSECTION HANDICAP RAMPS. SEE CITY STANDARD 100.37.
- ALL PUBLIC INFRASTRUCTURE IMPROVEMENTS, INCLUDING WATER, SEWER, STORM DRAINS, CURB, GUTTER, SIDEWALKS, STREET LIGHTS AND PAVING FOR THIS PROJECT OR IN ITS ENTIRETY MUST BE ACCEPTED IN WRITING BY THE CITY PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY. SEE SECTION 16.48.030 OF THE SALISBURY SUBDIVISION REGULATIONS. REDUCTIONS IN PROJECT SURETY WILL NOT BE APPROVED PRIOR TO FINAL WRITTEN ACCEPTANCE BY THE CITY OF ALL PUBLIC INFRASTRUCTURE IMPROVEMENTS. SUB-PHASING OF THIS PROJECT SHALL NOT BE PERMITTED.
- *A WRITTEN "NOTICE TO PROCEED" MUST BE OBTAINED FROM AND A PRE-CONSTRUCTION MEETING SCHEDULED WITH D.D. BEFORE BEGINNING CONSTRUCTION IN CITY PUBLIC R/W'S, EASEMENTS AND/OR CITY MAINTAINED UTILITIES OR ROADWAYS. CONTACT RON WELLS OF SALISBURY DEPARTMENT OF INFRASTRUCTURE & DEVELOPMENT, ROOM 202, 125 N. DIVISION ST., SALISBURY, MARYLAND, 21801 4940, TELEPHONE 410 548-5460, EMAIL RWELLS@SALISBURY.MD, TO SCHEDULE A PRE-CONSTRUCTION MEETING AND OBTAIN A WRITTEN "NOTICE TO PROCEED". 48 HOURS NOTICE IS REQUIRED.
- STREET TREES SHALL BE PLANTED PER THE CURRENT SALISBURY DEPARTMENT OF INFRASTRUCTURE & DEVELOPMENT STREET TREE POLICY. PROVIDE CENTERLINE STATIONING FOR ALL PROPOSED TREES ON THE LANDSCAPE PLAN.
- CURRENT WICOMICO COUNTY WATER/SEWER PLAN SERVICE CATEGORY W-3/S-1.
- CONTRACTOR TO CONTACT CITY PLUMBING INSPECTOR FOR INSPECTION OF PRIVATE UTILITY MAINS.
- PRIVATE IRRIGATION LINES SHALL NOT BE INSTALLED IN CITY RIGHTS OF WAYS OR EASEMENTS WITHOUT WRITTEN APPROVAL OF SALISBURY DEPARTMENT OF INFRASTRUCTURE & DEVELOPMENT.
- APPROVAL OF THE SITE PLAN AND THE CONTRACT DRAWINGS EXPIRES TWO (2) YEARS FROM THE FINAL APPROVAL DATE. CONSTRUCTION OF THE PROJECT MUST HAVE BEEN STARTED PRIOR TO THE EXPIRATION DATE. THE CITY RESERVES THE RIGHT TO EXTEND THE EXPIRATION DATE UPON WRITTEN REQUEST AND WRITTEN CONFIRMATION.
- PROVIDE RESIDENT INSPECTION FOR THE CONSTRUCTION OF THE PRIVATE STORM WATER MANAGEMENT SYSTEM APPROVED AS PART OF THE IMPROVEMENTS CONSTRUCTION PLAN. DURING THE CONSTRUCTION OF THE STORM WATER MANAGEMENT CHAMBERS AND MICRO SCALE PRACTICES (MSP) WITH GRAVEL SUBSTRATE, INCLUDING RAIN GARDENS, MICRO-BIORETENTION, SUBMERGED GRAVEL WETLANDS, POROUS CONCRETE, ETC. THE DEVELOPER WILL BE RESPONSIBLE TO PROVIDE SALISBURY DEPARTMENT OF INFRASTRUCTURE & DEVELOPMENT WITH A DAILY PROGRESS REPORT SEALED BY A PROFESSIONAL ENGINEER CURRENTLY REGISTERED IN MARYLAND. THE REPORT IS TO INCLUDE THE FOLLOWING AS APPLICABLE: THE DIMENSION AND HEIGHT OF THE CHAMBERS AS WELL AS LOCATION, SIZE, AND NUMBER OF CHAMBERS PLACED. ALSO, THE LOCATION, SIZE, AND ANGLES FOR MSPS. THE FINAL OCCUPANCY CERTIFICATE AND SURETY WILL BE WITHHELD UNTIL THE DAILY PROGRESS REPORT(S) HAVE BEEN ACCEPTED BY SALISBURY DEPARTMENT OF INFRASTRUCTURE & DEVELOPMENT.

DISCREPANCIES

- THE CONTRACTOR SHALL IMMEDIATELY STOP WORK AND NOTIFY THE CITY REPRESENTATIVE OR THE CONSULTANT OF ANY DISCREPANCIES DISCOVERED BETWEEN THE DRAWINGS AND EXISTING CONDITIONS.
- ERRORS OR OMISSIONS IN DRAWINGS OR LAYOUT SHALL BE TREATED AS A DISCREPANCY.
- THE CITY REPRESENTATIVE OR THE CONSULTANT WILL REVIEW THE CONTRACTOR'S FINDING TO CONFIRM THE DISCREPANCY.
- THE CITY REPRESENTATIVE OR THE CONSULTANT WITH SALISBURY PUBLIC WORKS APPROVAL, WILL ISSUE NEW INSTRUCTIONS AS SOON AS POSSIBLE TO RELIEVE THE DISCREPANCY.
- THE CONTRACTOR SHALL RESOLVE ANY DISCREPANCY BEFORE START OF WORK OR CONTINUATION AFTER THE DISCREPANCY ARISES.



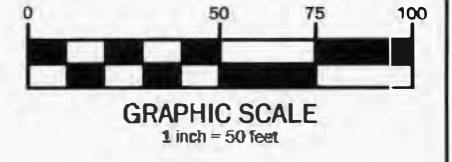
GENERAL NOTES

- The properties shown hereon is currently owned by:
Salisbury Development Group LLC
c/o David Perlmutter
656 Quince Orchard RD
Suite 720, Gaithersburg MD
Phone: 301-370-4941
Email: DP811@AOL.com

SHEET INDEX

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| SHEET 2 | SUBDIVISION PLAN |
| SHEET 3 | EXISTING/DEMOLITION PLAN |
| SHEET 4 | SITE PLAN |
| SHEET 5 | UTILITY PLAN/PROFILE |
| SHEET 6 | GRADING PLAN |
| SHEET 7 | DETAILS |
| SHEET 8 | EROSION SEDIMENT CONTROL PLAN |
| SHEET 9 | ESC DETAILS |
| SHEET 10 | RIVERWALK AMENITIES PLAN |
| SWM-1 | STORM DRAIN PLAN |
| SWM-2 | SGW PLAN/PROFILE |
| SWM-3 | STORMWATER MANAGEMENT PROFILE |
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| L-1 | LIGHTING PLAN |

- Total area to be developed = 2.968 acres +/-.
- The present zoning of this property is: Riverfront Redevelopment #2
- This property is located within G.P.R. Management Zone
- The current Wicomico County Water/Sewer Plan service category is W-3/S-1.
- All future construction shall conform to the City of Salisbury Code in effect at the time of construction.
This property is shown on F.I.R.M. Community Panel #24045C0251E (Panel 251 OF 375) dated 8/17/2015, located in Zone AE, Special flood hazard areas subject to inundation by the 1% annual chance flood.
- Water and sewer capacity exists and will be reserved for these subdivisions subject to municipal, state and federal laws and regulations.
- In the event that an error, oversight, or omission by Parker & Associates is discovered or should have reasonably been discovered during the course of any encumbrances, restrictions, easements and/or rights-of-way that might be revealed by a thorough title search, the opportunity to implement an acceptable solution to remedy or minimize the impact of the discovered issue. If immediate notice is not provided by client or contractor to Parker and Associates, the client or contractor shall relieve Parker and Associates of any liability that may arise from said error, oversight, or omission.
- This boundary survey was prepared without the benefit of a title report and is subject to any encumbrances, restrictions, easements and/or rights-of-way that might be revealed by a thorough title search.
- This project is intended to be served by public sewer, public water, and private trash collection.
- This property is shown on City Map 64.
- Property owners shall be responsible for all grass cutting within the Public right of way and/or easements along the frontages of or through their property. The maintenance of all landscape medians or islands located inside of City of Salisbury right of way is the responsibility of the Lot Owner's. The maintenance of all drainage facilities located located outside the City of Salisbury right of way is the responsibility of the property owners.
- City of Salisbury Utility Easements shall be reserved for future use by the city at no cost to the City for City utility installation, sidewalks, drainage or other such public use, which may be determined by the Director of the Department of Infrastructure and Development and shall be maintained by the individual lot owners or the owner's association. No structural improvements, trees or shrub planting or the placement of any landscaping other than grass can be made in or on the City of Salisbury Utility Easements, including in the air rights over the easements, without the prior written consent of the City of Salisbury.
- Contractor to verify all elevations listed on the plan with a minimum of three benchmarks that are on this project's utilized datum prior to commencing any construction. If any locations or elevations of benchmark, existing facilities, or structures differ from that shown hereon, contractor shall immediately notify engineer at 410-749-1023.
- All non City utilities, such as, but not limited to, electric, telephone, gas and C.A.T.V. shall be installed outside the City of Salisbury Utility Easements. Perpendicular crossings will be allowed.
- Private irrigation lines shall not be installed in city right of ways or easements without written approval of Department of Infrastructure and Development.
- Ex. mail boxes to be replaced in kind upon completion of construction. Tracer wires to be added above all force main pipes.
- All proposed grading and construction shown on these plans shall tie into existing grades within the limit of disturbance. It is the contractor's responsibility to verify that tie in grades, elevations and slopes match existing conditions and are acceptable. If conditions differ from those shown on the plans, contractor shall notify engineer immediately.
- All water meters to be radio read. The meter are to be installed on the discharge side of the water storage tank in a heated and protected area. There shall be a shared facility agreement in place for this project with a stipulation that the property owner needs to contact Salisbury Public Works Utilities Branch to arrange access to the meter for any trouble shooting or maintenance to be performed by Department of Infrastructure and Development Utility Branch. Owner is responsible for maintenance or replacement. Owner to pay cost of purchase of the radio read meter and hardware to Salisbury Department of Infrastructure and Development. Owner's City approved plumber is responsible for installation of the meter and plumbing. Meter installation and plumbing to be inspected by the City's Master plumber inspector.
- Private utility mains require inspection by City plumbing inspector.
- Vertical Datum is based on NAVD83.
- Existing conditions are based on a field survey performed by Parker and Associates on February 2016.
- The contractor shall immediately stop work and notify the engineer if any discrepancies are discovered between the drawing and existing conditions. Errors or omissions in drawings or layout shall be treated as a discrepancy. All discrepancies shall be resolved prior to continuation of work.



SHEET 1

| REVISIONS | DATE | BY | TITLE |
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TITLE SHEET
SALISBURY MARINA

Project Name: FITZWATER
For: DAVID PERLMUTTER
CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND

DATE: 09/15/16
DRAWN BY: DP
CHECKED BY: DP
SCALE: 1" = 50'

DATE: 09/15/16
DRAWN BY: DP
CHECKED BY: DP
SCALE: 1" = 50'

OWNER'S CERTIFICATION

I hereby certify that this improvements construction plan is being submitted with my full knowledge and consent and is in accordance with my desires as an owner of the subject property.

Date: _____

Salisbury Development Group LLC,
c/o David Perlmutter
656 Quince Orchard RD
Suite 720, Gaithersburg MD
Phone: 301-370-4941
Email: DP811@AOL.com

PROFESSIONAL CERTIFICATION

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed civil engineer under the laws of the State of Maryland, License No. 27739, Expiration Date: July 24, 2020.

528 Riverside Drive
Salisbury, Maryland 21801
(410) 749-1023 fax: (410) 749-1012
EMAIL: Brock@parkerandassociates.org

MINIMUM REQUIREMENTS
ZONE: RIVERFRONT DEVELOPMENT 02

| | |
|----------------------------|-------------|
| Minimum Lot Area | = 5,000 sq' |
| Minimum Interior Lot Width | = 50' |

Minimum Setbacks:
Front: 5' from back of sidewalk
Side: 10' minimum from property line
Rear: 10' from existing bulkhead
Building Height: 75' Limitation

PARKING SUMMARY

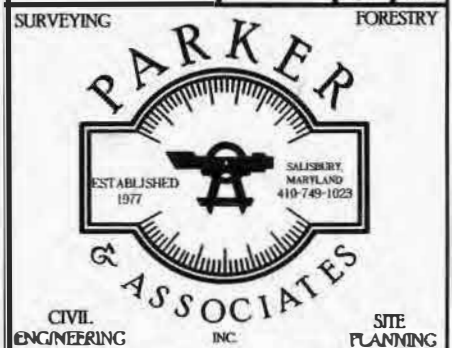
| | |
|-----------------------------|-----------|
| OFF STREET PARKING PROVIDED | 108 SPOTS |
|-----------------------------|-----------|

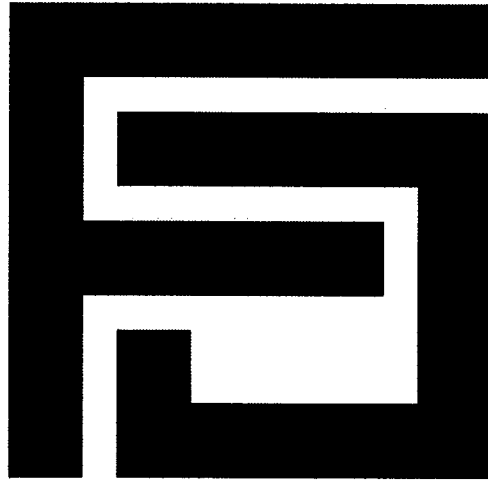
SITE DATA

| | |
|-----------------------------|---------------|
| TOTAL PROPERTY ACREAGE | = 4.620 ACRES |
| EXISTING IMPERVIOUS AREA | = 1.092 ACRES |
| PROPOSED IMPERVIOUS AREA | = 1.939 ACRES |
| INCREASE IN IMPERVIOUS AREA | = 0.847 ACRES |
| LIMIT OF DISTURBANCE | = 2.660 ACRES |

APPROVED: _____ City Project # 16-014
CITY OF SALISBURY Utility Contract # _____
DEPARTMENT OF INFRASTRUCTURE AND DEVELOPMENT

Amanda H. Pollack, P.E., Director DATE _____





FISHER
ARCHITECTURE

REQUEST FOR PROPOSAL- DISPOSITION & DEVELOPMENT OF THE PORT
OF SALISBURY MARINA

RFP 09-16

JANUARY 22, 2016

SALISBURY DEVELOPMENT GROUP, LLC
656 QUINCE ORCHARD ROAD, SUITE 720
GAITHERSBURG, MD 20878

410.742.0238

KEITH FISHER

A handwritten signature in black ink, appearing to read 'Keith Fisher', written in a cursive style.

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COMPREHENSIVE PLAN FOR REDEVELOPMENT:

Current Site and Surrounding Neighborhood Conditions:

Our team has reviewed the site and has considered many possibilities that fit the site and are in keeping with the surrounding neighborhood. The current neighborhood has a successful restaurant and tiki bar as well as a new apartment complex. Both are examples of redevelopment that have found a way to upgrade the standard of living within the immediate neighborhood.

One asset that is often overlooked by redevelopment in our community is the Wicomico River. Our team feels that it is important to create a development that not only fits with its surroundings, but that becomes a key piece to bringing the community together. This is accomplished by filling a need to the vehicular and pedestrian population while also allowing it to become another destination to the boating community.

In the summer, the existing restaurant is a popular place to gather at the outside bar. It's the only spot in our City that permits boaters to travel up into the City and spend time. Other establishments are blocked by roads and bridges. This site affords our team to add an element that not a lot of other places are able to obtain.

The other significant adjacent use is mainly residential. There are a number of smaller single family homes across the street. These homes are mostly two story wood frame structures that have been a part of Salisbury's history for some time. These homes are mainly rented out to a large portion of Salisbury's workforce population. There are families and elderly occupying these homes currently.

On the adjacent property line the site is bordered by a new apartment community that has redeveloped a major symbol of the economic downturn. What once was planned to be a high end condominium project was shut down and the remains stood for years. This half built structure began to fall apart in front of the entire community over many years. With the redevelopment of the Rivers Edge Apartment Complex, the streetscape and the waterfront have taken a significant upturn. The community supplies a much needed affordable component to our communities housing needs.

Further down river, one of the area's largest and arguably the fastest growing business is the Chesapeake Ship Building. They have added new large scale buildings and have expanded the need for their workforce over the past few years. They have added to the amount of commercial waterfront traffic and have a significant need to employ a workforce that is similar to those living within the surrounding neighborhoods.

The neighborhood also is home to one of Perdue's plants, which also employs a significant number of residents that are within walking distance. This plant has been integral to the local environment for quite some time.

The site also is adjacent to the current City of Salisbury Marina. The Marina is significantly underutilized and in need of major upgrades and differed maintenance. As seen in the report produced within the RFP documents, the financials indicate a major shortfall in money yearly. As long as we are successful in creating and implementing the overall plan for these pieces, it is our teams view the Marina has the potential to become a significant contributor to the success of the overall riverfront district and to the redevelopment of the downtown.

Plan for Redevelopment:

It is our team's ultimate goal to create a development that will provide a destination for the surrounding residents to shop, dine and gather socially. It is also our intent to create a place where businesses can establish themselves by being cohesive with other establishments. We feel that the development will also need a housing component to help support the current workforce and other housing needs.

The first priority is to create a place that will house a couple of restaurants with indoor and outdoor seating. As illustrated in our attached plans, we have designed a space that engages the street front but also allows for expanded views of the Marina and the river. These spaces will be large enough to accommodate full service establishments.

The second programmed use of this building will be to house more than forty apartments. These apartments will be a mix of two and three bedroom styles. They will have access to a number of amenities such as a private swimming pool, a fitness center and access to roof top terraces for gatherings. The team feels that providing market rate apartments along the city's waterfront is a needed amenity for our community. The apartments will be a complimentary component to the restaurant and retail plan for the ground level.

The development team is also interested in acquiring the current Marina. Our team would like to make this an amenity not only for the project, but for the City as well. In our redevelopment strategy we plan on upgrading the current physical conditions of the slips and the finger piers. The slips will need access to power, and security will be increased. With the renovation and upgrade, we feel it will bring more long term leasing opportunities to the boaters within our community. The addition of more boaters will also aid in the success of the proposed retail, as well as the current restaurants in the area.

We are aware that there is currently a committee dedicated to the operation and upkeep of the Marina. It is our intention to suggest that we keep this committee intact and depend upon them to provide much needed input during the transition of ownership, as well as to provide insight on expanding the Marina's marketability to those in the boating community. It will be a priority for our team to make sure that all positions on the committee are filled. We feel this group is essential in keeping the Marina in good standing with the City, as well as acting as a voice for the users of the facility.

We are also planning to maintain the current Marina Dock Master building. It will be our intention over a period of time to upgrade the façade of that building to match the architecture of our Marina Landing project. The position of the Dock Master will be kept and be funded by our development. The Marina provides a much needed service of fuel. We plan to continue that service, however we would prefer to relocate the current position of the fuel supply tank. Its current location is in direct conflict with a prime corner of our development. We have illustrated on our overall site plan the suggested location of the tank.

Our team also plans to construct a boat house and floating dock. It's our intention to create this boathouse to be used by local universities and the City for future crew and rowing activities. As illustrated on our site plan we have allotted for roughly thirty parking spaces for this facility. Access to it will be unencumbered and in no way ever secluded from the development. We have planned for adequate access to the front of the building for trailers and deliveries to the facility. The building will

have its own identity and will be designed in keeping with the architectural style that is respectful of the area.

On the riverfront, the boathouse will have a new floating dock to allow users to access the river. The access point will be coordinated with the creation and redevelopment of the City Riverwalk. We have illustrated how we will pick up the current Riverwalk, extend it down the riverfront along the Marina and link it up to the newer section at the Rivers Edge Apartment. This Riverwalk will be separated from the private docks of the Marina, but the separation will be designed to be unobtrusive and cohesive. The Marina will need to be secure, however we will design points for citizens to take advantage of access and views to the river. There will be a section of the marina that will be for transient boaters and open for that use.

Promotion and Commitment to the Arts:

One of the most exciting portions of our plan is to create a large lawn area between our new development and the marina. This lawn will be suited for gatherings and viewings of performances and family movies. We are planning to construct an entertainment wall that will be used to run performances of movies, advertisements and other events that will encourage many visitors to the Riverfront. The wall will be 25 feet in height and 18 feet wide. There will be a stage at the base of this entertainment wall that will be used for musical performers and other forms of artistic display. We feel this wall is in direct response to the Cities commitment to the arts. The entertainment wall will not only be for the running of family movies but will be a key technological component to the visual arts.

This venue will allow visitors who are walking the Riverwalk, residents of the immediate surroundings, and boaters to enjoy performances within the City limits. We see this as being an enhancement to our community. The development team will seek sponsors for events and other financial support to help offset the cost of constructing it and keeping it running.

The lawn will provide an area for people to congregate and meet for many purposes. It will also serve as a place for the apartment and Marina residents to engage in outdoor activities. We see the space as also being able to support festivals and other art related events.

Parking and Street Scaping :

We will be providing adequate parking for all uses of this site within our property. It is our intention to link the current parking on Lot 1-A with our new lot. This will permit users and visitors to the site to circulate between the parking lots and not need to go back out onto Fitzwater Street to visit Brew River and our proposed amenities. The inter-parcel connection will permit easy flow for visitors of both the Marina Landing project and the existing restaurant. It will also ease traffic flow on Fitzwater Street. Deliveries to the Marina Landing project will flow easier as it will permit multiple points of access.

We are suggesting that parts of Fitzwater Street be re-purposed to accommodate parallel parking. Many cars park in this area currently without the proper accommodation for them. It is our belief that creating these spaces and designing for them will promote better traffic flow. Along with the addition of the street parking, we are committed to adding street lighting and street landscaping that is in keeping with the City of Salisbury's master plan. Our architectural team has been involved in many of the previous downtown redevelopment plans and is extremely familiar with what priorities the new street scaping plan has. We feel that our proposed development enhances those features and will incorporate them quickly.

As stated earlier, additional parking will be segregated for the use of the boathouse and floating launch site. There is an area designated for small trailer storage contemplated as well. The separation of this use and the Marina Landing site will allow the boat house to operate as it needs to in order to be successful. Hours of operation will be flexible and we will defer to the final user to determine. In addition to the link of the Riverwalk, there will be additional pedestrian connectivity between the boathouse, the Marina Landing complex and Fitzwater Street. This connection will encourage visitors to and from surrounding areas, as well as promote safety and security for all people.

We are aware that the City has a pump station located on parcel 1108. It is also our understanding that the City is planning on reconstructing the pump station and moving its location from close to Fitzwater Street further onto Parcel 1100. Given the amount of land available to produce an economically feasible project, we feel that this new location will cause any development to suffer.

We propose to provide the City with alternate location for this facility. Our plan contemplates the relocation of this pump onto a vacant lot directly across Fitzwater Street. We understand that the City has costs associated with this event, and in the following pages we will discuss options for reimbursing the City for that effort.

Schedule of Development:

As with many developments of this scale, we anticipate that there are many unknowns with regard to the timing of the completion of the project. We as a team will remain dedicated and committed to producing a project that will meet set deadlines. This has been demonstrated on past performances by all members of our submitted team.

We believe that the site will contribute to most of the unknowns that will affect our schedule. Not knowing the conditions of what is below the earth will affect the speed of the foundations and redevelopment of the Riverwalk. With that said, we believe that we can handle these types of unknowns based on our experience. The Residences at Riverwalk in Seaford experienced conditions under the soil that our team handled expeditiously and without any delay to the project schedule.

Once we get a clear agreement with our proposed plan with the disposition of the properties, our team will begin to develop all necessary plans for approval. It will be the primary focus of our architectural and engineering team. The current team has extensive experience with the City of Salisbury, and we see no obstacles in that process.

The construction of this type of project can be accomplished within an eighteen month period from the time that building permits are issued. We will have the construction team identified very early on and construction budgets will be solidified prior to the completion of our permit drawings. Our team believes strongly in early input from the general contractor as that will aid in keeping the project on budget and on time.

Our team will work carefully to review the selected general contractor. Although one is not selected at this time we believe there are companies that possess the capacity to be a qualified team member for this.

Ultimately the developer, Salisbury Development Group LLC in this case, desires to deliver upon his promise to provide this development in the City. We all feel that no one gains by failing at this, and thus there is no other option than to exceed. We have succeeded in the past, and see no reason for the Marina Landing project to not succeed.



FISHER
ARCHITECTURE

MARINA LANDING

- A MARINA LANDING
- B BOAT HOUSE
- C EXTERIOR DINING
- D OPEN PUBLIC SPACE
- E ENTERTAINMENT WALL
- F EXISTING T-PIER
(INCLUDED IN OFFER)
- G FIRE BOAT
- H FIRE PARKING
- I FLOATING DOCK
- J EXISTING MARINA OFFICE
- K OVERFLOW PARKING
- L PROPOSED LIFT STATION
- M STORMWATER EASEMENT
- N APARTMENT POOL DECK
- O NEW STREETScape
- P 1ST FLOOR STOREFRONT

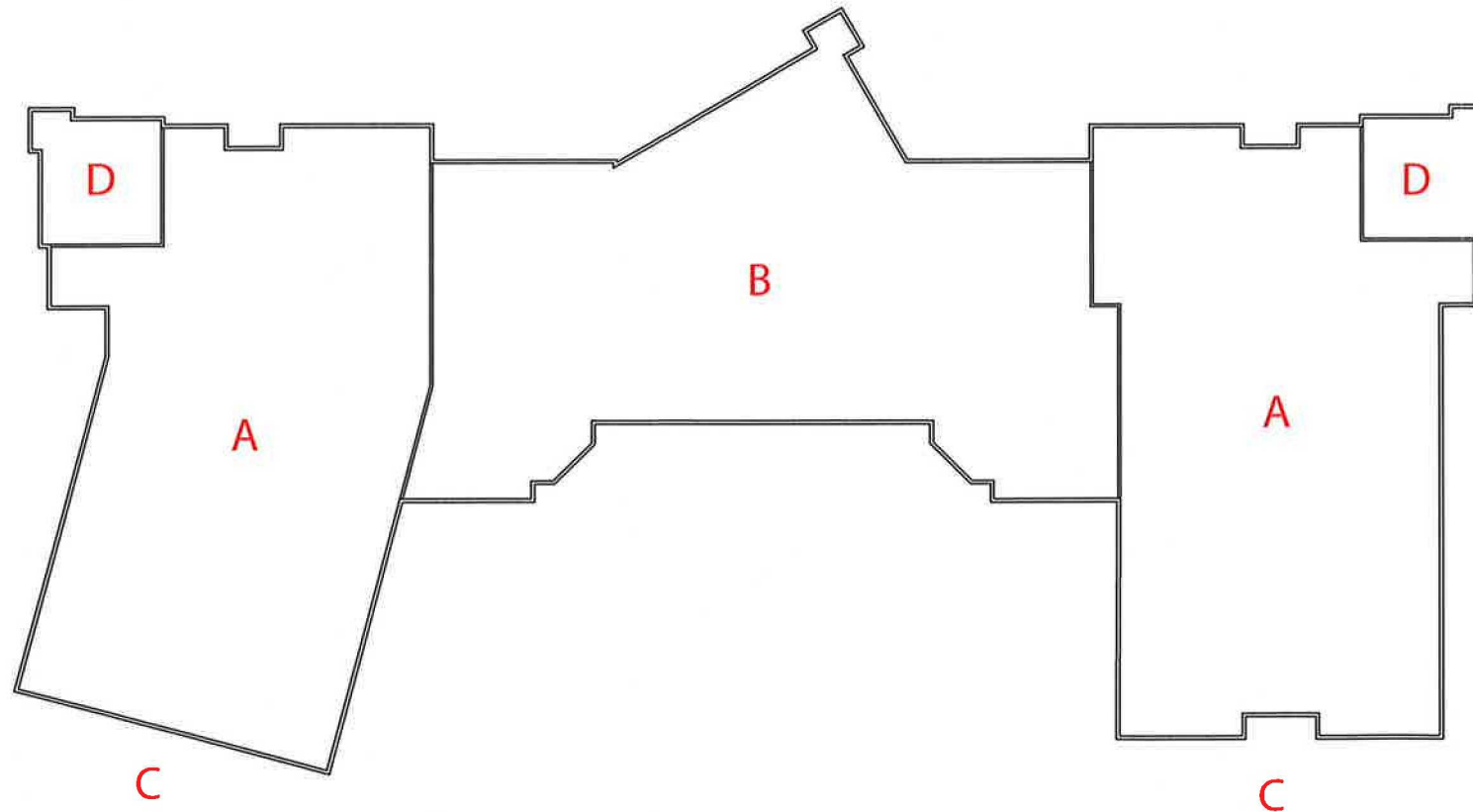
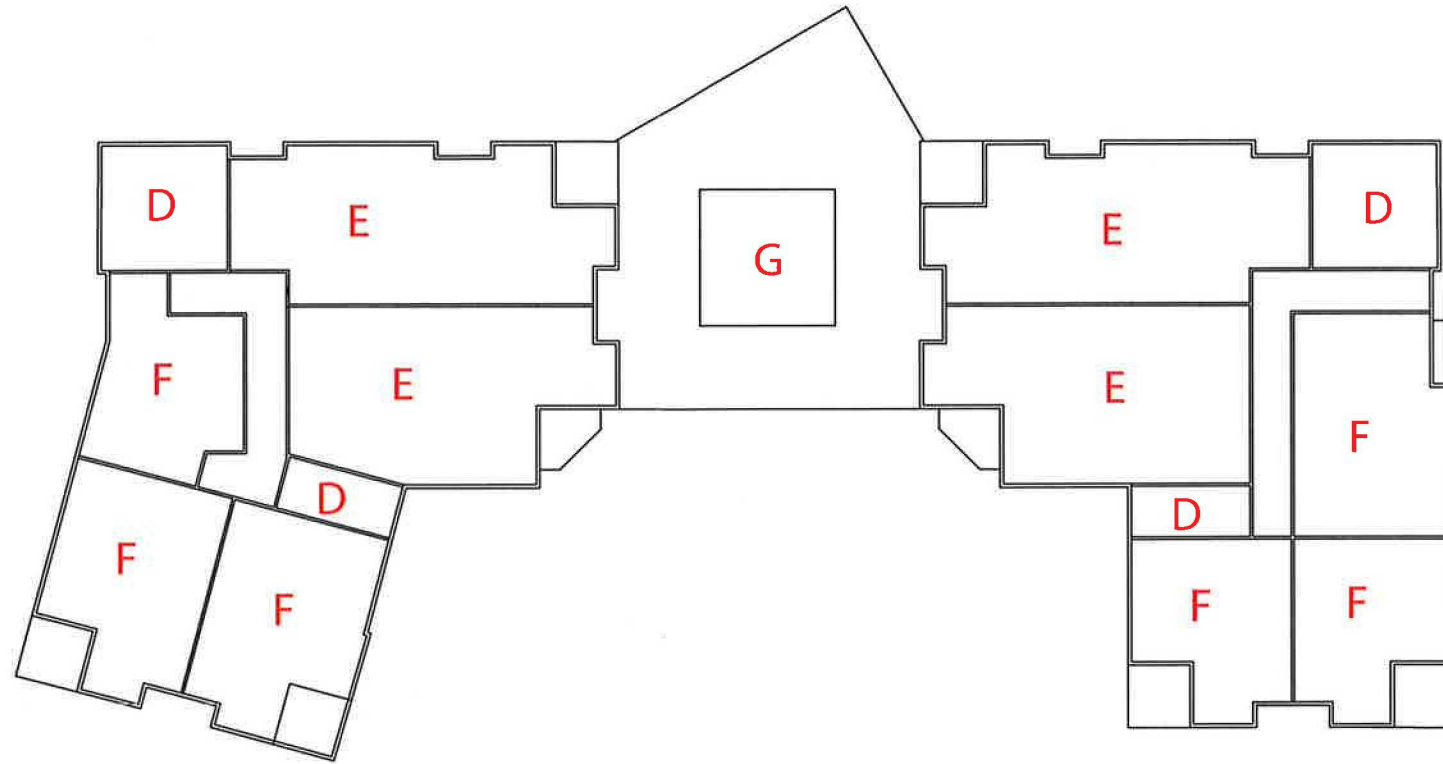




FISHER
ARCHITECTURE

MARINA LANDING

- A RESTAURANT TENANT**
- B RETAIL TENANT**
- C OUTDOOR DINING AREA**
- D APARTMENT VERTICAL CIRCULATION**
- E THREE BEDROOM UNIT**
- F TWO BEDROOM UNIT**
- G APARTMENT POOL DECK**



FISHER
ARCHITECTURE
MARINA LANDING



FISHER
ARCHITECTURE
MARINA LANDING



Letter of Interest:

To execute this redevelopment plan, we have assembled a team that has extensive experience with each other and projects of this magnitude. The Developer in the case will be Salisbury Development Group LLC and its managing representative will be David Perlmutter. This team is currently redeveloping a major plan in the City of Seaford, De. The overall plan in that area is very similar, in that the City was seeking to find a catalyst to aid in the redevelopment of its downtown. The current team for the Seaford Towne Center is as follows:

- Developer** – Salisbury Development Group LLC,
David Perlmutter
- Architect** – Fisher Architecture LLC,
Keith Fisher
- Civil Engineer** – Parker and Associates,
Brock Parker

This team has successfully negotiated with the City of Seaford for the purchase of many private properties, as well as three properties owned by the City. The developer has shown his past experience and knowledge of how to navigate through and successfully complete a public/private partnership. The result has been a major benefit to the citizens of the City of Seaford. We believe that this team will provide the same professionalism and experience to successfully complete the Marina Landing project with the City of Salisbury. We encourage the reviewers of these pages to reach out to officials with the City of Seaford for a firsthand account of how our team has operated over the past year.

Our team has demonstrated that it has the capacity and the ability to work with the City of Seaford to finalize and adhere to the necessary components of that project, and to facilitate agreements that satisfy both the developer and the City officials. Our team has also produced the necessary documents to have a full site plan approved within four months of the acceptance of the concept.

It is with that previous demonstrated experience that we believe our team will be able to quickly navigate through the LDC, and will be properly prepared and poised to begin the necessary documents to achieve the full approvals for a development project.

DAVID PERLMUTTER

FAITH PERLMUTTER DIAMOND

David Perlmutter and Faith Perlmutter Diamond are twins who entered their family real estate business after working on their own in other real estate ventures. David began his real estate career in 1984 at the footsteps of the University of Maryland. David and a partner obtained all local approvals, built and leased Campus Village Center, a retail strip center only steps from the University on US Route 1. Faith began her real estate career in 1985 as an Assistant Vice President in the real estate lending department of Ensign Bank in New York City. After working at the bank for two years, Faith was hired by SKS Associates, an affiliate of Smith Barney Real Estate, to help acquire foreclosed properties from large insurance companies and pension funds. In 1986, David started to work with his father in the family business. After working in the New York real estate world for four years, Faith moved home in 1989 to join David in their family business.

The Perlmutter have been involved in the residential home building, land development for national homebuilders, church construction, light industrial, R&D business centers and commercial real estate markets throughout the Washington, D.C. metropolitan area for over 60 years. As we continue the third generation of Perlmutter entities, our philosophy has not deviated from that of our father and grandfather whose practice of real estate development meant hard work and delivering quality products.

The residential market that the Perlmutter organizations have targeted is first or second home, affordable type housing for the masses as well as apartments. This approach has been very successful for three generations of Perlmutter and we intend to continue in these markets. During the past three generations, the Perlmutter have built over two thousand (2,000) homes in the Washington, D.C. suburbs. In addition, we have developed over one thousand (1,000) finished lots for national builders.

The commercial division has excelled in building light industrial, R&D business centers, churches and retail strip shopping centers. Our emphasis is on economics which follows our residential philosophy. The Perlmutter organization has built Class B rental warehouses and R & D centers, avoiding the glamorous and more elaborate office buildings of marble and glass. We have developed, built and managed over one million five hundred thousand (1,500,000) square feet of commercial space over the years.

Currently the Perlmutter Diamond team is redeveloping a majority of the waterfront and downtown business district in Seaford, Delaware. Their contractor, Nason Construction, has commenced construction of the first phase of The Residences at River Place which is a 72 unit gated apartment complex with docks, clubhouse, pool, covered parking, etc. (See attached)

WARREN H. DIAMOND

AMERICAN REAL ESTATE MANAGEMENT ASSOCIATES

AMERICAN SELF STORAGE MAGEMENT ASSOCIATES

Warren H. Diamond, Member and Chief Executive Officer, founded American Real Estate Management Associates for the purpose of real estate development.

Seeing the ever increasing need, opportunity and trend for self-storage in the North East U.S., Mr. Diamond formed the American Self-Storage brand in 1986.

Warren H. Diamond used his vision of knowing the value in repurposing old outdated warehouses into new "state of the art" self-storage facilities. To date, American Self-Storage Management Assoc. has converted its current portfolio of fifteen (15) properties consisting of 2 million Square Feet into a regional brand ranked in the "Top 100" self-storage companies in the country.

American Real Estate Management owns, manages and develops over 4 million sq. ft. of real estate throughout the country. Warren H. Diamond specializes in converting industrial properties into self-storage facilities as well as converting self storage facilities into commercial sites. He has been a pioneer in investing in the West Side of New York City. His most notable transaction is 500 Tenth Avenue, located a few blocks from the Lincoln Tunnel. Mr. Diamond relocated the existing self-storage facility so that DHL, the German based worldwide shipper could occupy the building. DHL has a 20-year lease which represents an \$181,000,000.00 value. Another notable transaction on New York City's West Side was the purchase of 636 Eleventh Avenue out of foreclosure auction for \$46,000,000.00. Two years later, the building was sold for \$95,000,000.00.

American Real Estate has also converted self storage sites for residential use as well as converting a hospital site to a residential site. Presently, American has approvals for 700,000 square feet of mixed use residential/commercial space in the Yankee Stadium Redevelopment Zone in the Bronx, N.Y. and 160 residential units on the ocean in Atlantic City, New Jersey called the Breakers AC (WWW.BREAKERSAC.COM).

In addition, American Real Estate has facilities in Riverside, California. American has converted an old theater to a national vocational school, called Kaplan College.

American Self Storage Management and American Real Estate Management continue to grow their real estate portfolios through the "hands on" management style of Mr. Warren H. Diamond and his national management team.

Currently the Perlmutter Diamond team is redeveloping a majority of the waterfront and downtown business district in Seaford, Delaware. Their contractor, Nason Construction, has commenced construction of the first phase of The Residences at River Place which is a 72 unit gated apartment complex with docks, clubhouse, pool, covered parking, etc. (See attached)

Financial Capacity/ Proposed Offer of Disposition:

Contained within the previous pages we have outlined the pieces of which we are intending to redevelop. In order to accomplish these goals and bring the City a much needed amenity, we are going to offer a scenario by which we will take ownership of the lands and the marina. We have separated them below so that the scenario can be tracked effectively:

Purchase of Parcel 1108:

We are suggesting that the City sell the land to our team for the value of **\$1.00**. In recognition of this sale, our team will redevelop the land and construct the Marina Landing project. In addition to this, we are agreeing to construct a new separate facility for the use of a boat house. This facility will be created for the use by the City. It will have clear unobstructed access from Fitzwater street and there will be clearly identified parking to serve this facility. Contained within this area, the developer will grant five parking spaces for specific use of the Salisbury Fire Department. We would like to suggest that any money the City has received for the construction of the boat house be retained by the city to pay for other obligations for grants received.

The developer will construct the boat house on the land that is to be owned by our team. The City will engage in a lease to the developer for a period of 99 years and the cost for the lease will be \$1.00. In doing so the developer will retain ownership of the land, the building and the parking associated with it.

The redevelopment will also incorporate the construction of a floating boat launch for public use. It will be in conjunction with the construction of the boat house. We are suggesting to construct this facility and will work with the City to provide a reasonable accommodation.

We are also offering to propose an alternate location for the pump station that is currently on site. We are of the understanding that the City has paid for engineering for the proposed construction. We feel that the proposed location will be detrimental to our proposed development. It is with this in mind that we are suggesting that the new pump station be constructed on a piece of land directly across the street. In providing this relocation, Salisbury Development Group LLC will pay for the engineering cost of the relocation. The City will continue to plan to pay for the cost to construct the pump house as it previously has. We see the relocation to be a mirror image of what has already been proposed, therefore we feel the cost of construction should not be adversely effected.

Marina: Offer to purchase Marina \$60,000

We would like to propose purchasing the Marina. It is our understanding that based on financial documents provided by the City the current Marina expenses more than it receives in revenue. Therefore at the present time this amenity is drastically underserved. With our plan for redevelopment, we believe that we will bring more users to the facility thus turning into a revenue producing feature.

The current state of the Marina is in need of repairs to the decking and some minor repairs to the structure of some of the docks. We anticipate making these repairs and will do so during the final phases of the construction of the Marina Landing project.

In more detail, with our offer to purchase the Marina for an increased amount we are suggesting that the city make the upgrades from the grants it received. The upgrades include the utility and pedestals and the construction of the boat launch. The value of the three grants- \$25,000, \$5,000 and \$40,000 for these items- totals \$70,000. The suggestion of a lower price is based on the fact that we are not interested in purchasing the slips in front of the Brew River restaurant, the dock for the Maryland Lady and the T pier currently utilized by Brew River. The next paragraphs will specify the exact number of slips we are interested in purchasing. Once the upgrades are complete we will finalize our offer to purchase the Marina.

Our team is going to spend significant money in upgrading the walk surface, we are going to construct the Riverwalk and we are going to be spending funds to make structural repairs to some of the existing piers. We are also planning on enhancing the security for the boats that are long term renters of the slips. Secure fencing and other features that will not take away from the public's access to the river but will also add to the marketability for the slips.

We are suggesting that the marina be divided up and that we are only purchasing the slips as identified in our submission. It is our understanding from the information in the RFP that Mr. Hanna has the right to use the fourteen slips directly in front of the Brew River Restaurant. It also states that Mr. Hanna has the right to continue to use the slip that the Maryland Lady previously docked. Mr. Hanna has the right to use the easterly portion of the T pier. The agreement with Mr. Hanna went on to suggest that he had the right for a period of time to utilize the slips to the west on the T pier but that has since expired. It is our position that we do not want to infringe upon that agreement and take ownership of anything Mr. Hanna has under his right to use. We would like to exclude the fourteen slips in front of Brew River, the area that the Maryland Lady docked at and the entire T pier that is closest to Brew River. The City can at that point approach Mr. Hanna to engage in a relationship to maintain, own or lease however the parties see appropriate. It is truly our belief that if we take ownership of those slips it will not promote a positive relationship between the proposed neighbors.

Regardless of either option we will continue to keep the marina open to the public as it is now. We will also continue to sell fuel as it does now. The amount of money that is currently the Marinas budget can be utilized by the City as it sees fit. These amenities will remain as they currently exist and we feel will be enhanced by a greater operating budget from the new owner.

Parcel 1100:

With specific regard to Parcel 1100, we will be suggesting to have this parcel re-subdivided as is suggested in the illustrations within this package. It is our understanding that the City will continue to own and operate the one hundred and fourteen parking spaces contained within Lot 1-A. We feel that these spaces serve a much needed area for all users. In combination with the proposed parking of the Marina Landing project we are planning these one hundred and fourteen will be a reasonable regional solution to parking. We would also assert that the parking contained on Lot 1-A shall be protected for the use of a parking lot. This parking lot will adequately serve both the existing restaurant and be a good addition to the parking our development is providing.

In addition to the re-subdivision, as suggested previously that the Parcel be further divided so that the T pier that is utilized by Brew River be removed from the parcel. As we understand, the City gave Mr. Hanna the right to use the eight slips east of the T pier for an unlimited amount of time. It also went further to grant Mr. Hanna the use of the eight slips to the west for a period of time. We would like to not have any ownership of this specific T pier. Therefore parcel 1100 will be subdivided to remove the land currently occupied by the parking and it will create a new line on the west separating the T pier under the control of the City. The parking spaces that are contained within the Parcel outline will then become part of Lot 1-A. This re-subdivision work will be completed by Salisbury Development LLC and its engineer.

With the re-subdivision, Parcel 1100 is significantly reduced to contain very minimal land. In fact the majority of the land contained will be dedicated for the use of the City Riverwalk. It will contain the Marina building that we feel can serve as a starting point for our redevelopment efforts. It will eventually need to be renovated to accommodate the upgrades we are suggesting. Therefore we are proposing that the City sell this land to us for the value of **\$1.00**.

Summary of Proposed Agreement

In order to make sure we have explained our stance clearly, below is a brief summary of our offer.

We are asking the City to convey to our team the Land in Parcel 1108, the re-subdivided land in Parcel 1100 and sixty one boat slips within the Marina for a price of \$60,002.

In return for the City agreeing to the sale, we are going to provide:

1. A major redevelopment mixed use project to be sited on Parcel 1108.
 - a. The development will attract an influx of people for the downtown.
 - b. The development will add numerous new jobs in the area.
 - c. The development will invigorate a new desire to populate the City marina.
 - d. The City of Salisbury will become a new destination for boaters.
 - e. The proposed entertainment wall will attract many different types of people within the surrounding areas to visit the Salisbury area.
 - f. The development will include roughly forty apartment units.
 - g. The development will allow for approximately 15,000 g.s.f. of retail and restaurant space.
 - h. The development will create an outdoor stage to attract performances for all types.
2. The design and construction of an approximately 9,800 s.f. boat house for the use of the City as well as the link for the new kayak and canoe launch facility.
 - a. This facility will be used by local educational facilities or as the City sees desirable. The developer's requests that the City verify the proposed users are good fits to the Marina Landing Property.
 - b. The City will lease the space from the developer and decide who is to utilize the space in the future. The suggested Lease term is **\$1.00** for 99 year period.
 - c. The developer will provide property management of this building at no charge for a period of ten years. The ten year period will begin once the Lease is executed and the building is occupied. After ten years the city will agree to pay a reasonable market rate fee. Upon the agreement of the parties a further developed agreement will take place.
3. The cost of engineering for the relocation of the pump station to a more conducive location.
 - a. Our team has under contract two parcels of land across the street from the location identified by the City.
4. With regard to the payback of the grants, we offer the following:
 - a. The 2011 grant for the fuel pump for a value of \$99,000: It is our understanding from the information provided in the first addendum issued on 1.14.2016 that if we keep the fuel sales open and maintain them that this grant does not need to be reimbursed. It is our plan to keep them open and in operation as they currently are, therefore no repayment is suggested.
 - b. The 2016 grant in the amount of \$25,000: We are planning on purchasing the property. We feel that if the city accepts our offer to purchase the Marina the City will utilize these funds to make the suggested upgrades prior to the transition of ownership.
 - c. The 2014 Grant of \$5,000 for the construction of Kayak Launch can remain in the Cities possession provided we are sold the land in Parcel 1108 for \$1.00. It is our position that the City should proceed with the construction of this launch. The purchase of the

Marina and the land adjacent to the location of this facility will not conflict with the use. We are offering to provide a lease of 99 years at virtually no cost, the launch will be a direct benefit to the user of the boat house.

- d. The 2017 Grant that has not been awarded for \$25,000 can remain the Cities. We are not sure what the grant is for and thus have no need for it.
 - e. The 2014 grant of \$40,000 for Recreational Trails Program can be utilized by the City to construct the Kayak and Rowing water access. We are not expecting any conflicts with this public access.
 - f. It is our belief and potential understanding that there are funds available for the construction of the boat house structure. We would like to receive those funds in exchange for the low cost lease the City is being offered for the use of the building. We are also planning to construct the building and provide a finished interior environment. These funds will go toward that construction of this facility if they exist.
5. Construction of eleven on street parallel parking spaces. This scope will include the installation of the city approved streetscaping and lighting. This will be in keeping with the Cities current main street specification.



TO: David Perlmutter
FROM: Brian Gottschalk
DATE: January 12, 2016
RE: Potential real estate development project

David,

Thank you for reaching out to County Bank in regards to your real estate development efforts in the Delmarva marketplace.

Based on our conversations, the opportunities we have discussed fall within the guidelines for loans/projects that County Bank is looking to finance. As you are aware, County Bank is looking forward to working with yourself, Warren and Faith. A project falling in the 5-10 million dollar range falls within the Banks funding capabilities.

The Salisbury project sounds like a great opportunity to facilitate the revitalization movement in the downtown area.

Please keep me informed as to your progress and let me know if there is anything I can do to assist you.

Sincerely

Brian Gottschalk

Vice President, Commercial Lending

Rehoboth Beach
(302) 226-9800

Long Neck
(302) 947-7300

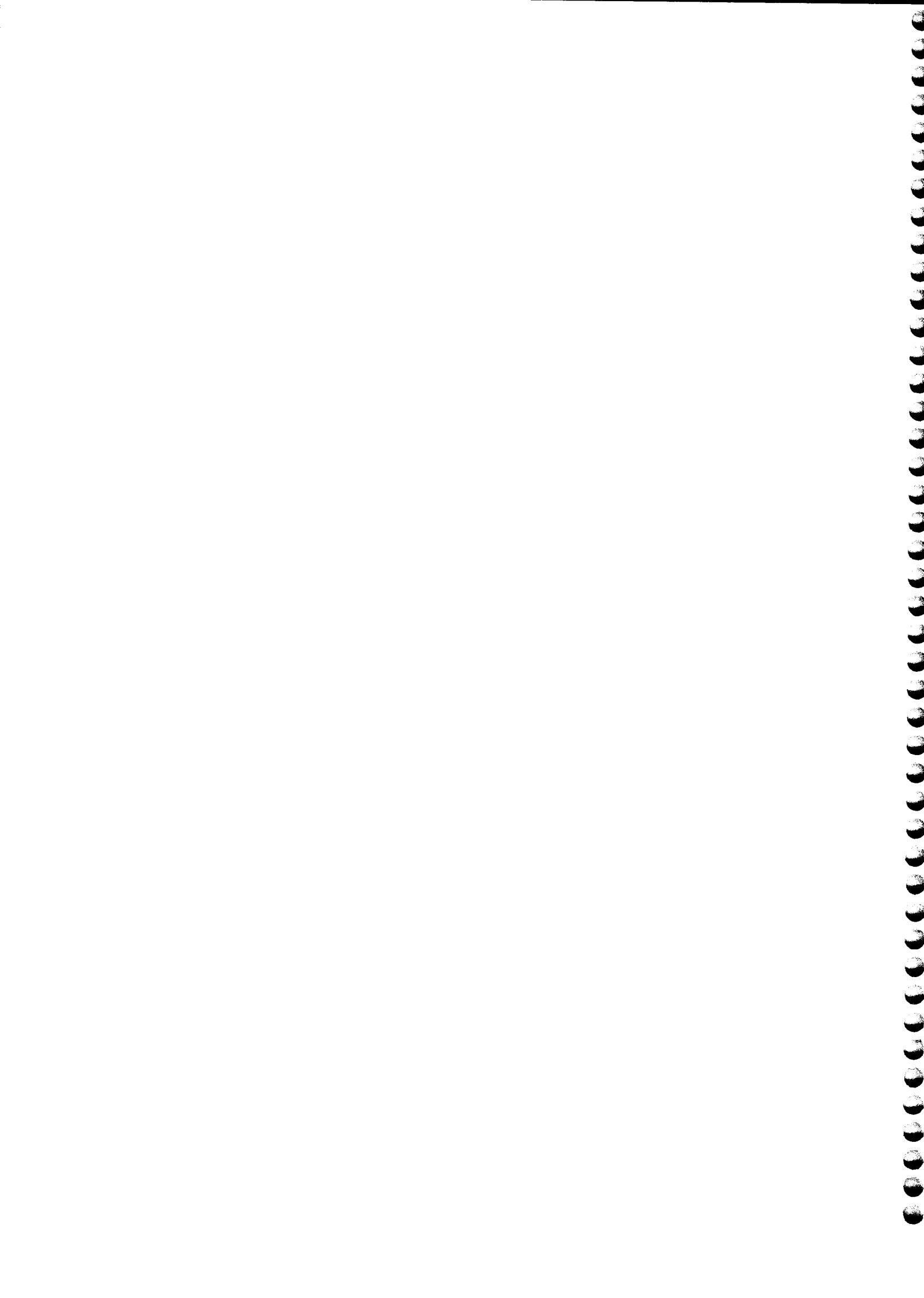
Milford
(302) 424-2500

Millville
(302) 537-0900

Georgetown
(302) 855-2000

Lewes
(302) 645-8880

Milton
(302) 684-2300



Perimeter Management Group Inc
631 Chesapeake Road Suite 720
Galeburg, MD 20678
1-514-271-5700

WELLS FARGO BANK, NA
66-32300

16696

PAY TO THE ORDER OF City of Salisbury

\$ 5,000.00

Five Thousand and 00/100

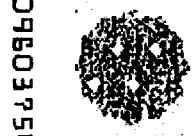
DOLLARS



City of Salisbury
125 N. Division St., RM B10
Salisbury, MD 21801

MENIC

CITY Marina Site RFP 09-16



⑆016858⑆ ⑆055003⑆01⑆ 2096037540⑆

Perimeter Management Group Inc

16696

| Date | Type | Reference | Original Amt. | Balance Due | 1/14/2016 Discount | Payment |
|-----------|------|----------------------|---------------|-------------|--------------------|----------|
| 1/14/2016 | Bill | RFP09-16 Marina Site | 5,000.00 | 5,000.00 | | 5,000.00 |
| | | | Check Amount: | | | 5,000.00 |

WF - Operating 7540 City Marina Site RFP 09-16

5,000.00

ADDENDUM A- CITY FORMS

SECTION 5: REQUIRED FORMS—FORM OF PROPOSAL RFP 09-16

To Whom It May Concern:

We hereby submit our proposal for City owned property, described as Parcel one or Parcel two and as indicated in the Contract Documents.

Having carefully examined the Proposal Document and having received clarification on all items of conflict or upon which any doubt arose, the undersigned hereby requests consideration of our firm for award of the referenced contract.

Proposal Purchase Amount for **property as described herein.** (expressed in USD currency format)

\$ 60,002 (REFER TO DETAILS)

Proposal Purchase Amount (expressed in written words)

SIXTY THOUSAND AND TWO DOLLARS

Proposal Lease Amount property as described herein. (expressed in USD currency format)

\$ N/A

Proposal Lease Amount (expressed in written words)

N/A

Firm Name

Salisbury Development Group LLC

Firm Address

656 Quince Orchard Rd, Suite 720, Gaithersburg, MD 20878

City/State/Zip

(301) 921 - 8700 Telephone

(301) 921 - 8706 Fax

dp811@aol.com Email


Signature

David Perlmutter

Printed Name

SECTION 6: REQUIRED FORMS-DEVELOPER'S AFFIDAVIT OF QUALIFICATION TO PROPOSE (pg. 1 of 2)

I hereby affirm that:

I, David Perlmutter am the Member
(Printed Name) (Title) and

the duly authorized representative of the Developer of:

Salisbury Development Group LLC

(Name of Firm) whose
address is:

656 Quince Orchard Rd, Suite 720

(Street)
Gaithersburg, MD 20878

(City/State/Zip)

and that I possess the legal authority to make this affidavit on behalf of myself and the Developer for which I am acting.

Except as described below, neither I nor the above Developer, not to the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State "none" or, as appropriate, list any conviction, plea or admission described in the paragraph above, with the date, court, official or administrative body, the individuals involved and their position with the Developer, and the sentence or disposition, if any.)

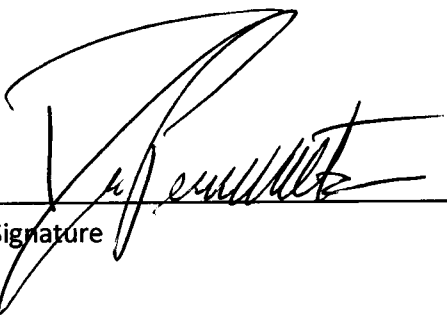
N/A

I acknowledge that this affidavit is to be furnished to the City, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the City may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing

this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to

bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.



Signature

David Perlmutter
Printed Name

SECTION 7: REQUIRED FORMS - OWNERSHIP DISCLOSURE FORM

COMPANY NAME: Salisbury Development Group LLC

TYPE OF COMPANY (circle one):

ADDRESS: 656 Quince Orchard Rd, Suite 720
Gaithersburg, MD 20878

*Sole Proprietorship

*Partnership

*Corporation

FEIN#: _____

***Limited Liability Corporation**

INSTRUCTIONS: Provide below the names, offices held and any ownership interest of all officers of the firm. If additional space is necessary, provide on an attached sheet.

| NAME | OFFICE HELD | OWNERSHIP INTEREST (Shares Owned or % of Partnership) |
|--------------------------------------|-------------|--|
| Warren Diamond | Manager | 50% |
| Faith P. Diamond | Member | 25% |
| David Perlmutter | Member | 1% |
| David Perlmutter Family Holdings LLC | Member | 24% |

INSTRUCTIONS: Provide below the names, offices held and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on an attached sheet. **If there are no owners with 10% or more interest in your firm, enter "None" below.**

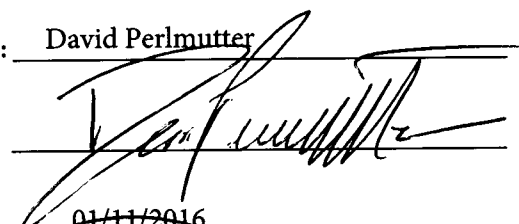
| NAME | OFFICE HELD | OWNERSHIP INTEREST (Shares Owned or % of Partnership) |
|------|-------------|--|
| N/A | | |
| | | |
| | | |
| | | |

OWNERSHIP DISCLOSURE FORM – cont'd

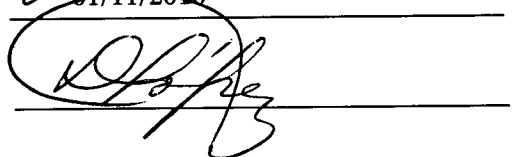
| COMPLETE ALL QUESTIONS BELOW | YES | NO |
|--|-------|------------|
| 1. Within the past five years, has another company or corporation had a 10% or greater interest in the firm identified above? (If yes, complete and attach a separate disclosure form reflecting previous ownership interests.) | _____ | X _____ |
| 2. Has any person or entity listed in this form or its attachments ever been arrested, charged, indicted or convicted in a criminal or disorderly persons matter within the State of Maryland, any other state or the U.S. Government? (If yes, attach a detailed explanation for each instance.) | _____ | _____ |
| 3. Has any person or entity listed in this form or its attachments ever been suspended, debarred or otherwise declared ineligible by any agency of government from proposaling or contracting to provide services, labor, material or supplies? (If yes, attach a detailed explanation for each instance.) | _____ | X _____ |
| 4. Are there now any criminal matters or debarment proceedings pending in which the firm and/or its officers and or managers are involved? (If yes, attach a detailed explanation for each instance.) | _____ | X _____ |
| 5. Has any federal, state or local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? (If yes to any part of this question, attached a detailed explanation for each instance.) | _____ | X _____ |

CERTIFICATION: I, being duly authorized, hereby represent and state that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge. I acknowledge that the City of Salisbury is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the City of Salisbury to notify the City in writing of any changes to the answers or information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement with the City of Salisbury and the City at its option, may declare any contract(s) resulting from this certification void and unenforceable.

PRINTED NAME: David Perlmutter

SIGNATURE: 

DATE: 01/11/2016

WITNESS: 

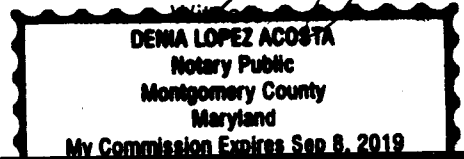


SECTION 8: REQUIRED FORMS - NON-COLLUSIVE AFFIDAVIT

David Perlmutter being first duly sworn, deposes and says that:

1. He/she is the Officer (Owner, Partner, Officer, Representative or Agent) of Salisbury Development Group LLC, the Developer that has submitted the attached Proposal Document;
2. He/she is fully informed respecting the preparation and contents of the attached Proposal Document and of all pertinent circumstances respecting such Proposal Documents;
3. Such Proposal Document is genuine and is not a collusive or sham Proposal Document;
4. Neither the said Developer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Developer, firm, or person to submit a collusive or sham Proposal Document in connection with the Services for which the attached Proposal Document has been submitted; or to refrain from proposaling in connection with such Services; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Developer, firm, or person to fix the price or prices in the attached Proposal Document or of any other Developer, or to fix any overhead, profit, or cost elements on the Proposal Document price or the Proposal Document price of any other Developer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Services;
5. The price or prices quoted in the attached Proposal Document are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Developer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.
6. Signed, sealed and delivered in the presence of:

Witness



By: [Signature]
Signature
David Perlmutter

Printed Name
Member

Title

AT800A 330J AM30
Public Policy
Montgomery County
Maryland
of Commission Expires 01/01/2019