

RESOLUTION NO. 2827

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND, FOR THE PURPOSE OF ACCEPTING THE SUBMISSION OF RFP 104-17 RE-BID FROM M.W. TILGHMAN, JR AND BARRIE TILGHMAN FOR THE SALE OF SURPLUS REAL PROPERTY LOCATED AT 806 NORTH DIVISION STREET.

WHEREAS, the Mayor and City Council have determined that there is surplus City-owned property that should be redeveloped, and that there is a strong public need for increased infill development in the City; and

WHEREAS, the City of Salisbury declared 806 North Division Street, Salisbury, MD surplus property on March 14, 2016; and

WHEREAS, the City of Salisbury, pursuant to SC 16-8 et seq. and Chapter 2.36 of the City Code, has the right to offer at public sale surplus property and make awards in the best interest of the City; and

WHEREAS, City-owned surplus or unused 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 property in a manner which will raise the City's tax base and be in the best interest of the citizens of the City of Salisbury; and

WHEREAS, the City has determined that it is in the best interest of the citizens of the City to sell the City's surplus property known as 806 North Division Street, Salisbury, MD; and

WHEREAS, the City of Salisbury advertised for proposals for the purchase of and redevelopment of 806 North Division Street three times from January 30, 2017 to February 1, 2017; and

WHEREAS, the City of Salisbury is in agreement to sell 806 North Division Street, Salisbury, MD for \$6,000 to M.W. Tilghman, Jr. and Barrie Tilghman following the execution of a Disposition Contract with terms acceptable to the City on or before May 1, 2018, as finally approved by the City Solicitor.


NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Salisbury, in closed session on the 13th day of March, 2017, that the proposal submitted by M.W. Tilghman, Jr. and Barrie Tilghman dated February 16, 2017, for RFP 104-17 Re-Bid Sale of Surplus Real Property is selected as the winning proposal for item number 108 of the RFP, on the condition that the parties, on or before May 1, 2018, execute a Disposition Contract with such terms and conditions as may be approved by the City and the City Solicitor; the purchase price shall be \$6,000.


BE IT FURTHER ENACTED AND RESOLVED that this Resolution does not create a Disposition Contract, and that the award shall be conditional upon the successful execution of a Disposition Contract.

AND BE IT FURTHER ENACTED AND RESOLVED that this Resolution will take effect from and after its passage.

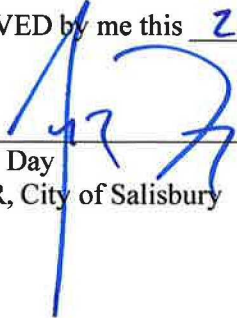
THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 26th day of March 2018 and is to become effective immediately upon adoption.

ATTEST:


Kimberly R. Nichols
CITY CLERK


John R. Heath
PRESIDENT, City Council

APPROVED by me this 27th day of MARCH, 2018.


Jacob R. Day
MAYOR, City of Salisbury



City of
Salisbury
Jacob R. Day, Mayor

To: Andy Kitzrow
From: Jennifer Miller
Director of Procurement
Date: March 26, 2018
Subject: Contract 104-17 Re-Bid Sale of Surplus Real Property
806 N. Division Street

In January 2017, the Department of Procurement solicited bids for nine City-owned properties, all either acquired through tax sale or donated to the City. Offers were received for 806 N. Division Street and 324 Poplar Hill Avenue. In March 2017, the City Council reached unanimous consensus to proceed with the preparation of a Land Disposition Contract to convey each parcel.

Attached please find the Resolution and Land Disposition Contract for the sale of 806 N. Division Street to Salisbury residents Mat and Barrie Tilghman. Upon Council approval, the Land Disposition Contract is to be executed by Mayor Jacob R. Day on behalf of the City.

cc Jacob Day
Julia Glanz

LAW OFFICE

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ASHLEY A. BOSCHÉ
LAURA E. HAY
MICHAEL P. SULLIVAN

February 15, 2018

Jennifer Miller, CPPB
Director of Procurement
City of Salisbury
125 N. Division St, Rm 104
Salisbury, MD 21801

Re: Disposition Agreement
806 N. Division Street, Salisbury, MD 21801

Dear Jennifer:

Enclosed please find one original of the Disposition Agreement. I have enclosed a copy as well inasmuch as my clients only signed one original. I am fine with the original signature of the Mayor on my photocopy. You keep the fully signed original.

I look forward to getting this property to settlement.

Very truly yours,



Thomas J. Maloney

Encs.

Cc: Mat and Barrie Tilghman

Disposition Contract

WHEREAS, the Mayor and City Council have determined that there is a strong public need for increased development in the City;

WHEREAS, the Mayor and City Council have determined that there is a surplus of unused City-owned property that should be developed;

WHEREAS, the Mayor and City Council, pursuant to the Salisbury Charter, SC 16-8, have the right to offer at public sale surplus property and make awards in the best interest of the City;

WHEREAS, City-owned surplus or unused property should be developed, not only in consideration of the highest bid price but in consideration of the type of development proposed, the design of the site and the preservation of significant buildings;

WHEREAS, the Mayor and City Council have determined that the sale, lease or other transfer of control of such property should be conditioned upon and require a commitment from the purchaser to develop such property in a manner which will best promote and support the City and which will promote development, raise the City's tax base, make effective use of past investment and capital improvements and prevent land speculation;

WHEREAS, the City has determined that it is in the best interest of the citizens of the City to sell the City's surplus property located at 806 North Division Street, Salisbury, Maryland;

WHEREAS, pursuant to the City's Charter and Ordinances, the Property was offered for sale and a bid has been received in the amount of Six Thousand Dollars (\$6,000.00) for the purchase of said property;

WHEREAS, pursuant to Resolution No. _____, the City was authorized to accept the aforesaid bid upon the terms and conditions set forth therein and, in addition, to include certain other requirements and obligations as the City determines; and

WHEREAS, the City Solicitor was authorized to prepare a Disposition Contract for the sale of the property.

NOW, THEREFORE, THIS DISPOSITION CONTRACT is made this _____ day of _____, 2018, between the City of Salisbury, Maryland, ("Seller"), and M.W. Tilghman, Jr. and Barrie P. Tilghman, Maryland residents of Salisbury, Wicomico County, Maryland, ("Buyer") and Tilghman Management Property, LLC, Buyer's legal entity intended to hold title to the Property.

The Seller does hereby bargain and sell unto Buyer, and Buyer does hereby purchase from Seller the following described property, situated in Salisbury, Wicomico County, State of Maryland:

A. All that land which is located at 806 North Division Street, Salisbury, Maryland, being more particularly described as all that lot or parcel of land situate and lying in the City of Salisbury, Salisbury Election District, Wicomico County, State of Maryland, on the Westerly side of and binding upon North Division Street and beginning for the same at a point on the Westerly side of said North Division Street a distance of 79 feet South 44 degrees 35 minutes West from the intersection of the Westerly line of said North Division Street with the Southerly line of New York Avenue, thence (1) by and with the land now or formerly of Benjamin Turner, North 45 degrees 30 minutes West a distance of 133.6 feet to a cement post

settled in the ground; thence (2) South 44 degrees 10 minutes West, a distance of 45 feet to a cement post; thence (3) by and with the land now or formerly of Annie Morgan, South 45 degrees 05 minutes East, a distance of 133.15 feet to the Westerly side of said North Division Street at a cement post; thence (4) by and with the said North Division Street, North 44 degrees 35 minutes east, a distance of 46 feet to the place of beginning; being shown and designated on plat entitled Clem F. and Marion C. Wilson, made by Richard W. Cooper, dated September 24, 1952, and recorded among the Land Records for Wicomico County, Maryland, in Liber J.W.T.S. No. 333, Folio 35. BEING the same property conveyed unto the City of Salisbury by Deutsche Bank National Trust Company as Trustee for Soundview Home Loan Trust by Deed dated June 19, 2015 and recorded among the Land Records for Wicomico County in Liber M.S.B. 3886, Folio 90, hereinafter, the Property.

B. Buyer hereby agrees that Seller will reserve all appropriate easements for sidewalks and for installation and maintenance of utilities and roadways.

1. PURCHASE PRICE AND METHOD OF PAYMENT:

The purchase price shall be SIX THOUSAND DOLLARS ----- (\$ 6,000.00) of which SIX HUNDRED DOLLARS --- (\$ 600.00) shall have been paid prior to the signing of this contract. The deposit shall be held in an account of the City with the deposit to be applied to the purchase price at settlement.

2. TO BE PAID IN THE FOLLOWING MANNER:

Buyer shall pay unto Seller cash at the time of settlement.

3. REPRESENTATIONS OF SELLER.

The Seller makes the following representations and warranties to the Buyer:

A. The Seller is the fee simple owner of the property described above .

B. Seller hereby certifies to Buyer that there is no tenant with any right to possession of the property.

C. At the Settlement, there will be no contracts affecting the Property or any part thereof, no contracts or agreements for the management of the Property, or any part thereof, and there will be no commission due or owing in connection with any lease or on account of any tenancy or sale of the Property.

D. The Seller has no knowledge of any actions, suits or proceedings which have been instituted or threatened against or affecting the Property, at law or in equity, before any federal, state or municipal governmental commission, board, bureau, agency or instrumentality which will materially adversely affect the value, occupancy, use or operation of the Property. The Seller will give the Buyer prompt written notice of any such action, suit or proceeding arising subsequent to the date hereof and prior to the Settlement Date to the extent Seller acquires knowledge thereof.

E. The Seller has duly and validly authorized, executed and delivered this Agreement, and neither the execution and delivery of this Agreement nor its performance are restricted by or violate any legal, contractual or other obligation of the Seller.

F. There are no assessments for public improvements against the Property which remain unpaid, including, without limitation, those for construction of sewer or water lines or mains, streets, sidewalks and/or curbs.

G. To the best of the Seller's knowledge, all improvements on the Property lie within the boundaries of the property, but not withstanding this assertion, Buyer purchases this Property, as is, and, prior to settlement will, at its expense, satisfy itself of the legal boundaries of the Property and will provide a proposed legal description to the City Solicitor prior to settlement for his approval.

4. DELIVERY OF CERTAIN MATERIALS TO SELLER AND BUYER.

Promptly, but in no event later than _____ () days following the date hereof, Buyer shall deliver to the City Solicitor its legal description of the property to be conveyed pursuant to this Agreement; and a deed will be executed, as approved by the City Solicitor.

5. ADDITIONAL UNDERTAKINGS.

A. Seller shall give to the Buyer and its agents, engineers, and other representatives full access to the Property during normal business hours, upon reasonable notice, during the period prior to the Settlement Date. During such period, the Seller shall furnish to Buyer all information concerning the Property which the Buyer may reasonably request. Buyer may, at its sole expense, make such engineering and other studies of the Property prior to the Settlement Date as it may deem necessary.

B. The Seller agrees that, from the date of this Agreement to the Settlement Date, it will:

(i) Operate the Property only in the ordinary course and usual manner and that it will not enter into any new lease or enter into any agreement that will encumber the Property.

(ii) Not become a party to any service contract or similar agreement with respect to or affecting the Property without the prior written consent of the Buyer.

(iii) Maintain, at its expense, all existing fire and extended coverage policies covering the Property. The herein described Property is to be held at the risk of Seller until legal title has passed. Buyer's remedy in the event of loss is limited to return of the deposit.

C. All utilities shall be adjusted and apportioned as of the Settlement Date.

D. All public or governmental charges or assessments against the premises, 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 or commenced on or prior to the date hereof, or subsequent thereto, shall be adjusted and apportioned as of the Settlement Date and shall be assumed and paid thereafter by the Buyer, whether assessments have been levied or not as of the Settlement Date.

E. The cost of all State and local recordation and transfer taxes shall be paid by the Buyer.

6. BUYER PURCHASES THE PROPERTY "AS IS."

A. The obligation of the Buyer to purchase the Property pursuant to the provisions of this Agreement is not contingent upon the condition of the Property or any inspection of the



property which has or will be conducted by the Buyer prior to the Settlement Date. During the bid process, Buyer has conducted a thorough inspection of all aspects, and potential hazards present on the Property and agrees to accept the Property in its current condition. Seller has made no warranties or representations to Buyer regarding the condition of the said property, , and Buyer has not relied upon any statements regarding the condition of the Property made by Seller, its agents or contractors. Buyer agrees that the Seller shall not be obligated to perform any environmental assessment and Seller will not be held liable and assumes no responsibility for any remedies, costs or procedures.

B. Buyer may have thirty (30) days following execution of this contract to perform any reasonably required preconstruction engineering tests and environmental assessments. If these tests reveal any environmental or other defects, Buyer shall have no recourse against Seller, except that Buyer may terminate this Disposition Contract and receive a return of Buyer's deposit.

C. Buyer shall indemnify, defend and save harmless Seller from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorneys' fees, in any way connected with any injury to any person or damage to any property arising out of the inspections and tests set forth in Paragraph 6B above or any loss to Seller occasioned in any way by hazardous substances by the negligent or intentional activities of Buyer before, during or after Buyer's acquisition of the property.

D. This indemnity in paragraph 6.C. above specifically includes the obligation of Buyer to perform any remedial or other activities required or ordered by any properly empowered government official, or otherwise reasonably necessary to avoid injury or liability to any person or to prevent the spread of pollution, originating thereon (hereinafter the "remedial work"). Buyer shall perform all such work in its own name in accordance with applicable law, as herein defined E. Whenever Seller has incurred costs described in this section, Buyer shall, within ten (10) days of receipt of notice thereof, reimburse Seller for all such expenses.

7. SETTLEMENT ATTORNEY/TITLE COMPANY:

Buyer shall have the option of selecting its own Title Insurance company or Title Attorney.

8. SETTLEMENT:

Settlement shall be held in Salisbury, Wicomico County, Maryland, on or before the ____ day of _____, 2018 (the "Settlement Date"). At Settlement, the Seller shall execute:

A. A deed to the Property, containing a covenant of special warranty and further assurances, which shall convey to Buyer a good and merchantable fee simple title to the Property subject, however, to a covenant requiring the property to be owner-occupied, and subject to zoning and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the Property is located, and publically recorded easements for public utilities and any other easements which may be observed by inspection of the Property. The deed shall be recorded at the expense of the Buyer. In addition, the deed shall be subject to a right of reversion to be held by Seller, and enforceable by the Circuit Court for Wicomico County, Maryland, to return ownership of the entire Property to the City if the conditions required in Section 12.B are not fulfilled. The deed will also be subject to the covenants described in Section 12.C.



B. Any other documentation reasonably required to consummate the Buyer's purchase of the Property.

9. POSSESSION:

Possession of the Property shall be given to Buyer at the time of Settlement.

At the time of settlement or occupancy (whichever occurs first), Seller makes no warranties with regard to the condition of the Property included in this Agreement, as Buyer has agreed to accept the property as is. SELLER WILL DELIVER THE PREMISES IN SUBSTANTIALLY THE SAME PHYSICAL CONDITION AS OF THE DATE OF RATIFICATION OF THIS CONTRACT AND BUYER, AT ITS EXPENSE, HAS THE PRIVILEGE OF INSPECTION OF ALL OF THE PREMISES PRIOR TO THE SETTLEMENT OR OCCUPANCY (WHICHEVER OCCURS FIRST) TO VERIFY THE SAME. Except as expressly contained herein no other warranties have been made by the Seller.

10. A. BUYERS' REMEDIES. In the event the Seller should be in default of any obligation on its part to be performed hereunder, or in the event any representation or warranty of Seller should be incorrect, or in the event any condition or obligation referred to in Agreement shall not be satisfied within the time period specified, then, as its sole recourse pursuant to this agreement the Buyer shall be entitled to cancel this Agreement and to receive the immediate return of the deposit referred to in this Agreement. Notice of such default shall be given, in writing, by the injured party within thirty (30) days after the default has occurred. If the party defaulting on this agreement fails or refuses to release monies, the holder of the deposit may deliver the deposit by way of interpleader to the appropriate Court to determine ownership thereof and have all costs and expenses in connection therewith deducted from said deposit.

B. SELLER'S REMEDIES. In the event the Buyer should be in default of any obligation to be performed hereunder prior to settlement, Seller shall be entitled to the deposit as liquidated damages. This limitation shall not, however, apply to the indemnity provision of the Agreement or to any enforcement of the terms of this Agreement, after settlement, for damages or injunctive relief, in any claim made by Seller.

11. MISCELLANEOUS:

A. The parties hereto agree that this entire agreement shall be binding upon their respective heirs, Personal Representatives, administrators, successors and assigns. **ALSO THE PARTIES RECOGNIZE THAT THIS AGREEMENT IS LEGALLY ENFORCEABLE AND ARE HEREBY ADVISED TO SEEK LEGAL ADVICE IF NOT UNDERSTOOD.**

B. This contract contains the entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions or representations not herein written.

12. USE OF THE PROPERTY:

A. Speculation Forbidden. Buyer covenants that the purpose of this purchase is not for speculation.

B. Owner-Occupied Covenant. Buyer agrees that this property shall be improved with the construction of a single family residence and that, upon completion, the property shall be owner-occupied.

C. Covenants. The deed conveying the property shall expressly provide in a format acceptable to the attorney for the City and the attorney for Buyer that the agreements and covenants provided for in the



this Disposition Contract shall be included therein as covenants running with the land and shall be binding upon the land for the benefit and in favor of the Seller.

D. Non-Merger. Buyer agrees that none of the provisions of this Disposition Contract are intended to or shall be merged by reason of any deed transferring title to the property to Buyers or to any successor in interest.

E. Code Covenant. Buyer agrees that all final plans for structures, site improvements, landscaping, etc. shall be in accordance with the City Code and approved by all appropriate City and other government agencies.

F. Assignment. Buyer may assign its right, title and interest in the Property to a related party (i.e. wholly owned subsidiary or entity owned by the same principals as Buyer) of Buyer and take title to the Property in the name of such related party, provided that Buyer and any related entity shall be obligated to all the terms and conditions as stated in this Contract.

G. Completion. The term "Completion" shall be defined for the purposes of this agreement to mean when the building is structurally complete to the point that the building inspector of the City would ordinarily issue an occupancy permit.

H. Default. Buyer agrees that if, subsequent to the conveyance of the property to Buyer, Buyer shall default in or violate the Disposition Contract, and such violation is not cured within sixty (60) days after written demand by the Seller, then the Seller shall have the right, but not the obligation, to enforce the terms of this Disposition Contract by seeking damages, injunctive relief or reversion of the Property to Seller. Seller's rights under this Contract, including Seller's right to reversion, shall be superior to any subsequent sale, lease, mortgage or lien against the Property as a result of any action by Buyer. Seller's rights shall only be subordinated by the written agreement of Seller. In the event of the bankruptcy or insolvency of Buyer, or its assignee, equitable title to of the Property shall immediately revert to the Seller.

13. NOTICE.

Any notice to be given to a party under this Agreement shall be deemed to be given on the date hand-delivered to the party, or on the second business day following the date when deposited in the United States mail, postage prepaid, certified mail, return receipt requested,

addressed to the Seller at:
S. Mark Tilghman
City Solicitor
110 N. Division Street
Salisbury, MD 21801

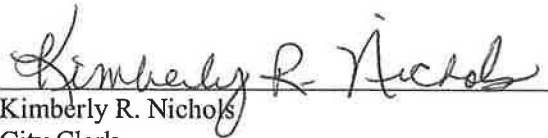
addressed to the Buyer at:
M.W. Tilghman, Jr.
Barrie P. Tilghman
1009 Monitor Court
Salisbury, MD 21801

14. TIME OF THE ESSENCE. Time shall be of the essence in this Agreement.



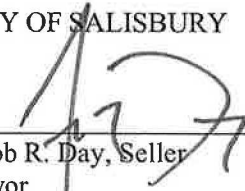
AS WITNESS the hands and seals of the parties hereto, the day and year first above written.

ATTEST:




Kimberly R. Nichols
City Clerk

CITY OF SALISBURY



Jacob R. Day, Seller
Mayor

BUYER



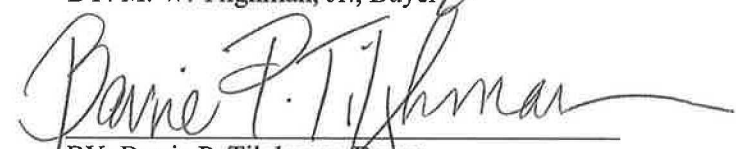
BY: M. W. Tilghman, Jr., Buyer



WITNESS



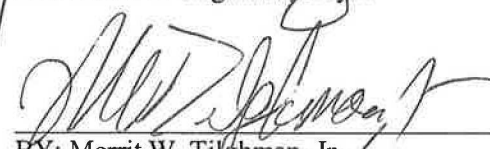
WITNESS



BY: Barrie P. Tilghman, Buyer



WITNESS



BY: Merrit W. Tilghman, Jr.
for Tilghman Management Property, LLC



