

**AS AMENDED ON AUGUST 26, 2013
RESOLUTION NO. 2324**

A RESOLUTION OF THE CITY OF SALISBURY FOR THE PURPOSE OF ACCEPTING A DISPOSITION CONTRACT BETWEEN THE CITY OF SALISBURY AND G PLUS PROPERTIES, LLC SETTING FORTH THE TERMS AND CONDITIONS OF THE REDEVELOPMENT OF THE OLD FIRESTATION #16 AS DETAILED IN G PLUS' DEVELOPMENT PROPOSAL DOCUMENT.

WHEREAS the City of Salisbury declared the Old Fire Station #16 as surplus property on April 09, 2007; and

WHEREAS the City of Salisbury advertised for proposals for the redevelopment purchase of the Old Fire Station #16 three times from December 6th, 2012 to December 20, 2012 pursuant to SC16-8 et seq. and Chapter 2.36 of the City Code, and proposals were received on April 15, 2013; and

WHEREAS the City of Salisbury received one (1) proposal for the redevelopment purchase of The Old Fire Station #16; and

WHEREAS the City of Salisbury is now, therefore, selecting the G Plus Properties, LLC's proposal as the winning proposal; and

WHEREAS the City of Salisbury is in agreement to sell Old Fire Station #16 for \$85,000.00 to G Plus Properties, LLC; and

WHEREAS, the Charter requires a Disposition Contract to be executed between the City of Salisbury and G Plus Properties, LLC; and

WHEREAS the City of Salisbury and G Plus Properties, LLC have negotiated a Disposition Contract which sets forth the terms and conditions of the purchase and development of the Old Fire Station #16.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SALISBURY, in regular session on the 26th day of August, 2013, pursuant to proper authority granted to it, as follows:

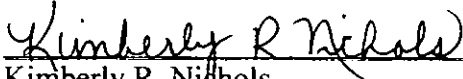
- A. That the Disposition Contract between the City of Salisbury and G Plus Properties, LLC is approved in the form attached hereto as Exhibit A.
- B. That the Mayor is further authorized to take all actions as are necessary and proper to effectuate the transaction contemplated herein.

BE IT FURTHER ENACTED AND RESOLVED that the award does not include any portion of the street or any adjacent open space parcels, and

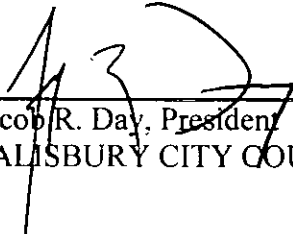
AND BE IT FURTHER ENACTED AND RESOLVED that this Resolution will take effect from and after its passage.

This resolution was introduced and duly passed at a meeting of the Council of the City of Salisbury, Maryland held on this 26th day of August, 2013, and is to become effective immediately upon adoption.

ATTEST:

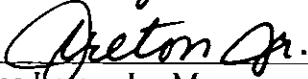


Kimberly R. Nichols
CITY CLERK



Jacob R. Day, President
SALISBURY CITY COUNCIL

APPROVED by me this 19th
day of August, 2013.



James I. Iton, Jr., Mayor
CITY OF SALISBURY

Exhibit A – Development Proposal – Intended Uses

08.14.2013

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.

The Purchaser intends to develop the property in accordance with all local zoning codes and ordinances consistent with uses permitted within the Central Business District of the City of Salisbury.

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 previously occupied by the Salisbury Fire Department;

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 Eighty-Five Thousand Dollars (\$85,000.00) for the purchase of said property;

WHEREAS, pursuant to Resolution No. 2295, 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.

THIS DISPOSITION CONTRACT is made this 30 day of AUGUST, 2013, between the City of Salisbury, Maryland, ("Seller"), and G Plus Properties, LLC, a Maryland limited liability company located in Salisbury, Wicomico County, Maryland, ("Buyer").

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, together with the building previously occupied by the Salisbury Fire Department (the "Building"), and all appurtenances thereto belonging which are located at 115 South Division Street, Salisbury, Maryland, being more particularly described as all that lot or parcel of land designated and located at 115 South Division Street, on the southwest side of and binding upon Market Street and on the northwest side of and binding upon South Division Street, and on the west side of and binding upon Circle Avenue, shown on Maryland tax map 0107, grid 0014, parcel 0882, an accurate legal description of which is to be provided to the Seller by the Buyer; the Land and the Building, together with all appliances

and fixtures, not specifically excluded by the City, located in the Building are hereinafter collectively referred to as 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 EIGHTY-FIVE THOUSAND DOLLARS - - - - - (\$ 85,000.00) of which SEVEN THOUSAND FIVE HUNDRED DOLLARS - - - - - (\$ 7,500.00) shall have been paid prior to the signing of this contract. The deposit shall be held in a non-interest bearing escrow account of the City Solicitor 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, the outlines of which are to be formally established at the expense of Buyer who will prepare a survey, at its expense, to be used in the preparation of the deed from Seller to Buyer.

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 plat and 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 _____ ~~forty-five (—)~~ (45) days following the date hereof:

A. Buyer shall deliver to the City Solicitor its proposed survey and legal description of the property to be conveyed pursuant to this Agreement.

B. Seller shall deliver to Buyer a detailed list of all fixtures and personal property contained in or about the Property which are to be retained by the Seller, along with a proposed schedule for the removal of said personal from the Property.

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 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 and Buyer must proceed under the terms of this Disposition Contract.

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 or any loss to Seller occasioned in any way by hazardous substances originating on the property or by the negligent or intentional activities of Buyer before, during or after Buyer's acquisition of the property.

D. This indemnity 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 1st day of October, 2013 (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 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.

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.

A. At the time of settlement or occupancy (whichever occurs first) Seller will leave premises free and clear of trash and debris and broom clean. Seller makes no warranties with regard to the condition of the electrical, plumbing, heating, air conditioning and any other mechanical systems and related equipment 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. Buyer hereby covenants that it will complete the construction of improvements as set forth in the

Development Proposal, attached hereto as Exhibit A. The Seller hereby withdraws its prior requirement for a not-for-profit venue, and the City will have no obligation or right to take back ownership of the Property. Buyer's Agreement to complete the Development Proposal shall survive Settlement. There shall, however, be no additional restrictions on the use of the Property other than those required by Federal, State or local law.

B. Deed Covenant. The deed from the Seller to Buyer for the property described in this contract will contain a covenant that the property will be developed as set forth in Exhibit A.

C. Construction Completion. Buyer hereby agrees, for itself, its successors and assigns and every successor in interest to the property, or any part thereof, that Buyer or its successors and assigns, shall have the building in-service on or before December 1, 2014. Buyer and Seller agree that in-service is defined as completed construction of improvements to develop the property in a manner that best promotes and supports the City and which will promote development, raise the City's tax base and make effective use of the City's past investment and capital improvements.

D. Covenants. The deed conveying the property shall expressly provide in an abbreviated format acceptable to the attorney for the City and the attorney for Buyer that the agreements and covenants provided for in the Development Proposal for the Property and 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.

E. Speculation Forbidden. Buyer hereby represents and agrees that its purchase of the property and other agreements pursuant to the Development Proposal for the Property and this Disposition Contract are for the purpose of development of the property in accordance with the Development Proposal for the Property and not for speculation in landholding. Buyer covenants that the purpose of this purchase is not for speculation.

F. 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.

G. 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.

H. Transfer. Buyer hereby agrees to retain the interest acquired in such property until construction is completed.

I. Completion. The term "completed construction" 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.

J. Default. Buyer agrees that if, subsequent to the conveyance of the property to Buyer, Buyer shall default in or violate the Disposition Contract, prior to completed construction as certified by the City, including, but not limited to, failure to construct the improvements, abandonment or substantial suspension of construction work, failure to complete the project in the period specified in this Disposition Contract, failure to pay real estate taxes, if any, or suffer any levy or attachment, or any unauthorized change in ownership, 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 and, in addition, injunctive relief. Buyer shall not be in default for failure to complete the project if such failure is caused by delay due to unforeseen causes beyond his control and without his fault or negligence provided Buyer, within ten (10) days of the start of any such delay, has notified the Seller in writing and requested an extension for the period of the delay.

K. Certificate of Completion. Promptly after completion of the improvements in accordance with the provisions of this Disposition Contract relating to the obligation of Buyer to construct the improvements, the Director of Building and Inspections, when appropriate, will furnish the Buyer with an appropriate instrument in reasonable form so certifying. Such certification by the Director of Building and Inspections shall be a conclusive determination of satisfaction and termination of the development plan.

L. Demolition. The deed to the subject property from Seller to Buyer shall contain a covenant that the improvements on the property may not be demolished.

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

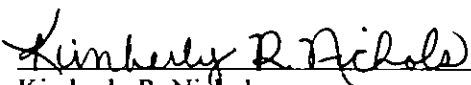
addressed to the Buyer at:

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

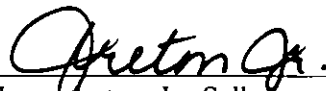
AS WITNESS the hands and seals of the parties hereto, the day and year first above written.

ATTEST:

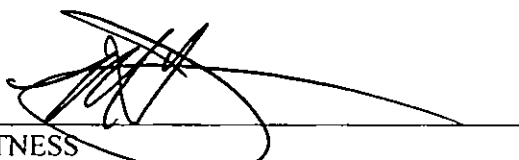
CITY OF SALISBURY



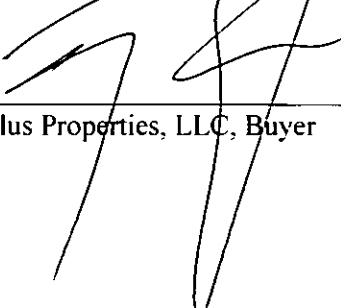
Kimberly R. Nichols
City Clerk



James Ireton, Jr., Seller
Mayor



WITNESS

BUYER


BY: G Plus Properties, LLC, Buyer

Exhibit A – Development Proposal – Intended Uses

08.14.2013

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.

The Purchaser intends to develop the property in accordance with all local zoning codes and ordinances consistent with uses permitted within the Central Business District of the City of Salisbury.

Memorandum

To: Council Members
CC: Mayor, James Ireton, Jr., Acting City Administrator, Tom Stevenson,
Assistant City Administrator, Dr. Loré Chambers
From: Catrice Parsons CP 8/21/13
Date: 8/21/2013
Re: Amended Resolution and Disposition Agreement for RFP 10-13 Old Fire
Station #16

Attached is a copy of Amended Resolution 2295 and the negotiated Disposition Agreement for Council's review and approval.

Resolution 2295 was passed at the July 08, 2013 Council session. There was significant discussion at this session about who had the authority to sign the Disposition Agreement. At the end of that meeting it was the opinion of staff that the Mayor had the approval authority as this was past practice on prior Disposition Agreements.

After much discussion, between City Administration and City legal counsel, the Administration feels that the appropriate course of action is to bring to Council the negotiated Disposition Agreement and the Amended Resolution giving the Mayor authority to sign the Disposition Agreement.

The Charter states;

- **2.36.051 Post auction procedure.**
 - After city council review, the city council shall decide whether to proceed with an award by resolution and a disposition contract to the successful bidder pursuant to Section 2.36.070, et seq.
- **2.36.070 Award of bid.**
 - The city council shall make an award by resolution and proceed to sell or dispose of the property pursuant to the terms of a disposition contract.... The city council may not convey such property until after the disposition contract is executed.

Section 2.36.051 was completed at the July 08, 2013 legislative session. There however is some discrepancy about Section 2.36.070 and who has authority to approve and sign the disposition contract and what that process should be.

Administration is of the opinion that after Council makes the award by resolution that gives Administration authority to negotiate the Disposition Agreement, with the associated terms per the Charter and the Development Proposal, and ultimately sign the document. However legal counsel is

August 21, 2013

of the opinion that the resolution with the negotiated disposition agreement, with associated terms per the Charter and the Development Proposal, go to Council for their approval.

Based on past practice the negotiation, between Administration and the Buyer, of the disposition agreement took place first and then approval of the resolution along with the negotiated disposition agreement have gone to Council for their approval and signature of the resolution giving the Mayor authority to sign the Disposition Agreement.

The Procurement Department requests Council's approval to approve the amended resolution and the negotiated disposition agreement for RFP 10-13 with G Plus Properties, LLC in the amount of \$85,000.00. However Administration is requesting that Section 2.36.070 be reviewed by Council and the Executive Office to firm up who has the appropriate authority and what the process should look like to accomplish Land Disposition and for any ambiguity to be eradicated.